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Introduction

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

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

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

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

Notice of Proposed Rulemaking

Tracking number

2017-00297

Department

200 - Department of Revenue

Agency

204 - Division of Motor Vehicles

CCR number

1 CCR 204-10

Rule title

TITLE AND REGISTRATION SECTION

Rulemaking Hearing

Date

09/25/2017

Time

09:00 AM

Location

1881 Pierce Street, Lakewood CO 80214: Rm 110 (Board/Commission Meeting Room)

Subjects and issues involved

Rule 28: Title and Registration of a Vehicle Owned By, Donated, Loaned, or Leased to, a Government Agency.

The purpose of this rule is to establish procedures for titling and registering vehicles owned by, or donated, loaned, or leased to, a government agency.

Statutory authority

This rule is promulgated under the authority 39-26-113, 39-26-704(1), 42-2-102(55), 42-1-102(66), 42-1-102(93.5), 42-1-102(112),42-1-204, 42-3-104(1) through (4), 42-3-105, 42-3-201, 42-3-202, 42-3-301, 42-3-304(1)(a) and (b) and (3)(b) and (c), 42-6-104, 42-6-106, and 42-6-137, C.R.S.

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DEPARTMENT OF REVENUE

Division of Motor Vehicles – Title and Registration Section

1 CCR 204-10

RULE 28. TITLE AND REGISTRATION OF A VEHICLES OWNED BY, OR DONATED, LOANED, OR LEASED TO, A GOVERNMENT AGENCY

Basis: This ~~regulation~~ rule is promulgated under the authority 39-26-113, 39-26-704(1), 42-2-102(55), 42-1-102(66), 42-1-102(93.5), 42-1-102(112),42-1-204, 42-3-104(1) through (4), ~~42-3-104(2), 42-3-104(3), 42-3-104(4) 42-3-104 (4),~~ 42-3-105, 42-3-201, 42-3-202, 42-3-301, 42-3-304(1)(a) and (b) and (3)(b) and (c), ~~43-3-304(3)(c),~~ 42-6-104, 42-6-106,~~(1)~~ and 42-6-137, C.R.S.

Purpose: The purpose of this ~~regulation~~ rule is to establish procedures for titling and registering vehicles owned by, or donated, loaned, or leased to, a government agency. ~~governmental agencies.~~

1.0 Definitions

1.1 "Special License Plate" means a special license plate (for example, group special, alumni, or military) issued pursuant to part 2, article 3, Title 42, which is currently offered for issuance to a vehicle to evidence registration of that vehicle.

1.2 "Donated" means given voluntarily without payment in return.

1.3 "Government License Plate" means the permanent license plate that has stacked "GVT" lettering on the Colorado green and white graphic license plate.

1.4 "Leased Vehicle" means a vehicle that is subject to the terms of a lease agreement with a government agency, with corresponding payments.

1.5 "Loaned Vehicle" means a vehicle provided to a government agency for which the government agency has lawful use or control of the vehicle for a period of thirty days or more and that will be returned to the owner upon the government agency no longer having lawful use or control of the vehicle.

1.6 "Material Fees" means the fees required under section 42-3-301, C.R.S., for the direct cost of license plates, decals, or tabs.

1.7 "Registration Fees" or "Fees" means the fees required by Title 42, C.R.S. for the registration of a vehicle.

1.8 “Standardized License Plate” means any Colorado license plate that is not a Special License Plate.

1.9 “State of Colorado” for purposes of this rule includes any board, bureau, commission, department, institution, division, section, university, or officer of the state, including those in the legislative branch and in the judicial branch.

1.10 “Taxes” means sales tax, use tax, and specific ownership tax assessed and collected from the vehicle owner and distributed to the appropriate funds as required in Title 42, C.R.S.

1.11 “United States Government” or “U.S. Government” when referenced in this rule includes an agency or instrumentality thereof as provided in section 42-3-104(1), C.R.S.

2.0 U.S. Government or Foreign Government Owned Vehicles

2.1 A vehicle owned by the United States Government is not required to be registered pursuant to section 42-3-104(3)(a), C.R.S. If the United States Government elects to obtain a State of Colorado title and registration it must meet all titling and registration requirements in Title 42, C.R.S. Title and registrations transactions shall be performed by the Department.

2.2 A vehicle owned by a foreign government, or a consul, or other official representative of a foreign government duly recognized by the Department of State of the United States government (e.g., Honorary Consulate, Ambassador) shall be titled pursuant to Article 6 of Title 42, C.R.S., and registered pursuant to section 42-3-304(3)(b), C.R.S., by the Department.

3.0 Government Agency Determination

3.1 An entity may seek a determination by the Department of Revenue that it qualifies as a government agency by submitting to the Department of Revenue:

a. A citation to its enacting statute in the Colorado Revised Statutes;

b. Proof of tax exemption as a government agency;

c. Proof evidencing its existence as a government agency (e.g., a town’s articles of incorporation); or

d. A request for a Department of Revenue determination.

4.0 Titling of Government Owned Vehicles

4.1 Every vehicle owned by a government agency must be titled. Applications for titling provided for in title 42, section 6, must be made as follows:

a. The department, university, division, agency, commission, Regional Transportation District (when owned by a government agency), or other entity within the State of Colorado that owns the vehicle must complete the title application and submit it to the Department.

b. The county, town, city, or city and county that own the vehicle must complete the application and submit it to an authorized agent in the county in which the applicant is located.

c. The local, municipal and special district that owns the vehicle must complete the application and submit it to an authorized agent in the county in which the applicant is located.

4.2 The name and address on the Colorado certificate of title for a vehicle owned by a government agency shall be as listed below.

a. A vehicle owned by the State of Colorado:

i. "State of Colorado, Department of (name of department or university, and division, agency, commission, or other entity name)", with the address of the specific department, division, agency, commission, or other entity. If the vehicle is being principally operated and maintained, or permanently maintained, at an address other than the address for the department, division, agency, commission, or other entity, then the address at which the vehicle is being principally operated and maintained, or permanently maintained, shall be used.

ii. A vehicle owned by the Regional Transportation District shall be titled with the name "Regional Transportation District", with the address of the Regional Transportation District. If the vehicle is being principally operated and maintained, or permanently maintained, at an address other than the address for the Regional Transportation District, then the address at which the vehicle is being principally operated and maintained, or permanently maintained, shall be used.

b. A vehicle owned by a county, town, city, or city and county:

i. "County or Town, City, or City and County Name" (e.g., Adams County, Grand County, City and County of Denver) and the address of that county, town, city, or city and county. If the vehicle is being principally operated and maintained, or permanently maintained, at an address other than the address for the county or town, city, or city and county, then the address at which the vehicle

is being principally operated and maintained, or permanently maintained, shall be used.

c. A vehicle owned by local, municipal, or special districts

i. "Local, Municipal, or Special District Government Name" (e.g., City of Thornton, Town of Lyons, Denver Water District) and the address of that local, municipal, or special district. If the vehicle is being principally operated and maintained, or permanently maintained, at an address other than the address for the local, municipal, or special district government, then the address at which the vehicle is being principally operated and maintained, or permanently maintained, shall be used.

5.0 Registration

5.1 Unless exempted from registration under section 42-3-104(3), C.R.S., every vehicle owned by a government agency shall be registered. Applications for registration provided for in title 42, section 3, C.R.S., must be made as follows:

a. The department, university, division, agency, commission, Regional Transportation District, or other entity within the State of Colorado that owns the vehicle must complete the application and submit it to the Department. The address on the application shall be the address of the department, university, division, agency, commission, Regional Transportation District, or other entity, unless the vehicle is being principally operated and maintained, or permanently maintained at an address other than the address for that specific department, university, division, agency, commission, Regional Transportation, District, or other entity, in which case the address on the application shall be the address at which the vehicle is being principally operated and maintained or permanently maintained.

b. The county, town, city, or city and county, local, municipal and special district that owns the vehicle must complete the application and submit it to an authorized agent in the county in which the applicant is located. The address on the application shall be the address of the county, town, city, or city and county, local, municipal and special district, unless the vehicle is being principally operated and maintained, or permanently maintained at an address other than the address of the specific county, town, city, or city and county, local, municipal and special district, in which case the address on the application shall be the address at which the vehicle is being principally operated and maintained or permanently maintained.

5.2 Unless exempt, a government agency shall pay all Fees in Title 42, C.R.S., for a vehicle owned by them.

5.3 A government agency is not exempt from and must pay all Material Fees required in section 42-3-301, C.R.S., at the time of registration of a vehicle.

5.4 A government agency that enters into agreements with a non-government agency (e.g., road maintenance contractors, toll operator) cannot grant or transfer their Registration Fee and Taxes exemptions to the non-government agency or to any vehicles the non-government agency owns.

6.0 Emissions Compliance and License Plates

6.1 Proof of emissions compliance shall be required pursuant to part 3 and part 4, article 4 of title 42, C.R.S., for a vehicle registered at an address in an emissions program area.

a. The address at which the vehicle is principally operated and maintained, or permanently maintained, shall determine whether the vehicle is registered in an emissions program area.

6.2 A government agency owned vehicle that is registered shall be issued, and be required to display:

a. A Government License Plate. A Government License Plate will not display a year and month validation tab. Dependent on the vehicle type, a single or set of Government License Plates will be issued and must be displayed on the vehicle (e.g., trailer will be issued a single plate and passenger vehicles will be issued a set of plates);

b. A Standardized License Plate on a motor vehicle as defined in section 42-1-102(58), C.R.S., a vehicle as defined in section 42-1-102(112), C.R.S., and special mobile machinery defined in section 42-1-102(93.5), C.R.S., that is operated on roads and highways. A Standardized License Plate issued to a government agency shall display a year and month validation tab. Dependent on the vehicle type, a single or a set of Standardized License Plates will be issued (e.g., trailer will be issued a single plate and passenger vehicles will be issued a set of plates);

c. A Special License Plate if the government agency and the vehicle meet all requirements for that license plate. The government agency must meet all pre-certification requirements (e.g., donation, membership) for the Special License Plate before it can be issued the Special License Plate;

d. A special mobile machinery ownership decal for special mobile machinery, defined in section 42-1-102(93.5)(a)(I), C.R.S., that is not

operated on highways and, therefore, is not required to be titled, or is not required to be titled (e.g. sign boards, lighting towers); or

e. A Colorado State Patrol vehicle may be issued and display the Colorado State Patrol license plate pursuant to Code of Colorado Regulations 1 CCR 204-10 Rule 6. Colorado State Patrol License Plates.

6.3 Unless exempt from registration, a government agency must renew its vehicle registration(s) annually and, if issued a Special License Plate that requires an annual pre-certification requirement and the government agency wishes to retain the Special License Plate, the government agency must meet the annual pre-certification requirement before it can renew the registration.

7.0 Donated, Loaned, or Leased Vehicles

7.1 Donated Vehicle. A vehicle Donated to a government agency must be titled and registered as follows:

a. If the vehicle is not titled in the donor's name, the donor must apply for a new Colorado certificate of title through the County Motor Vehicle office in the donor's name as provided in section 42-6-134, C.R.S.

i. The donor must pay title fees for the new Colorado certificate of title, and any sales tax due. A copy of forms DR 0100A Retail Sales Tax Return for Occasional Sales and DR 0025 Statement of Sales Taxes Paid on Loaner Motor Vehicle will be accepted as proof of sales tax paid.

b. The donor must assign the new Colorado certificate of title over to the government agency to which the vehicle is Donated. The purchase price on the assigned title must state "Donated" and will be entered into motor vehicle systems as "0".

c. The government agency must apply for a Colorado certificate of title and registration (unless exempt from registration) as provided for in sections 3 and 4 of this rule.

d. The government agency must pay the Material Fees required in section 42-3-301, C.R.S.

e. The government agency must provide proof of emissions compliance pursuant to Part 3 and Part 4, Article 4 of Title 42, C.R.S., for a vehicle Donated to the government agency that is being registered in an emissions program area.

7.2 Loaned Vehicle. Unless exempted from registration pursuant to section 42-3-104(3), C.R.S., a Loaned Vehicle shall be titled and registered as listed below:

a. If the vehicle is not titled in the loaner's name, the loaner must apply for a new Colorado Certificate of title in the loaner's name through the County Motor Vehicle office as provided in section 42-6-134, C.R.S.

   i. The loaner must pay title fees for the new Colorado certificate of title, and any sales tax due. A copy of forms DR 0100A Retail Sales Tax Return for Occasional Sales and DR 0025 Statement of Sales Taxes Paid on Loaner Motor Vehicle will be accepted as proof of sales tax paid.

b. The government agency must be listed as the "In Care Of" in motor vehicle systems.

c. The government agency must apply for registration of the vehicle pursuant to section 5 above.

d. Unless statutorily exempt, the government agency shall pay the Registration Fees and Taxes for the Loaned Vehicle. The government agency shall pay the Material Fees required in section 42-3-301, C.R.S.

e. The government agency shall provide proof of emissions compliance pursuant to Part 3 and Part 4, Article 4 of Title 42, C.R.S., for a Loaned Vehicle that is being registered in an emissions program area.

7.3 Leased Vehicle. A Leased Vehicle shall be titled and registered as follows:

a. If the government agency requests to be exempt from payment of the annual specific ownership tax and annual Registration Fees, the lease agreement must be submitted to the Department for approval prior to the vehicle being titled and registered pursuant to sections 42-3-104(2) and 42-3-304(3)(c), C.R.S.

b. If the title is not already in the lessor's name, the lessor must apply for a Colorado certificate of title in the lessor's name through the County Motor Vehicle office and the government agency must be listed as the lessee as provided in section 42-6-134, C.R.S.

c. The government agency must apply for registration of the vehicle pursuant to section 5 above.

d. The government agency shall provide proof of emissions compliance pursuant to Part 3 and Part 4, Article 4 of Title 42, C.R.S., for each Leased Vehicle that is being registered in an emissions program area.

8.0 Appeals

8.1 An entity that the Department has determined does not qualify as a government agency pursuant to section 3.0 of this rule may, within 60 days of the date of the Department's determination, request a hearing on the determination by submitting a written request for hearing to the Department of Revenue, Hearings Division.

8.2 The hearing will be held at the Department of Revenue, Hearings Division. The hearing officer will be an authorized representative designated by the Executive Director. The Department employee who completed the review and determined that the entity is not a government agency need not be present at the hearing unless required by the hearing officer, or unless requested in writing by the entity at the time the written request for hearing is submitted. The hearing officer may consider any documents and affidavits submitted by the Department.

~~1.1 "Department" for the purpose of this regulation means the Department of Revenue, Division of Motor Vehicles, Title and Registration Sections.~~

~~1.2 "Donated" means a gift, free of charge.~~

~~1.2 "Government Agency" means an entity of the state, local, county, municipal, or special district as defined in Titles 24, 29, 30, 31 and 32 of the Colorado Revised Statutes or that may be designated at tax exempt pursuant to the Department of Revenue, Division of Taxation Publication FYI Sales 63 Government Purchases Exemptions document.~~

~~1.3 "Government License Plate" means the permanent license plate that has stacked "GVT" lettering on the Colorado green and white graphic license plate. The Government License Plate may be issued as a single license plate or a set of license plates.~~

~~1.4 "Leased" means a vehicle that is subject to the terms of a lease agreement with corresponding payments.~~

~~1.5 "Loaned" means a vehicle that will be returned to the original owner and no transfer of ownership will take place.~~

~~1.6 "Motorcycle Standardized License Plate" means the permanent Colorado green and white graphic license plate manufactured smaller than standardized license plates to allow mounting on to motorcycles.~~

~~**2.0 General Requirements**~~

~~2.1 All vehicles owned by a Government Agency shall be titled, and for those which are required to be registered, shall be titled and registered pursuant to Title 42, C.R.S., and this regulation.~~

a. An entity may seek a determination that it qualifies as a Government Agency as follows:

i. By the entity submitting proof of tax exemption as a Government Agency.

ii. By the entity submitting other proof that evidences its existence as a Government Agency.

iii. By the entity requesting a Department determination.

2.2 Title and registration transactions on vehicles owned by a Government Agency, unless exempted from registration pursuant to 42-3-104(3), C.R.S., shall be completed by:

a. The Department for vehicles owned by the State of Colorado.

b. The County Motor Vehicle office for the county, or the city and county, when a vehicle is owned by a county or a city and county.

c. The County Motor Vehicle office of the county in which a local, municipal or special district is located when a vehicle is owned by a local, municipal, or special district.

2.3 Vehicles owned by the United States government are not subject to registration requirements pursuant to 42-3-104(3)(a), C.R.S. If a United States government agency elects to obtain a State of Colorado title and registration they shall meet all titling and registration requirements in Title 42, C.R.S., prior to titling and registering their vehicles. Title and registration transactions shall be performed by the Department.

2.4 Vehicles owned by a foreign government or a consul or other official representative of a foreign government duly recognized by the Department of State of the United States government are not subject to this regulation and shall be titled pursuant to Article 6 of Title 42, C.R.S., and this regulation and registered pursuant to 42-3-304(3)(b), C.R.S.

2.5 Vehicles specifically exempted from registration in 42-3-104(3), C.R.S., shall not be required to be registered by a Government Agency. The vehicles shall be titled pursuant to Article 6 of Title 42, C.R.S., and this regulation. If a Government Agency chooses to register vehicles exempted from registration in 42-3-104(3), C.R.S., then all registration requirements in Article 3 of Title 42, C.R.S., and this regulation apply..

2.6 Unless statutorily exempt, a Government Agency shall pay all registration fees and taxes in Title 42, C.R.S. for vehicles owned by them.

2.7 A Government Agency that enters into agreements with a non-Government Agency (e.g., road maintenance contractors) may not grant or transfer their Government Agency title and registration entitlements to the non-Government Agency owned vehicles. This includes, but may not be limited to, exemptions of taxes and fees and use of Government License Plates.

3.0 Titling

3.1 All vehicles owned by a Government Agency and requiring titles shall be titled pursuant to Article 6 of Title 42, C.R.S., and this regulation.

3.2 All titling requirements must be met prior to issuance of a State of Colorado certificate of title.

3.3 The name and address placed on the certificate of title for vehicles owned by a Government Agency shall be as listed below. The Department may waive the name and address requirements on a case by case basis. To request a waiver, the Government Agency must submit a written request for waiver to the Department:

a. Vehicles owned by the State of Colorado

i. "State of Colorado Department of (Name of Department)" with the address as required by 42-6-139, C.R.S., of that specific Department

ii. Vehicles owned by the Regional Transportation District shall be titled with the name "Regional Transportation District"

b. Vehicles owned by counties or city and county

i. "County or City and County Name" (e.g., Adams County, Grand County, City and County of Denver etc.) and the address as required by 42-6-139, C.R.S., of that county or city and county.

c. Vehicles owned by local, municipal, or special districts

i. "Local, Municipal, or Special District Government Name" (e.g., City of Thornton, Town of Lyons, Denver Water District etc.) and the address as required by 42-6-139, C.R.S., of that local, municipal or special district.

3.4 If a Government Agency's vehicles are titled with a different name or address then as listed in paragraph 3.3 above prior to the effective date of this regulation, then a Government Agency has the discretion whether or not to change the vehicles title name and/or address. If a Government Agency elects to change the vehicles title name and/or address, they must pay all applicable fees in Article 6 of Title 42, C.R.S.

4.0 Registration and License Plates

4.1 All vehicles owned by a Government Agency, and which are required to be registered, shall be registered pursuant to Article 3 of Title 42, C.R.S., and this regulation.

4.2 Proof of emissions compliance shall be required pursuant to Part 3 and Part 4, Article 4 of Title 42, C.R.S., for each Government Agency owned vehicle registered in an emissions program area.

a. The legal address where the vehicle is principally operated or permanently maintained shall determine if the vehicle is registered in an emissions program area.

4.3 Government Agency owned vehicles shall be issued, and be required to display, the Government License Plate.

a. A Government Agency may elect to be issued a non-Government License Plate. If the Government Agency elects to be issued a non-Government License Plate, then the Government Agency is no longer exempt from payment of taxes and fees, and must pay all statutorily required taxes and fees. The Government Agency, and the vehicle they are plating, must meet all requirements for issuance of a non-Government License Plate including, but not limited to: vehicle type qualifications (e.g., special mobile machinery); pre-qualifications (e.g., donations to the license plate non-profit sponsor); and, vehicle weight restrictions (e.g., tractor/trailer). If a month validation tab or sticker is issued for the elected license plate, then the Government Agency must affix the tab or sticker to the license plate pursuant to 42-3-202(1)(b), C.R.S.

b. Motorcycles owned by a Government Agency shall be issued a Motorcycle Standardized License Plate. A Motorcycle Standardized License Plate issued to a Government Agency owned motorcycle shall not be required to be issued or display year and month validation tabs.

c. Vehicles owed by the Colorado State Patrol shall not be required to be issued or display the Government License Plate or Motorcycle Standardized License Plate. Colorado State Patrol vehicles may be issued and display Colorado State Patrol license plates pursuant to Code of Colorado Regulations 1 CCR 204-10 Rule 6. Colorado State Patrol License Plates.

4.4 Government License Plates shall not be issued or be required to display year and month validation tabs.

4.5 A Government Agency shall renew its vehicle registration(s) annually.

5.0 Donated, Loaned or Leased Vehicles

5.1 Vehicles donated to a Government Agency shall be titled and registered, unless exempted from registration pursuant to 42-3-104(3), C.R.S., as listed below:

a. The dealer donating a vehicle must apply for a new title through the County Motor Vehicle office in the dealership's name.

b. The dealer must pay title fees for the new title, and sales tax. A copy of forms DR 0100A Retail Sales Tax Return for Occasional Sales and DR 0025 Statement of Sales Taxes Paid on Loaner Motor Vehicles will be accepted as proof of sales tax paid.

c. The dealer shall assign the new title over to the Government Agency to which the vehicle is donated. The purchase price on the assigned title must state "Donated" and be entered into the Colorado State Title and Registration System as "0".

d. The Government Agency shall apply for a certificate of title, registration, and Government License Plate through the Department.

e. Unless statutorily exempt, the Government Agency shall pay the registration fees and taxes for the donated vehicle.

f. The Government Agency shall provide proof of emissions compliance pursuant to Part 3 and Part 4, Article 4 of Title 42, C.R.S., for each vehicle donated to the Government Agency that is being registered in an emissions program area.

5.2 Vehicles loaned to a Government Agency shall be titled and registered, unless exempted from registration pursuant to 42-3-104(3), C.R.S., as listed below:

a. If a vehicle is loaned to a Government Agency for over 30-days and the Government Agency elects to be issued and display Government License Plates on the vehicle then:

i. The dealer loaning the vehicle must apply for a new title in the dealership's name through the County Motor Vehicle office.

ii. The dealer must pay title fees and sales tax. A copy of forms DR 0100A Retail Sales Tax Return for Occasional Sales and DR 0025 Statement of Sales Taxes Paid on Loaner Motor Vehicles will be accepted as proof of sales tax paid.

iii. The Government Agency must be listed as the "In Care Of" in the Colorado State Titling and Registration System and on the registration receipt.

iv. The Government Agency shall apply for Government License Plates through the Department.

v. Unless statutorily exempt, the Government Agency shall pay the registration fees and taxes required.

vi. The Government Agency shall provide proof of emissions compliance pursuant to Part 3 and Part 4, Article 4 of Title 42, C.R.S., for each vehicle loaned to the Government Agency that is being registered in an emissions program area.

b. If a vehicle is loaned to a Government Agency for over 30-days and the Government Agency elects to be issued and display non-Government License Plates on the vehicle:

i. The dealer must apply for a new title through the County Motor Vehicle office in the dealership name.

ii. The dealer must pay title fees and sales tax. A copy of forms DR 0100A Retail Sales Tax Return for Occasional Sales and DR 0025 Statement of Sales Taxes Paid on Loaner Motor Vehicles will be accepted as proof of sales tax paid.

iii. The Government Agency must be listed as the "In Care Of" in the Colorado State Titling and Registration System and on the registration receipt.

iv. The Government Agency shall apply for non-Government License Plates at the County Motor Vehicle office.

v. Unless statutorily exempt, the Government Agency shall pay the registration fees and taxes required.

vi. The Government Agency shall provide proof of emissions compliance pursuant to Part 3 and Part 4, Article 4 of Title 42, C.R.S., for each vehicle loaned to the Government Agency that is being registered in an emissions program area.

5.3 Vehicles leased to a Government Agency shall be titled and registered as listed below:

a. If the Government Agency requests to be exempt from registration fees and taxes, the lease agreement must be submitted to the Department for

approval prior to the vehicle being titled and registered pursuant to 42-3-104(2) and 42-3-304(3)(c) C.R.S.

b. The lessor must apply for a new title in the lessor's name through the County Motor Vehicle office and the Government Agency must be listed as the lessee.

c. The Government Agency may apply for Government License Plates through the Department or apply for non-Government License Plates at the County Motor Vehicle office.

d. Unless statutorily exempt, the Government Agency shall pay the title and registration fees and taxes required.

e. The Government Agency shall provide proof of emissions compliance pursuant to Part 3 and Part 4, Article 4 of Title 42, C.R.S., for each vehicle leased to the Government Agency that is being registered in an emissions program area.

Notice of Proposed Rulemaking

Tracking number

2017-00315

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 405-1

Rule title

CHAPTER P-1 - PARKS AND OUTDOOR RECREATION LANDS

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

CHapter P-1 - Parks and Outdoor Recreation Lands - see attached

Statutory authority

See attached

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July 31, 2017

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
September 7-8, 2017

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **September 7-8, 2017. The Parks and Wildlife Commission meeting will be held at the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487. The following regulatory subjects and issues shall be considered** pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S. ("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - **September 7-8, 2017,** beginning **at 8:30 a.m.***

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

FINAL REGULATIONS

PARKS REGULATIONS

Chapter P-1 - "Parks and Outdoor Recreation Lands" 2 CCR 405-1

Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

Chapter P-5 - "Off-Highway Vehicle Regulations" 2 CCR 405-5

Open for consideration of final regulations including, but not limited to, allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.

Chapter P-7 - "Passes, Permits and Registrations" 2 CCR 405-7 and those related provisions of Chapter W-16 ("Procedural Rules" 2 CCR 406-16) and Chapter P-6 ("Procedural Rules" 2 CCR 405-6) necessary to accommodate changes to or ensure consistency with Chapter P-7

Open for consideration of final regulations including, but not limited to, the following:

- Addition of new regulations on fee waivers, discounts, and sponsorships related to park products and state wildlife area access permits.
- Moving existing hunting special use permit regulations from Chapter P-6 into Chapter P-7.

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- Decreasing the number of hunting special use permits on Lone Mesa State Park from 35 to 25 for the 3rd and 4th seasons.
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- Transitioning from seven slots to six seasons for hunting the Green Ranch at Golden Gate State Park.
- Creating one "Procedural Rules" chapter for both the parks and wildlife sides of the agency.
- Providing refunds and restoration of preference points for individuals serving on jury duty as well as active duty military personnel who return licenses due to military deployment.

CITIZEN PETITION

WILDLIFE REGULATIONS

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

Chapter W-1 - "Fishing" 2 CCR 406-1

At its September meeting, the Parks and Wildlife Commission will consider a Citizen Petition for Rulemaking related to Fishing, as follows:

- A Citizen Petition for Rulemaking requesting the Commission consider allowing the use of sling bows for harvesting fish species that can currently be taken using archery equipment.

The Commission may accept all or a portion of this petition for final action, further consideration or otherwise reject the petition at the September Commission meeting. A copy of any petition may be obtained by contacting Danielle Isenhart (303) 866-3203 ext. 4625, Regulations Manager, Colorado Parks and Wildlife.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

Chapter W-3 – "Furbearers and Small Game, except Migratory Birds" 2 CCR 406-3 and those related provisions of Chapter W-17 ("Game Damage" 2 CCR 406-17), Chapter W-5 ("Small Game - Migratory Birds" 2 CCR 406-5), Chapter W-2 ("Big Game" 2 CCR 406-2) and Chapter W-0 ("General Provisions" 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-3

Open for review of regulations pertaining to exemption trapping of nuisance furbearers and small game wildlife while incorporating new industry best management practices to increase animal welfare. This regulatory item also includes moving all existing damage-related

regulations into Chapter W-17 making the chapter applicable to damage caused by all wildlife.

Additionally, Chapter W-17 is also open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed.

Chapter W-6- "Raptors" 2 CCR 406-6

Open for consideration of regulations including, but not limited to, the following:

- Amending regulations pertaining to the use of all raptors for conservation education, including the creation of a raptor educational exhibitors license for both residents and nonresidents.
- Changing the license year for all falconry and raptor possession licenses to April 1-March 31 annually.
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Chapter W-8 - "Field Trials and Training of Hunting Dogs" 2 CCR 406-8

Open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed. These potential changes include, but are not limited to the following:

- Changing the annual dog training permit dates to April 1-March 31.
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- Removing the annual reporting requirement for dog training permit holders.

Chapter W-15 - "License Agents" 2 CCR 406-15

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ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

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Notice of Proposed Rulemaking

Tracking number

2017-00316

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 405-2

Rule title

CHAPTER P-2 - BOATING

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter P-2- Boating - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
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September 7-8, 2017

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DRAFT REGULATIONS

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Notice of Proposed Rulemaking

Tracking number

2017-00317

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 405-5

Rule title

CHAPTER P-5 - OFF-HIGHWAY VEHICLE REGULATIONS

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter P-5 - Off-Highway Vehicle Regulations - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

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Chapter W-15 - "License Agents" 2 CCR 406-15

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for the 2018 turkey hunting seasons.

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Notice of Proposed Rulemaking

Tracking number

2017-00318

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 405-6

Rule title

CHAPTER P-6 - PROCEDURAL RULES

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter P-6 - Procedural Rules - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
September 7-8, 2017

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **September 7-8, 2017. The Parks and Wildlife Commission meeting will be held at the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487. The following regulatory subjects and issues shall be considered** pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S. ("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - **September 7-8, 2017,** beginning **at 8:30 a.m.***

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

FINAL REGULATIONS

PARKS REGULATIONS

Chapter P-1 - "Parks and Outdoor Recreation Lands" 2 CCR 405-1

Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

Chapter P-5 - "Off-Highway Vehicle Regulations" 2 CCR 405-5

Open for consideration of final regulations including, but not limited to, allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.

Chapter P-7 - "Passes, Permits and Registrations" 2 CCR 405-7 and those related provisions of Chapter W-16 ("Procedural Rules" 2 CCR 406-16) and Chapter P-6 ("Procedural Rules" 2 CCR 405-6) necessary to accommodate changes to or ensure consistency with Chapter P-7

Open for consideration of final regulations including, but not limited to, the following:

- Addition of new regulations on fee waivers, discounts, and sponsorships related to park products and state wildlife area access permits.
- Moving existing hunting special use permit regulations from Chapter P-6 into Chapter P-7.

**Please reference the Commission agenda, to be posted on or after August 28, 2017, to ensure when each regulatory item will be addressed by the Commission. The agenda will be posted at http://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx.*

- Decreasing the number of hunting special use permits on Lone Mesa State Park from 35 to 25 for the 3rd and 4th seasons.
- Requiring only one hunting special use access permit per hunter, per season at Lone Mesa State Park.
- Transitioning from seven slots to six seasons for hunting the Green Ranch at Golden Gate State Park.
- Creating one "Procedural Rules" chapter for both the parks and wildlife sides of the agency.
- Providing refunds and restoration of preference points for individuals serving on jury duty as well as active duty military personnel who return licenses due to military deployment.

CITIZEN PETITION

WILDLIFE REGULATIONS

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

Chapter W-1 - "Fishing" 2 CCR 406-1

At its September meeting, the Parks and Wildlife Commission will consider a Citizen Petition for Rulemaking related to Fishing, as follows:

- A Citizen Petition for Rulemaking requesting the Commission consider allowing the use of sling bows for harvesting fish species that can currently be taken using archery equipment.

The Commission may accept all or a portion of this petition for final action, further consideration or otherwise reject the petition at the September Commission meeting. A copy of any petition may be obtained by contacting Danielle Isenhart (303) 866-3203 ext. 4625, Regulations Manager, Colorado Parks and Wildlife.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

Chapter W-3 – "Furbearers and Small Game, except Migratory Birds" 2 CCR 406-3 and those related provisions of Chapter W-17 ("Game Damage" 2 CCR 406-17), Chapter W-5 ("Small Game - Migratory Birds" 2 CCR 406-5), Chapter W-2 ("Big Game" 2 CCR 406-2) and Chapter W-0 ("General Provisions" 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-3

Open for review of regulations pertaining to exemption trapping of nuisance furbearers and small game wildlife while incorporating new industry best management practices to increase animal welfare. This regulatory item also includes moving all existing damage-related

regulations into Chapter W-17 making the chapter applicable to damage caused by all wildlife.

Additionally, Chapter W-17 is also open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed.

Chapter W-6- "Raptors" 2 CCR 406-6

Open for consideration of regulations including, but not limited to, the following:

- Amending regulations pertaining to the use of all raptors for conservation education, including the creation of a raptor educational exhibitors license for both residents and nonresidents.
- Changing the license year for all falconry and raptor possession licenses to April 1-March 31 annually.
- Requiring one live eyas or recently fledged peregrine falcon to be left in a nest or aerie when capturing peregrine falcons from the wild.

Chapter W-8 - "Field Trials and Training of Hunting Dogs" 2 CCR 406-8

Open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed. These potential changes include, but are not limited to the following:

- Changing the annual dog training permit dates to April 1-March 31.
- Requiring each individual to have a dog training permit when releasing and shooting privately owned game birds for training on Division properties.
- Removing the annual reporting requirement for dog training permit holders.

Chapter W-15 - "License Agents" 2 CCR 406-15

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for the 2018 turkey hunting seasons.

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Notice of Proposed Rulemaking

Tracking number

2017-00319

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 405-7

Rule title

CHAPTER P-7 - PASSES, PERMITS AND REGISTRATIONS

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter P-7 - Passes, Permits and Registrations - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
September 7-8, 2017

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PARKS REGULATIONS

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Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

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DRAFT REGULATIONS

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Notice of Proposed Rulemaking

Tracking number

2017-00320

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-0

Rule title

CHAPTER W-0 - GENERAL PROVISIONS

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-0 - General Provisions - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
September 7-8, 2017

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **September 7-8, 2017. The Parks and Wildlife Commission meeting will be held at the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487. The following regulatory subjects and issues shall be considered** pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S. ("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - **September 7-8, 2017,** beginning **at 8:30 a.m.***

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

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PARKS REGULATIONS

Chapter P-1 - "Parks and Outdoor Recreation Lands" 2 CCR 405-1

Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

Chapter P-5 - "Off-Highway Vehicle Regulations" 2 CCR 405-5

Open for consideration of final regulations including, but not limited to, allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.

Chapter P-7 - "Passes, Permits and Registrations" 2 CCR 405-7 and those related provisions of Chapter W-16 ("Procedural Rules" 2 CCR 406-16) and Chapter P-6 ("Procedural Rules" 2 CCR 405-6) necessary to accommodate changes to or ensure consistency with Chapter P-7

Open for consideration of final regulations including, but not limited to, the following:

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- Decreasing the number of hunting special use permits on Lone Mesa State Park from 35 to 25 for the 3rd and 4th seasons.
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- Transitioning from seven slots to six seasons for hunting the Green Ranch at Golden Gate State Park.
- Creating one "Procedural Rules" chapter for both the parks and wildlife sides of the agency.
- Providing refunds and restoration of preference points for individuals serving on jury duty as well as active duty military personnel who return licenses due to military deployment.

CITIZEN PETITION

WILDLIFE REGULATIONS

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

Chapter W-1 - "Fishing" 2 CCR 406-1

At its September meeting, the Parks and Wildlife Commission will consider a Citizen Petition for Rulemaking related to Fishing, as follows:

- A Citizen Petition for Rulemaking requesting the Commission consider allowing the use of sling bows for harvesting fish species that can currently be taken using archery equipment.

The Commission may accept all or a portion of this petition for final action, further consideration or otherwise reject the petition at the September Commission meeting. A copy of any petition may be obtained by contacting Danielle Isenhart (303) 866-3203 ext. 4625, Regulations Manager, Colorado Parks and Wildlife.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

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Open for review of regulations pertaining to exemption trapping of nuisance furbearers and small game wildlife while incorporating new industry best management practices to increase animal welfare. This regulatory item also includes moving all existing damage-related

regulations into Chapter W-17 making the chapter applicable to damage caused by all wildlife.

Additionally, Chapter W-17 is also open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed.

Chapter W-6- "Raptors" 2 CCR 406-6

Open for consideration of regulations including, but not limited to, the following:

- Amending regulations pertaining to the use of all raptors for conservation education, including the creation of a raptor educational exhibitors license for both residents and nonresidents.
- Changing the license year for all falconry and raptor possession licenses to April 1-March 31 annually.
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Open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed. These potential changes include, but are not limited to the following:

- Changing the annual dog training permit dates to April 1-March 31.
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- Removing the annual reporting requirement for dog training permit holders.

Chapter W-15 - "License Agents" 2 CCR 406-15

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

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Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

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Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for the 2018 turkey hunting seasons.

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Notice of Proposed Rulemaking

Tracking number

2017-00321

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-1

Rule title

CHAPTER W-1 - FISHING

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-1 - Fishing - See attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenahrt@state.co.us

July 31, 2017

RULE-MAKING NOTICE
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September 7-8, 2017

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DRAFT REGULATIONS

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Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

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Notice of Proposed Rulemaking

Tracking number

2017-00322

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-2

Rule title

CHAPTER W-2 - BIG GAME

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-2- Big Game- see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenahrt@state.co.us

July 31, 2017

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Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for the 2018 turkey hunting seasons.

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

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Notice of Proposed Rulemaking

Tracking number

2017-00323

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-3

Rule title

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

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-3 - Furbearers and Small Game Except Migratory Birds - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
September 7-8, 2017

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **September 7-8, 2017. The Parks and Wildlife Commission meeting will be held at the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487. The following regulatory subjects and issues shall be considered** pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S. ("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - **September 7-8, 2017,** beginning **at 8:30 a.m.***

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

FINAL REGULATIONS

PARKS REGULATIONS

Chapter P-1 - "Parks and Outdoor Recreation Lands" 2 CCR 405-1

Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

Chapter P-5 - "Off-Highway Vehicle Regulations" 2 CCR 405-5

Open for consideration of final regulations including, but not limited to, allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.

Chapter P-7 - "Passes, Permits and Registrations" 2 CCR 405-7 and those related provisions of Chapter W-16 ("Procedural Rules" 2 CCR 406-16) and Chapter P-6 ("Procedural Rules" 2 CCR 405-6) necessary to accommodate changes to or ensure consistency with Chapter P-7

Open for consideration of final regulations including, but not limited to, the following:

- Addition of new regulations on fee waivers, discounts, and sponsorships related to park products and state wildlife area access permits.
- Moving existing hunting special use permit regulations from Chapter P-6 into Chapter P-7.

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- Decreasing the number of hunting special use permits on Lone Mesa State Park from 35 to 25 for the 3rd and 4th seasons.
- Requiring only one hunting special use access permit per hunter, per season at Lone Mesa State Park.
- Transitioning from seven slots to six seasons for hunting the Green Ranch at Golden Gate State Park.
- Creating one "Procedural Rules" chapter for both the parks and wildlife sides of the agency.
- Providing refunds and restoration of preference points for individuals serving on jury duty as well as active duty military personnel who return licenses due to military deployment.

CITIZEN PETITION

WILDLIFE REGULATIONS

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

Chapter W-1 - "Fishing" 2 CCR 406-1

At its September meeting, the Parks and Wildlife Commission will consider a Citizen Petition for Rulemaking related to Fishing, as follows:

- A Citizen Petition for Rulemaking requesting the Commission consider allowing the use of sling bows for harvesting fish species that can currently be taken using archery equipment.

The Commission may accept all or a portion of this petition for final action, further consideration or otherwise reject the petition at the September Commission meeting. A copy of any petition may be obtained by contacting Danielle Isenhart (303) 866-3203 ext. 4625, Regulations Manager, Colorado Parks and Wildlife.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

Chapter W-3 – "Furbearers and Small Game, except Migratory Birds" 2 CCR 406-3 and those related provisions of Chapter W-17 ("Game Damage" 2 CCR 406-17), Chapter W-5 ("Small Game - Migratory Birds" 2 CCR 406-5), Chapter W-2 ("Big Game" 2 CCR 406-2) and Chapter W-0 ("General Provisions" 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-3

Open for review of regulations pertaining to exemption trapping of nuisance furbearers and small game wildlife while incorporating new industry best management practices to increase animal welfare. This regulatory item also includes moving all existing damage-related

regulations into Chapter W-17 making the chapter applicable to damage caused by all wildlife.

Additionally, Chapter W-17 is also open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed.

Chapter W-6- "Raptors" 2 CCR 406-6

Open for consideration of regulations including, but not limited to, the following:

- Amending regulations pertaining to the use of all raptors for conservation education, including the creation of a raptor educational exhibitors license for both residents and nonresidents.
- Changing the license year for all falconry and raptor possession licenses to April 1-March 31 annually.
- Requiring one live eyas or recently fledged peregrine falcon to be left in a nest or aerie when capturing peregrine falcons from the wild.

Chapter W-8 - "Field Trials and Training of Hunting Dogs" 2 CCR 406-8

Open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed. These potential changes include, but are not limited to the following:

- Changing the annual dog training permit dates to April 1-March 31.
- Requiring each individual to have a dog training permit when releasing and shooting privately owned game birds for training on Division properties.
- Removing the annual reporting requirement for dog training permit holders.

Chapter W-15 - "License Agents" 2 CCR 406-15

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for the 2018 turkey hunting seasons.

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Notice of Proposed Rulemaking

Tracking number

2017-00324

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-5

Rule title

CHAPTER W-5 - MIGRATORY BIRDS

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-5 - Migratory Birds - See attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
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Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

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DRAFT REGULATIONS

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Notice of Proposed Rulemaking

Tracking number

2017-00325

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-6

Rule title

CHAPTER W-6 - RAPTORS

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-6 - Raptors - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
September 7-8, 2017

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **September 7-8, 2017. The Parks and Wildlife Commission meeting will be held at the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487. The following regulatory subjects and issues shall be considered** pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S. ("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - **September 7-8, 2017,** beginning **at 8:30 a.m.***

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

FINAL REGULATIONS

PARKS REGULATIONS

Chapter P-1 - "Parks and Outdoor Recreation Lands" 2 CCR 405-1

Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

Chapter P-5 - "Off-Highway Vehicle Regulations" 2 CCR 405-5

Open for consideration of final regulations including, but not limited to, allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.

Chapter P-7 - "Passes, Permits and Registrations" 2 CCR 405-7 and those related provisions of Chapter W-16 ("Procedural Rules" 2 CCR 406-16) and Chapter P-6 ("Procedural Rules" 2 CCR 405-6) necessary to accommodate changes to or ensure consistency with Chapter P-7

Open for consideration of final regulations including, but not limited to, the following:

- Addition of new regulations on fee waivers, discounts, and sponsorships related to park products and state wildlife area access permits.
- Moving existing hunting special use permit regulations from Chapter P-6 into Chapter P-7.

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- Decreasing the number of hunting special use permits on Lone Mesa State Park from 35 to 25 for the 3rd and 4th seasons.
- Requiring only one hunting special use access permit per hunter, per season at Lone Mesa State Park.
- Transitioning from seven slots to six seasons for hunting the Green Ranch at Golden Gate State Park.
- Creating one "Procedural Rules" chapter for both the parks and wildlife sides of the agency.
- Providing refunds and restoration of preference points for individuals serving on jury duty as well as active duty military personnel who return licenses due to military deployment.

CITIZEN PETITION

WILDLIFE REGULATIONS

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

Chapter W-1 - "Fishing" 2 CCR 406-1

At its September meeting, the Parks and Wildlife Commission will consider a Citizen Petition for Rulemaking related to Fishing, as follows:

- A Citizen Petition for Rulemaking requesting the Commission consider allowing the use of sling bows for harvesting fish species that can currently be taken using archery equipment.

The Commission may accept all or a portion of this petition for final action, further consideration or otherwise reject the petition at the September Commission meeting. A copy of any petition may be obtained by contacting Danielle Isenhart (303) 866-3203 ext. 4625, Regulations Manager, Colorado Parks and Wildlife.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

Chapter W-3 – "Furbearers and Small Game, except Migratory Birds" 2 CCR 406-3 and those related provisions of Chapter W-17 ("Game Damage" 2 CCR 406-17), Chapter W-5 ("Small Game - Migratory Birds" 2 CCR 406-5), Chapter W-2 ("Big Game" 2 CCR 406-2) and Chapter W-0 ("General Provisions" 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-3

Open for review of regulations pertaining to exemption trapping of nuisance furbearers and small game wildlife while incorporating new industry best management practices to increase animal welfare. This regulatory item also includes moving all existing damage-related

regulations into Chapter W-17 making the chapter applicable to damage caused by all wildlife.

Additionally, Chapter W-17 is also open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed.

Chapter W-6- "Raptors" 2 CCR 406-6

Open for consideration of regulations including, but not limited to, the following:

- Amending regulations pertaining to the use of all raptors for conservation education, including the creation of a raptor educational exhibitors license for both residents and nonresidents.
- Changing the license year for all falconry and raptor possession licenses to April 1-March 31 annually.
- Requiring one live eyas or recently fledged peregrine falcon to be left in a nest or aerie when capturing peregrine falcons from the wild.

Chapter W-8 - "Field Trials and Training of Hunting Dogs" 2 CCR 406-8

Open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed. These potential changes include, but are not limited to the following:

- Changing the annual dog training permit dates to April 1-March 31.
- Requiring each individual to have a dog training permit when releasing and shooting privately owned game birds for training on Division properties.
- Removing the annual reporting requirement for dog training permit holders.

Chapter W-15 - "License Agents" 2 CCR 406-15

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for the 2018 turkey hunting seasons.

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

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

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

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

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OTHER AGENDA ITEMS: The Parks and Wildlife Commission may consider and make policy, program implementation, and other non-regulatory decisions, which may be of public interest at this meeting. A copy of the complete meeting agenda may be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **August 28, 2017**.

Notice of Proposed Rulemaking

Tracking number

2017-00326

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-8

Rule title

CHAPTER W-8 - FIELD TRIALS AND TRAINING OF DOGS

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-8 - Field Trails and Training of Hunting Dogs - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenahrt@state.co.us

July 31, 2017

RULE-MAKING NOTICE
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September 7-8, 2017

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CITIZEN PETITION

WILDLIFE REGULATIONS

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DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

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Notice of Proposed Rulemaking

Tracking number

2017-00327

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-9

Rule title

CHAPTER W-9 - WILDLIFE PROPERTIES

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-9 - Wildlife Properties - see attached

Statutory authority

see attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

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DRAFT REGULATIONS

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- Requiring each individual to have a dog training permit when releasing and shooting privately owned game birds for training on Division properties.
- Removing the annual reporting requirement for dog training permit holders.

Chapter W-15 - "License Agents" 2 CCR 406-15

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for the 2018 turkey hunting seasons.

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Notice of Proposed Rulemaking

Tracking number

2017-00328

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-15

Rule title

CHAPTER W-15 - LICENSE AGENTS

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-15 - Division Agents - see attached

Statutory authority

See attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
September 7-8, 2017

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **September 7-8, 2017. The Parks and Wildlife Commission meeting will be held at the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487. The following regulatory subjects and issues shall be considered** pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S. ("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - **September 7-8, 2017,** beginning **at 8:30 a.m.***

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

FINAL REGULATIONS

PARKS REGULATIONS

Chapter P-1 - "Parks and Outdoor Recreation Lands" 2 CCR 405-1

Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

Chapter P-5 - "Off-Highway Vehicle Regulations" 2 CCR 405-5

Open for consideration of final regulations including, but not limited to, allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.

Chapter P-7 - "Passes, Permits and Registrations" 2 CCR 405-7 and those related provisions of Chapter W-16 ("Procedural Rules" 2 CCR 406-16) and Chapter P-6 ("Procedural Rules" 2 CCR 405-6) necessary to accommodate changes to or ensure consistency with Chapter P-7

Open for consideration of final regulations including, but not limited to, the following:

- Addition of new regulations on fee waivers, discounts, and sponsorships related to park products and state wildlife area access permits.
- Moving existing hunting special use permit regulations from Chapter P-6 into Chapter P-7.

**Please reference the Commission agenda, to be posted on or after August 28, 2017, to ensure when each regulatory item will be addressed by the Commission. The agenda will be posted at http://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx.*

- Decreasing the number of hunting special use permits on Lone Mesa State Park from 35 to 25 for the 3rd and 4th seasons.
- Requiring only one hunting special use access permit per hunter, per season at Lone Mesa State Park.
- Transitioning from seven slots to six seasons for hunting the Green Ranch at Golden Gate State Park.
- Creating one "Procedural Rules" chapter for both the parks and wildlife sides of the agency.
- Providing refunds and restoration of preference points for individuals serving on jury duty as well as active duty military personnel who return licenses due to military deployment.

CITIZEN PETITION

WILDLIFE REGULATIONS

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

Chapter W-1 - "Fishing" 2 CCR 406-1

At its September meeting, the Parks and Wildlife Commission will consider a Citizen Petition for Rulemaking related to Fishing, as follows:

- A Citizen Petition for Rulemaking requesting the Commission consider allowing the use of sling bows for harvesting fish species that can currently be taken using archery equipment.

The Commission may accept all or a portion of this petition for final action, further consideration or otherwise reject the petition at the September Commission meeting. A copy of any petition may be obtained by contacting Danielle Isenhart (303) 866-3203 ext. 4625, Regulations Manager, Colorado Parks and Wildlife.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

Chapter W-3 – "Furbearers and Small Game, except Migratory Birds" 2 CCR 406-3 and those related provisions of Chapter W-17 ("Game Damage" 2 CCR 406-17), Chapter W-5 ("Small Game - Migratory Birds" 2 CCR 406-5), Chapter W-2 ("Big Game" 2 CCR 406-2) and Chapter W-0 ("General Provisions" 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-3

Open for review of regulations pertaining to exemption trapping of nuisance furbearers and small game wildlife while incorporating new industry best management practices to increase animal welfare. This regulatory item also includes moving all existing damage-related

regulations into Chapter W-17 making the chapter applicable to damage caused by all wildlife.

Additionally, Chapter W-17 is also open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed.

Chapter W-6- "Raptors" 2 CCR 406-6

Open for consideration of regulations including, but not limited to, the following:

- Amending regulations pertaining to the use of all raptors for conservation education, including the creation of a raptor educational exhibitors license for both residents and nonresidents.
- Changing the license year for all falconry and raptor possession licenses to April 1-March 31 annually.
- Requiring one live eyas or recently fledged peregrine falcon to be left in a nest or aerie when capturing peregrine falcons from the wild.

Chapter W-8 - "Field Trials and Training of Hunting Dogs" 2 CCR 406-8

Open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed. These potential changes include, but are not limited to the following:

- Changing the annual dog training permit dates to April 1-March 31.
- Requiring each individual to have a dog training permit when releasing and shooting privately owned game birds for training on Division properties.
- Removing the annual reporting requirement for dog training permit holders.

Chapter W-15 - "License Agents" 2 CCR 406-15

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

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Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

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Notice of Proposed Rulemaking

Tracking number

2017-00329

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-16

Rule title

CHAPTER W-16 - PROCEDURAL RULES

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-16 - Procedural Rules - see attached

Statutory authority

see attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
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September 7-8, 2017

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PARKS REGULATIONS

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Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

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Open for consideration of final regulations including, but not limited to, allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.

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DRAFT REGULATIONS

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Notice of Proposed Rulemaking

Tracking number

2017-00330

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-17

Rule title

CHAPTER 17 - DAMAGE CAUSED BY BIG GAME

Rulemaking Hearing

Date

09/07/2017

Time

08:30 AM

Location

the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487

Subjects and issues involved

Chapter W-17 - Game Damage - see attached

Statutory authority

see attached

Contact information

Name

Danielle Isenhart

Title

Regulations Manager

Telephone

303-866-3203 ex 4625

Email

danielle.isenhart@state.co.us

July 31, 2017

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
September 7-8, 2017

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **September 7-8, 2017. The Parks and Wildlife Commission meeting will be held at the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487. The following regulatory subjects and issues shall be considered** pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S. ("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - **September 7-8, 2017,** beginning **at 8:30 a.m.***

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

FINAL REGULATIONS

PARKS REGULATIONS

Chapter P-1 - "Parks and Outdoor Recreation Lands" 2 CCR 405-1

Open for consideration of final regulations including, but not limited to, a reorganization of the chapter to list all existing park-specific regulations alphabetically by park.

Chapter P-5 - "Off-Highway Vehicle Regulations" 2 CCR 405-5

Open for consideration of final regulations including, but not limited to, allowing passengers on off-highway vehicles (OHVs) which are designed for carrying passengers, as long as the passengers are not interfering with safe operation of the OHV.

Chapter P-7 - "Passes, Permits and Registrations" 2 CCR 405-7 and those related provisions of Chapter W-16 ("Procedural Rules" 2 CCR 406-16) and Chapter P-6 ("Procedural Rules" 2 CCR 405-6) necessary to accommodate changes to or ensure consistency with Chapter P-7

Open for consideration of final regulations including, but not limited to, the following:

- Addition of new regulations on fee waivers, discounts, and sponsorships related to park products and state wildlife area access permits.
- Moving existing hunting special use permit regulations from Chapter P-6 into Chapter P-7.

**Please reference the Commission agenda, to be posted on or after August 28, 2017, to ensure when each regulatory item will be addressed by the Commission. The agenda will be posted at http://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx.*

- Decreasing the number of hunting special use permits on Lone Mesa State Park from 35 to 25 for the 3rd and 4th seasons.
- Requiring only one hunting special use access permit per hunter, per season at Lone Mesa State Park.
- Transitioning from seven slots to six seasons for hunting the Green Ranch at Golden Gate State Park.
- Creating one "Procedural Rules" chapter for both the parks and wildlife sides of the agency.
- Providing refunds and restoration of preference points for individuals serving on jury duty as well as active duty military personnel who return licenses due to military deployment.

CITIZEN PETITION

WILDLIFE REGULATIONS

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

Chapter W-1 - "Fishing" 2 CCR 406-1

At its September meeting, the Parks and Wildlife Commission will consider a Citizen Petition for Rulemaking related to Fishing, as follows:

- A Citizen Petition for Rulemaking requesting the Commission consider allowing the use of sling bows for harvesting fish species that can currently be taken using archery equipment.

The Commission may accept all or a portion of this petition for final action, further consideration or otherwise reject the petition at the September Commission meeting. A copy of any petition may be obtained by contacting Danielle Isenhart (303) 866-3203 ext. 4625, Regulations Manager, Colorado Parks and Wildlife.

DRAFT REGULATIONS

WILDLIFE REGULATIONS

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for consideration of regulations adjusting non-resident big game license fees according to the Consumer Price Index, and adjusting non-resident big game license fees within statutory limitations pursuant to 33-4-102 (1.6)(IV)(b), C.R.S.

Chapter W-3 – "Furbearers and Small Game, except Migratory Birds" 2 CCR 406-3 and those related provisions of Chapter W-17 ("Game Damage" 2 CCR 406-17), Chapter W-5 ("Small Game - Migratory Birds" 2 CCR 406-5), Chapter W-2 ("Big Game" 2 CCR 406-2) and Chapter W-0 ("General Provisions" 2 CCR 406-0) necessary to accommodate changes to or ensure consistency with Chapter W-3

Open for review of regulations pertaining to exemption trapping of nuisance furbearers and small game wildlife while incorporating new industry best management practices to increase animal welfare. This regulatory item also includes moving all existing damage-related

regulations into Chapter W-17 making the chapter applicable to damage caused by all wildlife.

Additionally, Chapter W-17 is also open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed.

Chapter W-6- "Raptors" 2 CCR 406-6

Open for consideration of regulations including, but not limited to, the following:

- Amending regulations pertaining to the use of all raptors for conservation education, including the creation of a raptor educational exhibitors license for both residents and nonresidents.
- Changing the license year for all falconry and raptor possession licenses to April 1-March 31 annually.
- Requiring one live eyas or recently fledged peregrine falcon to be left in a nest or aerie when capturing peregrine falcons from the wild.

Chapter W-8 - "Field Trials and Training of Hunting Dogs" 2 CCR 406-8

Open for review of regulations in accordance with Executive Order D 2012-002 ("Regulatory Efficiency Reviews") to determine if they should be continued in their current form, modified or repealed. These potential changes include, but are not limited to the following:

- Changing the annual dog training permit dates to April 1-March 31.
- Requiring each individual to have a dog training permit when releasing and shooting privately owned game birds for training on Division properties.
- Removing the annual reporting requirement for dog training permit holders.

Chapter W-15 - "License Agents" 2 CCR 406-15

Open for consideration of regulations regarding license agents, including but not limited to, adjusting commission rates applicable to the sale of licenses by license agents according to the Consumer Price Index.

ISSUES IDENTIFICATION

PARKS REGULATIONS

Chapter P-2 – "Boating" 2 CCR 405-2

Open for annual review of the entire chapter including but not limited to, regulations pertaining to registration, required equipment and safe operation of vessels on waters within the state.

WILDLIFE REGULATIONS

Chapter W-1- "Fishing" 2 CCR 406-1 and those related provisions of Chapter W-0 ("General Provisions" 2 CCR 406-0) and Chapter W-9 ("Wildlife Properties" 2 CCR 406-9) necessary to accommodate changes to or ensure consistency with Chapter W-1

Open for annual review of the entire chapter including, but not limited to, consideration of regulations regarding seasons and season dates, bag and possession limits, licensing

requirements, manner of take provisions and special conditions or restrictions applicable to waters of the state.

Chapter W-2 - "Big Game" 2 CCR 406-2

Open for annual review of provisions regarding mountain lion hunting, including but not limited to, licensing requirements, license areas, season dates, minor unit boundary changes and manner of take provisions.

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

Open for annual review of regulations regarding turkey hunting, including but not limited to, license areas and license numbers, season dates, and manner of take provisions for the 2018 turkey hunting seasons.

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

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

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

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

August 24, 2017, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **August 25, 2017.**

Comments received by the Division after noon on **August 24, 2017,** will be provided to the Commission on the day of the meeting.

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

Use of Consent Agenda:
In order to increase the Parks and Wildlife Commission's efficiency and allow more time for consideration of parks and wildlife policy and contested issues, some or all of this regulatory agenda may be listed for action by the Commission as part of a "Consent Agenda" for this meeting.

The process for placing matters on the Consent Agenda is as follows:
The Director identifies matters where the recommended action follows established policy or precedent, there has been agreement reached or the matter is expected to be uncontested and non-controversial.

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

OTHER AGENDA ITEMS: The Parks and Wildlife Commission may consider and make policy, program implementation, and other non-regulatory decisions, which may be of public interest at this meeting. A copy of the complete meeting agenda may be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **August 28, 2017**.

Notice of Proposed Rulemaking

Tracking number

2017-00331

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-1

Rule title

ADMINISTRATIVE PROCEDURES

Rulemaking Hearing

Date

09/01/2017

Time

10:00 AM

Location

1560 Broadway, Ste 110 D, Denver CO 80202

Subjects and issues involved

1-1-9 The purpose of this regulation is to prescribe the format for electronic rate filings with the Division of Insurance (Division), and to set forth the circumstances that would be considered an emergency situation exempting insurers and carriers from making electronic rate filings.

Statutory authority

10-1-109, 10-4-401(5) and 10-16-107(1)

Contact information

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DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-1

ADMINISTRATIVE PROCEDURES

Proposed Amended Regulation 1-1-9

ELECTRONIC RATE FILING AND EXEMPTION TO ELECTRONIC RATE FILING REQUIREMENTS DUE TO AN EMERGENCY SITUATION

Section 1 Authority

This regulation is promulgated under the authority of §§ 10-1-109, 10-4-401(5) and 10-16-107(1), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to prescribe the format for electronic rate filings with the Division of Insurance (Division), and to set forth the circumstances that would be considered an emergency situation exempting insurers and carriers from making electronic rate filings.

Section 3 Applicability

The requirements of this regulation shall apply to all insurance companies who file type II rates for property and casualty insurance rate filings subject to pParts 1 through 4 of aArticle 4 of Ttitle 10, C.R.S., and for health rate filings subject to Article 16 of Title 10.

Section 4 Rule

A. The following situations are defined as an emergency situation that would exempt insurers and carriers from making electronic rate filings;

1. At the written request of an insurer or carrier, the commissioner determines a catastrophic event has occurred affecting the insurer or carrier, such as: an act of God, war or other attack, explosion, fire, flood, storm or similar event which prevents the carrier from filing rates electronically for a period estimated to be more than 30 days; or

2. Any other circumstances the commissioner deems to be an emergency situation.

B. Except as a result of an event described in section 4.A, an emergency situation does not exist due to an insurer's failure to have adequate, properly trained staff to file rates electronically.

C. The Division will only accept electronic filings submitted through SERFF (System for Electronic Rate and Form Filing). Information regarding SERFF can be located at www.SERFF.com.

Section 5 Severability

If any provision of this regulation or 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 6 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 7 Effective Date

This regulation shall be effective ~~April 1, 2013~~ November 1, 2017.

Section 8 History

New Colorado Regulation 1-1-9 effective February 1, 2008.
Amended Regulation 1-1-9 effective April 1, 2013.
Amended Regulation effective November 1, 2017.

Notice of Proposed Rulemaking

Tracking number

2017-00305

Department

700 - Department of Regulatory Agencies

Agency

719 - Division of Professions and Occupations - State Board of Pharmacy

CCR number

3 CCR 719-1

Rule title

STATE BOARD OF PHARMACY RULES

Rulemaking Hearing

Date

09/21/2017

Time

10:00 AM

Location

1560 Broadway, Ste. 110 D, Denver, CO 80202

Subjects and issues involved

The Board proposes to repeal rules 1.00.15 and 5.00.55(a)(6) to remove the restriction on prescriber ownership of a pharmacy. The amendments to rules 3.01.10, 7.00.30, 21.00.20, 21.00.30, and 23.00.00 are to implement legislative changes from the 2017 legislative session.

Statutory authority

Sections 12-42.5-101, 12-42.5-105, 12-42.5-106(2) and (3), 12-42.5-118, 12-42.5-118.5, 12-42.5-119, 12-42.5-130, 12-42.5-404 and 24-4-103, C.R.S.

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1.00.00 RULES OF PROFESSIONAL CONDUCT.

1.00.11 A pharmacist shall at all times conduct his/her profession in conformity with all federal and state drug laws, rules and regulations; and shall uphold the legal standards of the current official compendia.

1.00.12 A pharmacist shall not be a party or accessory to nor engage in any fraudulent or deceitful practice or transaction in pharmacy, nor knowingly participate in any practice which detrimentally affects the patient, nor discredit his/her profession.

1.00.13 A pharmacist shall not enter into any agreement or arrangement with anyone for the compounding of secret formula or coded orders, except for investigational drugs.

~~**1.00.15 A pharmacist shall not, directly or indirectly, be employed as a pharmacist to dispense drugs by a person authorized to prescribe drugs. For the purpose of this rule, the term person shall include any person or persons, partnership or business entity in which the person or persons authorized to prescribe drugs has an ownership interest individually or jointly greater than 10 percent.**~~

3.01.10 a. In a prescription drug outlet packaging shall only be done by a pharmacist, or by an intern or pharmacy technician under the supervision of a pharmacist. In an other outlet, packaging may be done by a person not licensed as a pharmacist pursuant to protocols approved by the Board.

b. Such packaged drugs shall only be dispensed or distributed from the premises where packaged. Such packaged drugs shall only be distributed as provided in 3.01.10(d).

c. Any container used for packaging shall meet compendia requirements.

d. The following prescription drug outlets may distribute packaged medications without limitation to prescription drug outlets and other outlets under common ownership:

1. Prescription drug outlets owned and operated by a hospital that is accredited by the joint commission on accreditation of healthcare organizations or a successor organization pursuant to 12-42.5-118((15)(b), C.R.S;

2. Prescription drug outlets operated by a health maintenance organization as defined in section 10-16-102, C.R.S.; and

3. The Colorado Department of Corrections.

5.00.55 Reinstatement of an In-State or Non-Resident Prescription Drug Outlet Registration.

a. In-state Prescription Drug Outlet. If a registration has expired, a facility seeking to reinstate such registration shall submit the following:

(1) The current reinstatement application with the required fee;

(2) If the owner of the in-state prescription drug outlet is a corporation, submit either a copy of the articles of incorporation as they were filed with the Colorado Secretary of State or a Certificate of Good Standing issued by the Colorado Secretary of State;

(3) A letter stating whether the corporation is public or private as follows:

(A) If the corporation is a public corporation, submit a list of all stockholders owning five percent or more of the stock; or

(B) If the corporation is a private corporation, submit a list of all stockholders;

(4) An accurate drawn-to-scale floor plan of the prescription drug outlet's compounding / dispensing area detailing all counters, bays, sinks, refrigerators and, if applicable, sterile and non-sterile compounding hoods; and

(5) A completed, dated and signed minimum equipment self-inspection form as provided with the reinstatement application.~~; and~~

(6) ~~A statement, signed by the pharmacist manager, stating whether or not greater than ten percent of the business is owned by a person or persons authorized by law to prescribe drugs.~~

7.00.30 Compliance of Outlet:

b. The manager shall be responsible for posting the following information for each pharmacy technician working in the compounding/dispensing area:

1. Certificate indicating the technician is certified by a nationally recognized certification Board; or

2. Diploma indicating the technician has graduated from an accredited pharmacy technician training program; or

3. Documentation that the pharmacy technician has completed five hundred hours of experiential training at the pharmacy. This

documentation must be certified by the pharmacist manager of the prescription drug outlet; or

4. Documentation that the pharmacy technician does not have certification from a nationally recognized certification Board, has not graduated from an accredited pharmacy technician training program, and has not completed 500 hours of experiential training at the pharmacy. Within 18 months of beginning employment at the pharmacy, each pharmacy technician shall meet the requirements of either subparagraph 1, 2 or 3 of this Rule 7.00.30(b).

21.00.20 Casual Sales/Distribution of Compounded Products.

a. An in-state prescription drug outlet shall only distribute a compounded product to:

(1) Practitioners licensed and located in Colorado and authorized by law to prescribe the drug;

(2) Colorado licensed/registered acupuncturists, direct-entry midwives, or naturopathic doctors who are located in Colorado and authorized by law to obtain the drug;

(3) Hospital prescription drug outlets registered and located in Colorado; or

(4) ~~Hospital other~~ Other outlets registered and located in Colorado pursuant to Board Rule 3.01.10(d).

Except as provided by Rule 21.00.20(d), distribution of the compounded product pursuant to this rule shall be for the sole purpose of drug administration. In-state Prescription Drug Outlets shall not distribute compounded products outside of the state. In-state Prescription Drug Outlets shall dispense compounded products and ship them out of the state only pursuant to patient-specific prescription orders.

b. Unless otherwise allowed by state and federal law, nonresident prescription drug outlets shall not distribute compounded products into Colorado pursuant to 21 U.S.C. secs. 331(a), 353(b) and 355(a).

c. Unless otherwise allowed by state and federal law, nonresident prescription drug outlets registered in Colorado may dispense compounded products and ship them into Colorado only pursuant to valid, patient-specific prescription orders.

d. A nonresident prescription drug outlet may distribute a compounded product to a Colorado-licensed veterinarian who is located in

Colorado and authorized by law to prescribe the drug only if:

i) The nonresident prescription drug outlet provides the Board with a copy of the outlet's most recent report detailing an inspection by the National Association of Boards of Pharmacy Verified Pharmacy Program, for which third-party inspection the nonresident prescription drug outlet shall obtain and pay for on an annual basis, and the Board approves the inspection report as satisfactorily demonstrating proof of compliance with the Board's own inspection procedures and standards; and

ii) The nonresident prescription drug outlet provides the Board, on an annual basis, with a copy of the outlet's current manufacturer registration obtained from the Drug Enforcement Administration.

e. Distribution of a compounded product to a Colorado-licensed veterinarian may be for the purpose of dispensing by the receiving veterinarian only if:

i) The compounded product is necessary for the treatment of a ~~companion animal's~~ animal patient's emergency medical condition;

ii) As determined by the veterinarian, the veterinarian cannot access, in a timely manner, the compounded product from a prescription drug outlet or nonresident prescription drug outlet.

f. Except as provided under CRS 12-42.5-118(15)(a), (b)(I) and (b)(II), the amount of compounded drug product a prescription drug outlet compounds and distributes shall be no more than ten (10) percent of the total number of drug dosage units the prescription drug outlet dispenses and distributes on an annual basis, and no more than ten (10) percent of the total number of drug dosage units the nonresident prescription drug outlet dispenses and distributes into Colorado on an annual basis pursuant to Board Rules 21.00.20(d) and (e). An in-state compounding prescription drug outlet registered pursuant to CRS 12-42.5-117(9) may distribute compounded product pursuant to CRS 12-42.5-118(15)(a), (b)(I) and (II). All prescription drug outlets shall comply with all applicable federal laws and rules pertaining to the distribution of controlled substance preparations.

g. The distributing prescription drug outlet or compounding prescription drug outlet must retain the following information on a current basis for each practitioner, hospital prescription drug outlet or hospital other outlet or, when allowable, each prescription drug outlet, to whom it distributes compounded products:

(1) Verification of practitioner's license, or hospital prescription drug outlet's or hospital other outlet's registration; and

(2) Verification of practitioner's or hospital prescription drug outlet's or hospital other outlet's current Drug Enforcement Administration registration, if controlled substances are distributed;

h. Labeling of compounded products which are distributed shall comply with rule 21.11.10(c) or (d) or 21.21.70(c) or (d), whichever is applicable.

i. Records of distribution shall comply with rule 11.07.10 or 11.07.20, whichever is applicable.

21.00.30 Definitions. When used in this Rule 21.00.00, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

a. Active Pharmaceutical Ingredient (API): Chemicals, substances or other components of preparations intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in human or other animals or for use as dietary supplements.

b. Batch (Lot): Multiple units of the same compounded preparation in a single discrete process, by the same individuals, carried out during one limited time period.

c. Beyond-Use Date (BUD): A date after which a compounded preparation should not be stored, used or transferred and is determined from the date the preparation is compounded.

~~**d. Companion animal: An animal, other than a food animal, as defined by the Colorado Board of Veterinary Medicine.**~~

e~~d~~. Component (ingredient): Any substance which is contained in a compounded preparation.

f~~e~~. Compounding:

(1) The preparation, mixing, or assembling, of one or more active ingredients with one or more other substances, or the assembling of a finished device:

(a) Formulated for use on or for the patient as the result of a practitioner's prescription drug order, chart order, or initiative, based on the relationship between the practitioner, patient, and pharmacist in the course of professional practice; or

(b) For the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing; or

(c) In anticipation of prescription orders based on routine, regularly-observed prescribing patterns.

(2) Compounding does not include the preparation of copies of commercially available drug products. Compounded preparations that produce, for the patient, a significant difference between the compounded drug and the comparable commercially available drug product as determined, by the prescriber, as necessary for the medical best interest of the patient are not copies of commercially available products. "Significant differences" may include, but are not limited to, the removal of a dye for medical reasons (such as allergic reaction), changes in strength, and changes in dosage form or delivery mechanism. Price differences are not a "significant" difference to justify compounding.

~~g~~f. Preparation or Product: A compounded drug dosage form, a compounded dietary supplement, or a finished device.

~~h~~g. Quality Assurance (QA): Set of activities used to ensure that the processes used in the preparation of non-sterile or sterile drug products lead to products that meet predetermined standards of quality.

~~i~~h. Quality Control (QC): Set of testing activities used to determine that the ingredients, components and final non-sterile or sterile drug products prepared meet pre-determined requirements with respect to strength, identity, quality, and purity.

~~j~~i. Repackaging: The subdivision or transfer of a product from one container or device to a different container or device. Repackaging does not constitute compounding, whether or not the product being repackaged was previously compounded.

~~k~~j. SOPS: Standard operating procedures.

~~l~~k. Stability: Extent to which a preparation retains, within specified limits, and throughout its period of storage and use, the same properties and characteristics that it possessed at the time of compounding.

~~m~~l. USP/NF: The current edition of the United States Pharmacopeia/National Formulary.

~~n~~m. Validation: Documented evidence providing a high degree of assurance that specific processes will consistently produce a product meeting predetermined specifications and quality attributes.

~~o~~n. Vehicle: A component for internal or external use that is used as a carrier or diluent in which liquids, semisolids, or solids are dissolved or suspended. Examples include, but are not limited to, water, syrups, elixirs, oleaginous liquids, solid and semisolid carriers, and proprietary products.

23.00.00 ELECTRONIC PRESCRIPTION MONITORING PROGRAM.

23.00.10 Definitions:

a. "Bona fide investigation," for purposes of an investigation of an individual prescriber under investigation by a state regulatory board, means:

1. Any investigation conducted by any state regulatory board within the Colorado Division of Professions and Occupations, or the Director of the Colorado Division of Professions and Occupations and

2. Investigations pertaining to matters which are the subject of a complaint or notice of charges pending in the Office of Administrative Courts so long as the information obtained from the PDMP is made available by the state regulatory board to the respondent in the pending case.

b. "Bona fide research or education" means research conducted by qualified entities whose recognized primary purpose is scientific inquiry; the results of which would likely contribute to the basic knowledge of prescribing practitioners, dispensing pharmacists, or entities for the purpose of curtailing substance abuse of consumers. The Board shall determine in its discretion on a case-by-case basis whether an individual or entity seeking access to the PDMP pursuant to CRS 12-42.5-404(5) constitutes "bona fide research or education" conducted by qualified personnel for purposes of satisfying the statutory limitations therein.

c. "Client", as it pertains to a licensed veterinarian's use of the PDMP, means the patient's owner, the owner's agent, or a person responsible for the patient.

~~c~~d. "Clinical patient care services" means pharmaceutical care provided in a clinical setting. The pharmacist providing clinical patient care services must be working closely with the physician/prescriber responsible for the patient's care. "Clinical patient care services" do not include monitoring previously dispensed prescriptions for any purpose in the absence of a current assessment of a patient whether in a clinical setting or not.

~~d~~e. "Law Enforcement Official" means any of the following:

1. Sheriff;

2. Undersheriff;

3. Certified deputy sheriff;

4. Coroner;

5. Police Officer;

6. Southern Ute Police Officer;

7. **Ute Mountain Ute police officer;**

8. **Town marshall;**

9. **CBI director and agents;**

10. **Colorado state patrol officer;**

11. **Colorado attorney general and any entity designated as "peace officers" by the Attorney General or acting on behalf of a state agency;**

12. **Attorney general criminal investigator;**

13. **District attorney and all assistants, deputies, etc. statutorily defined as "peace officers;"**

14. **District Attorney chief investigator and investigators;**

15. **Police administrator and police officers employed by the Colorado State Hospital in Pueblo; and**

16. **Federal special agents.**

~~e~~f. "Legitimate program to monitor a patient's controlled substance abuse" means a program in which prescribers actively monitor a patient's controlled substance use. Such programs shall only involve patients in pain management or other controlled substance management programs. Such programs shall actively monitor the patient's controlled substance usage by means of urine or other drug screens in addition to the use of the PDMP. The patient must be informed in writing that his/her controlled substance usage is being actively screened by various methods, including review of the PDMP.

g. "Mistreat", as it pertains to a licensed veterinarian's use of the PDMP, means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

h. "Patient", as it pertains to a licensed veterinarian's use of the PDMP, means an animal that is examined or treated by a licensed veterinarian and includes herds, flocks, litters and other groups of animals.

~~f~~i. "PDMP" means the Electronic Prescription Drug Monitoring Program.

~~g~~j. "Prescriber" or "practitioner" means a licensed health care professional with authority to prescribe a controlled substance.

~~h~~k. "Prescription Drug Outlet" or "Dispenser" means any resident or nonresident pharmacy registered with the Board.

~~il~~. **"Qualified personnel" means persons who are appropriately trained to collect and analyze data for the purpose of conducting bona fide research or education.**

~~j~~m. **"Valid photographic identification" means any of the following forms of identification which include an identifying photograph:**

1. **A valid driver's license, or identification issued by any United States state;**

2. **An official passport issued by any nation; or**

3. **A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.**

23.00.70 PDMP Access

The PDMP shall be available for query only to the following persons or groups of persons:

a. **Board staff responsible for administering the PDMP;**

b. **Any licensed practitioner, or up to three (3) trained individuals designated by the practitioner by way of registered PDMP sub-accounts of the prescriber to act on the prescriber's behalf in accordance with 12-42.5-403(1.5)(b), (c) and (d), C.R.S., with the statutory authority to prescribe controlled substances to the extent the query relates to a current patient of the practitioner to whom the practitioner ~~is prescribing or considering prescribing a controlled substance~~;**

c. **Any licensed veterinarian with statutory authority to prescribe controlled substances, to the extent the query relates to a current patient or to a client and if the veterinarian, in the exercise of professional judgment, has a reasonable basis to suspect the client has committed drug abuse or has mistreated an animal.**

d. **Licensed pharmacists, or up to three (3) trained individuals designated by the pharmacist by way of registered PDMP sub-accounts of the pharmacist to act on the pharmacist's behalf in accordance with 12-42.5-403(1.5)(b), (c) and (d), C.R.S., or a pharmacist licensed in another state, with statutory authority to dispense controlled substances to the extent the information requested relates specifically to a current patient to whom the pharmacist is dispensing or considering**

dispensing a controlled substance or prescription drug or a patient to whom the pharmacist is currently providing clinical patient care services;

e. Practitioners engaged in a legitimate program to monitor a patient's controlled substance abuse;

f. Law enforcement officials so long as the information released is specific to an individual patient, prescriber, or prescription drug outlet and part of a bona fide investigation and the request for information is accompanied by an official court order or subpoena. Such official court orders or subpoenas shall be submitted with the Board-provided form;

g. The individual who is the recipient of a controlled substance prescription so long as the information released is specific to such individual. The procedure for individuals to obtain such information is as follows:

1. The individual shall submit a written, signed request to the Board on the Board-provided form;

2. The individual shall provide valid photographic identification prior to obtaining the PDMP information;

3. An individual submitting a request on behalf of another individual who is the recipient of a controlled substance prescription may only obtain PDMP information if the following documents are provided:

A) The original document establishing medical durable power of attorney of the individual submitting the request as power of attorney for the individual who is the recipient of the controlled substance prescription, and

(B) Valid photographic identification of the individual submitting the

request.

h. **State regulatory boards within the Colorado Division of Professions and Occupations and the Director of the Colorado Division or Professions and Occupations so long as the information released is specific to an individual prescriber and is part of a bona fide investigation and the request for information is accompanied by an official court order or subpoena. Such official court orders or subpoenas shall be submitted with the Board-provided form; and**

i. **A resident physician with an active physician training license issued by the Colorado medical board pursuant to section 12-36-122 and under the supervision of a licensed physician to the extent the query relates to a current patient of the resident physician to whom the resident physician is prescribing or considering prescribing a controlled substance.**

j. **The Department of Public Health and Environment for purposes of population-level analysis, but any use of the program data by the department is subject to the federal "Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any rules promulgated pursuant to HIPAA, including the requirement to remove any identifying data unless exempted from the requirement.**

k. **A person authorized to access the PDMP may knowingly release PDMP information specific to an individual or to the individual's treating providers in accordance with HIPAA, Pub.L. 104-191, as amended, and any rules promulgated pursuant to HIPAA without violating Part 4 of Title 12, Article 42.5.**

COLORADO
Department of Regulatory Agencies
Division of Professions and Occupations

State Board of Pharmacy

NOTICE OF RULE MAKING HEARING

Pursuant to Colorado Revised Statutes, Title 12, Article 42.5 and Title 24, Article 4, CRS, you are hereby advised that the Colorado State Pharmacy Board will hold a public rule making hearing on Thursday, September 21, 2017 at 10:00 a.m., at 1560 Broadway, Conference Room 110D, Denver, Colorado 80202, for consideration of the following:

Hearing Regarding Repeal, Modification, Amendment, Revision or Adoption of portions of:

Rule 1.00.15	(3 CCR, 719-1)
Rule 3.01.01(d)	(3 CCR, 719-1)
Rule 5.00.55	(3 CCR, 719-1)
Rule 7.00.30(b)(4)	(3 CCR, 719-1)
Rule 21.00.20	(3 CCR, 719-1)
Rule 21.00.30	(3 CCR, 719-1)
Rule 23.00.00	(3 CCR, 719-1)

The proposed rules under consideration are attached to this notice and fully incorporated herein.

The reason for this rulemaking is to implement new legislation and to amend other rules as determined necessary by the Board. The Board encourages interested parties to submit written comments to the letterhead address regarding any of the above-listed rulemaking matters no later than **September 14, 2017**. In addition, at the time and place designated in this notice, the Board of Pharmacy will afford interested parties an opportunity to submit written information, data, views or arguments. The Board also will afford interested parties an opportunity to make brief oral presentations unless the Board in its discretion determines that such oral presentations are unnecessary. All submissions will be considered. The rules under consideration may be changed or modified after public comment and hearing.

BY ORDER OF THE COLORADO STATE BOARD OF PHARMACY

Wendy Anderson
Program Director

Dated this 21st day of July, 2017.

Notice of Proposed Rulemaking

Tracking number

2017-00332

Department

700 - Department of Regulatory Agencies

Agency

723 - Public Utilities Commission

CCR number

4 CCR 723-2

Rule title

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

Rulemaking Hearing

Date

09/18/2017

Time

09:00 AM

Location

Colorado Public Utilities Commission Hearing Room, 1560 Broadway Suite 250 Denver, Colorado 80202

Subjects and issues involved

The changes proposed are reflective of the consensus revision of these rules submitted to the Commission by the 9-1-1 Advisory Task Force (Task Force) in a Petition for Rulemaking, granted by the Commission on July 12, 2017.

Statutory authority

Sections 24-4-101 et seq.; 40-2-108; 40-3-101, 102, 103, and 110; 40-4-101; 40-15-101, 107, 108(2), 201, 202, 302, 401, 501, 502, 503, and 503.5; and 40-17-103(2), C.R.S.

Contact information

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Title

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COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

* * *

[indicates omission of unaffected rules]

2008. Incorporations by Reference.

~~(a) The Commission incorporates by reference the following standards issued by the National Emergency Number Association: the Recommended Formats & Protocols For Data Exchange (NENA-02-010), revised as of February 25, 2006; NENA Recommended Data Standards for Local Exchange Carriers, ALI Service Providers & 9-1-1 Jurisdictions (NENA-02-011), revised as of November 9, 2004; NENA Network Quality Assurance (NENA-03-001), original as of June 12, 1995; NENA Recommendation for the implementation of Enhanced MF Signaling, E9-1-1 tandem to PSAP (NENA-03-002), recommended June 21, 1998; and NENA Recommended Standards for Local Service Provider Interconnection Information Sharing (NENA-06-001), revised as of August 2004. No later amendments to or editions of these standards are incorporated into these rules.~~

(a~~b~~) The Commission incorporates by reference 47 C.F.R., Parts 32, 36, 54, 68, 69 and Part 64 Subparts I and K (as published February 4, 2015). No later amendments to or editions of these regulations are incorporated in these rules.

(b~~c~~) The Commission incorporates by reference the regulations published in 47 C.F.R. Part 64 Subpart U as revised on June 8, 2007. No later amendments to or editions of the C.F.R. are incorporated into these rules.

(c~~d~~) The Commission incorporates by reference the National Electrical Safety Code, C2-2007 edition, published by the Institute of Electrical and Electronics Engineers and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules.

(e~~d~~) The Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319, as revised on. January 28, 2013 No later amendments to or editions of these regulations are incorporated into these rules.

(~~f~~e) The Commission incorporates by reference the rule promulgated by the FCC's *LNP First Report and Order,* Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996. No later amendments to or editions of these requirements are incorporated into these rules.

(~~g~~f) The Commission incorporates by reference the FCC's Truth in Billing Rules found at 47 C.F.R. § 64.2401, et seq. revised on November 30, 2012. No later amendments to or editions of the C.F.R. are incorporated into these rules.

(~~h~~g) The standards and regulations incorporated by reference may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library.

* * *

[indicates omission of unaffected rules]

Basic Emergency ~~9-1-1~~ Service~~s for Emergency Telecommunications Service Providers and Basic Local Exchange Carriers~~

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to: (1) ~~recognize Enhanced 9-1-1 (E9-1-1)~~define and describe basic emergency service as ~~a service~~ regulated by § 40-15-201, C.R.S.; (2) prescribe multi-line telephone system (MLTS) operator requirements regarding disclosure to end users of the proper method for accessing 9-1-1 service, and regarding the capability of the MLTS to transmit end users' telephone numbers and location information; (3) prescribe the interconnection environment and relationships between basic emergency service providers (BESPs) and originating service providers and other BESPs ~~wireless carriers, BESPs and LECs, and BESPs and other telecommunications providers~~; (4) permit use of 9-1-1 databases for outbound wide area notifications in times of emergency; (5) prescribe reporting times of 9-1-1 outages and interruptions; and (6) explicitly recognize the potential for multiple BESPs in Colorado.

The statutory authority for the promulgation of these rules is found at §§ 29-11-102(2)(b); 29-11-106(3); 40-2-108; 40-3-102; 40-3-103; 40-4-101(1) and (2); 40-15-201; 40-15-301; and 40-15-503(2)~~(a), (b), and (g);, and 40-2-108,~~ C.R.S.

2130. Applicability.

(a) Except as otherwise provided, ~~R~~rules 2130 through 2159 apply to ~~all basic local exchange carriers and~~ BESPs.

~~(b) To the extent these rules specifically refer to wireless carriers as a condition of interconnection with any BESP, such rules apply to wireless carriers who agree to comply with them.~~

(~~e~~b) Some of the provisions in these rules apply to MLTS operators whose systems do not have automatic number and automatic location identification capability, or whose systems require the dialing of an additional digit(s) to access the public switched network.

2131. Definitions.

The following definitions apply only in the context of rules 2130 through 2159:

(a) "9-1-1" means a three-digit abbreviated dialing code used to report an emergency situation requiring a response by a public agency such as a fire department or police department.

(b) "9-1-1 facilities" means the facilities (e.g., trunks or transmission paths) that connect from the central office serving the individual telephone that originates a 9-1-1 call to the 9-1-1 selective router or functional equivalent~~tandem~~ and subsequently connects ~~the tandem~~ to a Public Safety Answering Point (PSAP). These may include, but are not limited to, point-to-point private line facilities ~~and E9-1-1 facilities~~ owned, leased or otherwise acquired by a BESP. Common or shared facilities also may be used. These facilities may include private network facilities and governmental facilities (if available) obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions.

(c) ~~"9-1-1 failure" or~~ "9-1-1 outage" means a situation in which 9-1-1 calls cannot be transported from the end users to the PSAP responsible for answering the 9-1-1 emergency calls. 9-1-1 failures also include the inability to deliver location information to the PSAP from the 9-1-1 Automatic Location Identification (ALI) database or a loss of the 9-1-1 ALI functionality.

(d) "9-1-1 ~~tandem~~selective router" ~~or "9-1-1 tandem switch"~~ means the telecommunications switch or functional equivalent dedicated to aggregation of 9-1-1 call traffic from public networks and proper routing of 9-1-1 call traffic to PSAPs.

(e) "9-1-1 service" means the service by which a 9-1-1 call is routed and transported from the end user placing a 9-1-1 call to the PSAP serving the caller's location. 9-1-1 service also includes any related caller location information routed to the PSAP, if any.

~~(e) "ALI database provider" means any person or entity that, on a for-profit or not-for-profit basis, provides ALI to basic emergency service providers and the governing body for a specific geographic area.~~

(f) ~~[Reserved].~~

~~(g)~~ "Automatic Location Identification" (ALI) means the automatic display, on equipment at the PSAP, of the telephone number and ~~other information concerning the~~ location of the caller. ~~The~~ ALI data~~base~~ includes non-listed and non-published numbers and addresses, and other information about the caller's location.

(g) "ALI provider" means any person or entity that, on a for-profit or not-for-profit basis, provides ALI to basic emergency service providers and the governing body for a specific geographic area.

(h) "ALI service" means all the services, features, and functionalities of elements and components used to provide ALI, including the applications, databases, management processes and services, selective routing, aggregation, and transport, without regard to the technology used, provided to the governing body or PSAP of a specific geographic area. ALI service does not include the provision of ALI by originating service providers, PSAPs, 9-1-1 governing bodies, or local governments.

(~~h~~i) "Automatic Number Identification" (ANI) means ~~the process used on customer-dialed calls to automatically identify the calling station, and~~ the automatic display of the caller's telephone number ~~on telephone answering equipment used by operators~~ at the PSAP.

(~~i~~j) "Basic emergency service" means the aggregation and transportation of a 9-1-1 call directly to a point of interconnection with a governing body or PSAP, regardless of the technology used to provide the service. The aggregation of calls means the collection of 9-1-1 calls from one or more originating service providers or intermediary aggregation service providers for the purpose of selectively routing and transporting 9-1-1 calls directly to a point of interconnection with a governing body or PSAP. The offering or providing of ALI service or selective routing directly to a governing body or PSAP by any person is also a basic emergency service. ~~Part II~~

~~telecommunications service (§ 40-15-201(2), C.R.S.) permitting the use of the basic local exchange network and the 9-1-1 abbreviated dialing code for reporting police, fire, medical, or other emergency situations to a PSAP and referral to a public agency. [Temporary ALI Service rules expired September 21, 2015]~~ Basic emergency service does not include:

(I) the portion of a 9-1-1 call provided by an originating service provider;

(II) the services provided by an intermediary aggregation service provider;

(III) the delivery of a 9-1-1 call from the originating service provider or an intermediary aggregation service provider to a point of interconnection with the BESP;

(IV) the delivery of a 9-1-1 call from the point of interconnection between the BESP and a PSAP to the PSAP facility that receives and processes the 9-1-1 call; or

(V) the delivery of text-to-9-1-1 via interim methods.

(~~j~~k) "Basic Emergency Service Provider" (BESP) means any person certificated by the Commission to provide basic emergency service ~~to aggregate and transport 9-1-1 calls from the basic LEC, wireless carrier, or other telecommunications provider to a PSAP~~.

~~(k) "E9-1-1 facilities" means the facilities provided by a BESP that interconnects to basic local exchange carriers, wireless carriers, and other telecommunications providers that are used to transport 9-1-1 calls to the PSAP. The facilities may include the use of 9-1-1 tandem switches or direct trunks connecting 9-1-1 calls to the PSAPs and E9-1-1 facilities owned, leased, or otherwise acquired by a BESP. These facilities may include private network facilities and governmental facilities (if available) obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions.~~

~~(l) "E9-1-1 features" means the ANI, ALI database and selective routing capabilities and all other components of an E9-1-1 system, not including the transport and switching facilities.~~

~~(m) "E9-1-1 tandem" means the switch that receives E9-1-1 calls from the originating local exchange central offices, wireless switch, or any other telecommunications provider's switch, employs the ANI information associated with such calls, determines the correct destination of the call, and forwards the call and the ANI information to that destination.~~

(l) "Demarcation point" means the physical point where the responsibility of a portion of a network changes from one party to another.

(~~n~~m) "Emergency notification service" (ENS) means a service in which, upon activation by a public safety agency:

(I) ~~T~~the 9-1-1 database or a database which may be derived in whole or in part from the 9-1-1 database is searched to identify all stations located within a geographic area;

(II) ~~A~~a call is placed to all such stations or all of a certain class of stations within the geographic area (e.g., to exclude calls to facsimile machines, Internet/data access lines, etc.); and

(III) ~~A~~a recorded message is played upon answer to alert the public to a hazardous condition or emergency event in the area (e.g., flood, fire, hazardous material incident, etc.).

(IV) ENS may also include the transmission of messages to individuals by other means, including text messages, e-mail, facsimile, or other mass alerting method or system.

(~~o~~n) "Emergency telephone charge" means a charge established by a governing body pursuant to § 29-11-102(2)(a), C.R.S., or established by § 29-11-102.5(2)(a), C.R.S., to pay for the expenses authorized in § 29-11-104, C.R.S. ~~equipment costs, the installation costs, and the directly related costs of the continued operation of an emergency telephone service according to the rates and schedules filed with the Colorado Public Utilities Commission.~~

~~(p) "Emergency telephone service" (ETS) means a telephone system using the abbreviated dialing code 9-1-1 to report police, fire, medical, or other emergency situations.~~

(~~q~~o) "Enhanced 9-1-1" (E9-1-1) means 9-1-1 service that includes ~~a basic emergency telephone service that includes~~ the association of ~~information such as~~ ANI and ALI (including non-listed and non-published numbers and addresses), and ~~(optionally)~~ selective routing~~, to facilitate public safety response~~.

(~~r~~p) "Geographic area" means the area such as a city, municipality, county, multiple counties or other areas defined by a governing body or other governmental entity for the purpose of providing public agency response to 9-1-1 calls.

(~~s~~q) "Governing body" means the ~~a representative~~ organization responsible for establishing, collecting, and disbursing the emergency telephone charge~~the oversight of 9-1-1 response activities~~ in a specific geographic area, pursuant to~~. A governing body may be comprised of a board of county commissioners, a board of directors of a special district, a city council or other governing body of a city and/or county, or a separate legal entity established under~~ §§ 29-11-~~201~~102, 103, and 104, C.R.S.~~, et seq.~~

r() "Intermediary aggregation service provider" means a person that aggregates and transports 9-1-1 calls for one or more originating service providers for delivery to a BESP selective router or the functional equivalent of such a router.

(~~t~~s) "Multi-line telephone system" (MLTS) means a system comprised of common control units, telephones, and control hardware and software providing local telephone service to multiple customers in businesses, apartments, townhouses, condominiums, schools, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities, or structures. Multi-line telephone system includes:

(I) Network and premises-based systems such as Centrex, PBX, and hybrid-key telephone systems; and

(II) Systems owned or leased by governmental agencies, nonprofit entities, and for-profit businesses.

(~~u~~t) "Multiple-line telephone system operator" means the person that operates an MLTS from which an end user may place a 9-1-1 call through the public switched network.

~~(v) "National Emergency Number Association" (NENA) means the international not-for-profit organization whose purpose is to lead, assist, and provide for the development, availability, implementation and enhancement of a universal emergency telephone number or system common to all jurisdictions through research, planning, publications, training and education.~~

(~~w~~u) ~~"Other telecommunications providers" means any provider of exchange service, regardless of the types of technology used.~~"Originating service provider" (OSP) means a local exchange carrier, wireless carrier, Voice-over-Internet-Protocol service provider, or other provider of functionally equivalent services supplying the ability to place 9-1-1 calls.

(~~x~~v) "Public Safety Answering Point" (PSAP) means a facility equipped and staffed to receive and process 9-1-1 calls from a BESP ~~on a 24-hour basis. PSAPs are responsible to direct the disposition of 9-1-1 calls~~.

~~(y) "Routing" means the central office programming required to transport a 9-1-1 call to the correct 9-1-1 tandem.~~

(~~z~~w) "Selective routing" means the capability of routing a 9-1-1 call to a designated PSAP based upon the location of the end user, as indicated by the 10-digit telephone number of the fixed location subscriber dialing 9-1-1, the p-ANI (ESRK or ESQK), or otherwise permitted by FCC rule, regulation, or order~~seven digit or ten-digit telephone number of the subscriber dialing 9-1-1~~.

~~(aa) "Telecommunications device for the deaf" (TDD) or "text phone" means an instrument defined by the Communications Act of 1934 as a device that employs graphic communication in the transmission of coded signals through a wire or radio communication system.~~

~~(bb) "Telecommunications device for the deaf emergency access" or "text phone access" mean the provision of 9-1-1 access to individuals that use TDDs and computer modems.~~

2132. ~~-~~2133. [Reserved].

~~**2133. Service Components and Requirements.**~~

~~(a) Basic emergency service is the telecommunications service that aggregates and transports 9-1-1 calls to a PSAP. The aggregation of calls is the process of collecting 9-1-1 calls from one or more local exchange, wireless carrier, or other telecommunications provider switches that serve a geographic area for the purpose of determining and transporting 9-1-1 calls to the PSAP designated to receive such calls. Basic emergency service may be provided using connections between the PSAP and a local exchange central office switch, using connections to a 9-1-1 tandem, using connections between a wireless carrier switch and the 9-1-1 tandem, or by using other technology. Basic emergency service includes, but is not limited to, the provision of a 9-1-1 tandem switch, connections to each local exchange carrier, wireless carrier, or other telecommunications provider switch (excluding the trunk units on the switches to the 9-1-1 tandem switch), transport between the 9-1-1 tandem switch and the PSAP, and connections to the PSAP (excluding trunk units at the PSAP). E9-1-1 also includes the provision of transport facilities from the ALI database to the PSAP. In many instances an ALI database also may be interconnected with the other components of the service.~~

~~(b) ALI database service is integral to the provision of E9-1-1 services. On a timely basis, all basic local exchange carriers shall provide the ALI database provider with access to all telephone numbers, including non-published and non-listed numbers, that are maintained by the services of the basic local exchange carrier, wireless carrier, reseller of a basic local exchange, or other telecommunications provider. E9-1-1 service is distinguished from 9-1-1 service in the ability of the BESP to provide greater routing flexibility for 9-1-1 calls based on information that is placed in a computer database. The ALI database also provides the means for the PSAP to display the address as well as the telephone number for incoming 9-1-1 calls and additional customer-provided information about the 9-1-1 caller's location.~~

~~(c) The PSAP(s) is responsible for receiving the 9-1-1 calls from a BESP and, if applicable, ALI database information. The PSAP(s) forwards the 9-1-1 call, and where applicable, the ALI database information to the proper public agency such as the fire department, emergency medical services, sheriff, or police.~~

2134. Process for Certification of Basic Emergency Service Providers (BESPs).

(a) The Commission finds and declares that the public convenience and necessity require the availability, and, when requested, the provision of basic emergency service throughout ~~within each local exchange area in~~ Colorado, and further that such basic emergency service is vital to the public health and safety and shall be provided solely by properly certificated BESPs.

(b) The Commission may certify additional or different BESPs to offer basic emergency service if such certification is in the public interest. Each application for certification shall be considered on a case-by-case basis.

(c) Notwithstanding paragraphs 2103(a) and 2002(b), ~~A~~an application for authority to provide basic emergency service shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments~~ed exhibits~~:

(I) ~~The information required by paragraph 2103(a)~~the name and address of the applicant;

(II) the name(s) under which the applicant is, or will be, providing telecommunications service in Colorado;

(III) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made.

(IV) the name, address, telephone number, and e-mail address of the applicant's contact person for customer inquiries concerning the application, if that contact person is different from the person listed in subparagraph (III);

(V) a statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings be held (if not at the Commission's offices in Denver, the town or city and any alternate town or city shall be within applicant's proposed initial service area);

(VI) a statement that the applicant agrees to respond to all questions propounded by the Commission or Commission staff concerning the application;

(VII) a statement that the applicant shall permit the Commission or Commission staff to inspect the applicant's books and records as part of the investigation into the application;

(VIII) a statement that the applicant understands that if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted may be revoked upon Commission order;

(IX) acknowledgment that, by signing the application, applicant understands that:

(A) the filing of the application does not by itself constitute approval of the application;

(B) if the application is granted, the applicant shall not commence the requested action until the applicant complies with applicable Commission rules and with any conditions established by Commission order granting the application;

(C) if a hearing is held, the applicant shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and

(D) in lieu of the statements contained in subparagraphs (b)(IX)(A) through (C) of this rule, an applicant may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IX)(A) through (C) of this rule.

(X) An attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applicant, as appropriate, who is authorized to act on behalf of the applicant; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant;

(XI) the applicant's proposed notice to the public and its customers, if such notice is required;

(XII) name, mailing address, toll free telephone number, and e-mail address of applicant's representative responsible for responding to customer disputes;

(XIII) name, mailing address, telephone number, and e-mail address of applicant's representative responsible for responding to the Commission concerning customer informal complaints;

(XIV) the applicant's applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;

(XV) if the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;

(XVI) name and address of applicant's Colorado agent for service of process;

(XVII) a description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;

(XVIII) the applicant's most recent audited balance sheet, income statement, and statement of retained earnings;

(XIX) if the applicant is a newly created company that is unable to provide the audited financial information requested in subparagraph (VIII): detailed information on the sources of capital funds that will be used to provide telecommunications services, including the amount of any loans, lines of credit, or equity infusions that have been received or requested, and the names of each source of capital funds;

(XX) the names, business addresses, and titles of all officers, directors, partners, agents and managers who will be responsible for the provisioning of basic emergency service in Colorado;

(XXI) any management contracts, service agreements, marketing agreements or any other agreements between the applicant and any other entity, including affiliates of the applicant, that relate to the provisioning of jurisdictional telecommunications services in Colorado;

(XXII) an applicant which has contracted with, or is otherwise relying upon one or more unaffiliated service providers to provide a major component of basic emergency service under its certificate shall identify all such contractors or unaffiliated service providers.

(XXIII) identification of any of the following actions by any court or regulatory body within the last five years regarding the provisioning of regulated telecommunications services by the applicant, by any of applicant's agents, officers, board members, managers, partners, or management company personnel, or by any of applicant's affiliates that resulted in:

(A) assessment of fines or civil penalties;

(B) assessment of criminal penalties;

(C) injunctive relief;

(D) corrective action;

(E) reparations;

(F) a formal complaint proceeding brought by any regulatory body;

(G) initiation of or notification of a possible initiation of a disciplinary action by any regulatory body, including but not limited to any proceeding to limit or to place restrictions on any authority to operate any CPCN or any service offered;

(H) refusal to grant authority to operate or to provide a service;

(I) limitation, de-certification, or revocation of authority to operate or to provide a service; or

(J) any combination of the above.

(XXIV) For each item identified in subparagraph (XXIII) of this paragraph: an identification of the jurisdiction, summary of any applicable notification of a possible initiation or pending procedure, including the docket, case, or file number, and, upon the request of the Commission or its Staff, a copy of any written decision; and

(XXV) acknowledgment that by signing the application, the applicant:

(A) certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the telecommunications services for which it is applying;

(B) understands that:

(i) the filing of the application does not by itself constitute authority to operate;

(ii) a Commission finding that the application is complete is not a ruling on the merits of the application;

(iii) if the application is granted, the applicant shall not provide service until: (a) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application; (b) has an effective tariff on file with the Commission; and (c) the Commission approves its Declaration of Intent to Serve, if seeking to provide local exchange service in the service territory of a rural telecommunications provider;

(C) agrees to respond in writing, within ten days, to all customer informal complaints made to the Commission;

(D) agrees to contribute, in a manner prescribed by federal or state statute, rule, or administrative order establishing an explicit subsidy mechanism or other fund to which basic emergency service providers are required to contribute;

(E) certifies that, pursuant to the tariff under which its service is offered, it will not unjustly discriminate among customers in the same class of service; and

(F) certifies that the applicant will not permit any other person or entity to operate under its Commission-granted authority without explicit Commission approval.

(~~II~~XXVI) The BESP's service area shall be the state of Colorado, but the applicant shall identify the geographic area ~~the BESP~~it initially intends to serve;

~~(III) The name, address, and telephone number of each provider offering local exchange services in the geographic area that is the subject of the application;~~

(~~IV~~XXVII) If the applicant has previously filed with the Commission current reports or material that include the information required in subparagraph (I) and (II), it may confirm this by filing an attestation of completeness and accuracy with proper citation of title and date of the other filed material; and

(~~V~~XXVIII) ~~A~~a detailed statement describing the means by which it will provide basic emergency service. This statement shall include, but is not be limited to:

(A) ~~T~~the technical specifications for the system that will be used to provide the basic emergency service~~s~~, including information on emergency restoration of the system;

(B) ~~A~~all inter-company agreements used to implement and operate the service;

~~(C) All agreements with ALI database providers;~~

~~(D) All inter-governmental agreements regarding governing bodies or PSAPs;~~

(~~E~~C) ~~A~~all interconnection agreements between the BESP and: basic local exchange carriers, wireless carriers, other BESPs, and other telecommunications providers; and

(~~F~~D) ~~P~~proposed tariffs.

~~(d) A current, audited financial statement showing that the applicant's assets, liabilities, and net worth are sufficient to provide emergency services.~~

(~~e~~d) An acknowledgment that the applicant will provide basic emergency service in accordance with these rules and all applicable quality of service rules.

(e) While the application is pending, the application shall amend its application to report any changes to the information provided within five business days of any such change, so as to keep its application current.

2135. Uniform System of Accounts, Cost Segregation and Collection.

All BESPs shall maintain their books and records and perform separation of costs as prescribed by rules 2400 through 2459, or as otherwise prescribed by the Commission.

2136. Obligations of Basic Emergency Service Providers.

(a) A BESP certificated by the Commission, shall obtain facilities from or interconnect with all ~~basic local exchange carriers, rule-compliant wireless carriers, and other~~originating service providers telecommunications providers who have customers in areas ~~designated by governing bodies for the aggregation and transmission of 9-1-1 calls or E9-1-1 calls in the area~~ served by the BESP. BESPs shall interconnect with all other BESPs ~~with facilities in the serving area. A BESP shall create, or amend as necessary, provisions in its interconnection agreements with all basic local exchange carriers, wireless carriers, other BESPs, and other telecommunications providers to require compliance with rule 2130 through 2159~~.

(b) At the request of ~~a basic local exchange carrier, wireless carrier~~an originating service provider, intermediary aggregation service provider, or other BESP, ~~or other telecommunications provider within the area specified by a governing body,~~ a BESP shall provide and/or arrange for the necessary facilities to interconnect, ~~switch~~ route and transport 9-1-1 calls and ALI from ~~the basic local exchange carriers, wireless carriers,~~ originating service provider, intermediary aggregation service provider, or other BESPs~~, or other telecommunications providers~~ to the PSAP that is responsible for answering the 9-1-1 calls. Interconnection shall be accomplished in a timely manner, generally not more than 30 days from the time the BESP receives a written order. Interconnection facilities shall generally be engineered as follows:

(I) ~~D~~dedicated facilities for connecting ~~each basic local exchange, wireless carrier, or other telecommunications provider switch~~ originating service provider or intermediary aggregation service provider to a BESP shall be based on the requirements established by the BESP to serve the customers within that local exchange; or

(II) ~~I~~if shared or common facility groups are used to transport calls from the ~~basic local exchange carrier, wireless, or other telecommunications provider switch~~ originating service provider or intermediary aggregation service provider to a BESP, they shall be sized to carry the additional call volume requirements. Additionally, common or shared groups shall be arranged to provide 9-1-1 calls on a priority basis where economically and technically feasible.

(c) A BESP shall develop and file with the Commission tariffs that establish cost-based rates for basic emergency service~~s~~. These rates shall be averaged over the entire geographic area~~s~~ the BESP is certificated to ~~it~~ serve~~s~~, except as otherwise provided in subparagraph 2143(a)(III~~. The costs shall include an aggregation of all costs to the BESP of E9-1-1 related facilities provided to it by all basic local exchange carriers, wireless carriers, resellers, or other telecommunications providers in the geographic area as well as the costs of the E9-1-1 related facilities provided by the BESP itself.~~

(d) A BESP shall render a single monthly bill for its tariff services provided to the appropriate governing body. The monthly bill shall ~~identify the total number of lines billed to the governing body and shall also separately identify the wireless communications access and wireline access quantities used to compute the monthly bill~~ be sufficiently detailed to allow the governing body to determine that it is being billed properly based on the billing increments as approved by the Commission.

(e) ~~On a quarterly basis, 30 days after the end of each quarter, each LEC shall report to the BESP the local exchange access line quantities and each wireless provider shall report to the BESP the wireless communications quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to the each governing body for the tariff services provided by the BESP. On a quarterly basis, 60-days after the end of each quarter, the BESP shall re-compute the monthly billing to the governing body and shall furnish to the governing body the detailed quantities, by LEC and wireless provider, that will be used in the computation of the subsequent monthly billing by the BESP to the governing body. A BESP shall not be required to interconnect with a LEC or wireless provider for the provision of E9-1-1 related facilities that will not identify to the BESP on a quarterly basis, 30 days after the end of each quarter, the quantities of exchange access lines for the LEC and the wireless communications quantities by geographical area in the manner specified by the BESP.~~The BESP shall coordinate with the 9-1-1 Advisory Task Force to establish a process for ensuring units used for tariff pricing are accurate and up-to-date.

(f) BESPs shall ensure, to the extent possible and in the most efficient manner, that telecommunication services are available for transmitting 9-1-1 calls from deaf, hard of hearing, and persons with speech impairments ~~hearing and speech impaired persons~~ to the appropriate PSAP.

(g) A BESP shall ensure that all basic emergency service facilities~~E9-1-1 facilities~~, ~~including~~ and interconnections between it and the ~~basic local exchange carriers, wireless carriers, and other telecommunications providers~~originating service providers and intermediary aggregation service providers are engineered, installed, maintained and monitored in order to provide a minimum of two circuits and a minimum ~~grade of service that has 1 percent (~~P.01~~)~~ grade of service (one percent or less blocking during the busy hour), or such other minimum grade of service requirements approved by the Commission.

(h) Where a BESP obtains facilities from a basic local exchange carrier for delivery of 9-1-1 calls to a PSAP, the rates for such facilities shall be reflected in a tariff or agreement filed for approval with the Commission. Such tariffs or agreements shall ensure that such facilities are engineered, installed, maintained and monitored to provide a minimum of two circuits and a grade of service that has one percent (P.01) or less blocking. The basic local exchange carrier providing such facilities shall not be considered a BESP. The provisions of this rule shall not apply to routing arrangements implemented pursuant to paragraph 2143(d).

(~~h~~i) To expedite the restoration of service following a 9-1-1 ~~failures or~~ outage~~s~~, each BESP shall designate a telephone number for PSAPs~~, wireless carriers, LECs, or other telecommunications providers~~originating service providers to report trouble. Such telephone number shall be staffed

seven days a week, 24 hours a day, by personnel capable of processing calls to initiate immediate corrective action.

(~~i~~j) A BESP shall keep on file with the Commission its contingency plan as described in paragraph 2143(d) ~~and include in its contingency plan designated phone numbers of the LECs, CLECs, resellers, wireless carriers, other telecommunications providers, PSAPs, and governing bodies to expedite the restoration of service as described in rule 2143. These telephones shall be staffed seven days a week, 24 hours a day, by personnel capable of processing calls to initiate immediate corrective action. It shall be the responsibility of the individual LECs, resellers, wireless carriers, other telecommunications providers, PSAPs, and governing bodies to convey this information, and any updates or changes, to the Commission and to the BESP for inclusion in the contingency plan~~.

(~~j~~k) BESPs shall identify service providers supplying service within a governing body or PSAP's service area, or statewide, to the extent that the BESP possesses such information, in response to a request from a governing body, PSAP, or the Commission ~~and ALI database providers may request access to line counts and wireless customer counts by geographic area from the LECs, resellers, wireless carriers, and other telecommunications providers who are, pursuant to the request of a governing body, providing 9-1-1 service. Such information allows a BESP and/or ALI database provider to properly bill its appropriate 9-1-1 services to the governing bodies; however, line counts shall be treated as confidential and not improperly disclosed by the BESP or ALI database provider to any person or entity other than the PSAPs for exclusive use in billing purposes. The BESP or ALI Database Provider shall gain agreement from the PSAPs that, as a condition of receiving this information, the PSAPs shall not disclose confidential access line and wireless customer counts, nor use this information for any purpose other than to verify BESP or ALI database provider billing to the PSAP or to verify the accuracy of the emergency telephone charge billing by the carriers to their end users~~.

2137. ~~Obligations of ALI Database Providers~~[Reserved].

~~(a) The ALI database provider shall provide sufficient facilities to interconnect its database to the PSAPs to meet the requirements of the PSAPs or the governing body.~~

~~(b) If the ALI database provider is not the BESP, it shall provide to BESPs, for the geographic areas served, all information required by the BESPs to ensure that calls are routed from the end users to the correct PSAP.~~

~~(c) No BESP, LEC, wireless carrier, or other telecommunications provider shall interconnect with an ALI database provider unless the ALI database provider provides sufficient facilities to interconnect its database to the PSAPs so that it can meet the requirements of the governing body or PSAP and comply with paragraphs 2137(a) and (b) and the relevant provisions of rule 2141 of these rules.~~

~~(d) If the ALI database provider is also a BESP, basic local exchange carrier, wireless carrier, or other telecommunications provider, the ALI database provider shall interconnect in the manner prescribed for BESPs in paragraph 2136(b).~~

2138. Obligations of ~~Basic Local Exchange Carriers~~Payphone Providers.

All payphone providers must ensure that access to dial tone, emergency calls, and telecommunications relay service calls for the deaf, hard of hearing, and individuals with speech impairments is available from all payphones at no charge to the caller, pursuant to 47 C.F.R. 64.1330(b).

~~(a) All basic local exchange carriers in a geographic area for which a governing body has requested the provision of 9-1-1 service shall deliver 9-1-1 calls, at an agreed point of interconnection within that geographic area, to a certificated BESP at rates in an approved tariff applicable to BESPs. If the BESP and the basic local exchange carrier or reseller agree, direct trunks, tandem switched trunks, common or joint circuits may be used to transport calls from the basic local exchange carrier or reseller to the PSAP.~~

~~(b) All basic local exchange carriers shall furnish name, address and telephone number information for all customers of the basic local exchange carrier, including non-published or non-listed customers, to the ALI database providers for the provision of 9-1-1 services and emergency notification services. All basic local exchange carriers shall furnish such information within 24 hours and in accordance with rule 2144 only after each recipient has stated formally in writing that the recipient has complied with rule 2142 of these rules. All costs for providing this customer information and updates to this information shall be considered as part of basic local exchange service and shall be recovered through the non-recurring basic local exchange rates, unless provided for in a separate tariff approved by the Commission.~~

~~(c) All local exchange carriers and resellers of local exchange services shall collect and remit the emergency telephone charge as required by § 29-11-100.5, C.R.S., et seq., to the appropriate governing body.~~

~~(d) The basic local exchange carrier shall ensure that all E9-1-1 facilities and interconnections between it and a BESP are engineered, installed, maintained and monitored to provide a minimum of two circuits and a grade of service that has one percent (P.01) or less blocking.~~

~~(e) To expedite the restoration of service following 9-1-1 failures or outages, each basic local exchange carrier shall designate a telephone number that PSAPs or BESPs can use to report trouble. Such telephone number shall be staffed seven days a week, 24 hours a day by personnel capable of processing the call to initiate immediate corrective action.~~

~~(f) On a quarterly basis and no later than 30 days after the end of each quarter, each LEC shall report, to the BESP, the local exchange access line quantities by geographical area, in the manner specified by the BESP, so that the BESP may compute the monthly billing to each governing body for the tariff services provided by the BESP.~~

~~(g) All basic local exchange carriers shall give formal written notice of intent to provide dial tone within an exchange to the governing body responsible for the PSAP within that exchange prior to activating service. This notice is for purposes of the governing body arranging the appropriate connections to a BESP, exchange of seven days per week, 24 hours per day telephone contact information, and arrangements for the collection and remittance of the 9-1-1 emergency telephone charge.~~

~~(h) Interconnections with payphone providers.~~

~~(I) A basic local exchange carrier shall not interconnect with a payphone provider unless that provider:~~

~~(A) Allows customers to place a 9-1-1 call without requiring a coin deposit or other charges; and~~

~~(B) Furnishes the ALI database provider(s), the LEC that provides the dial tone connection, the PSAP, the governing body, and the BESP, the Commission-required name and location information.~~

~~(II) The prohibition in this paragraph (g) shall not apply to payphones provided to inmates in penal institutions where access to 9-1-1 is not required.~~

2139. – 2140. [Reserved]. ~~**Obligations of Resellers Of Basic Local Exchange Service.**~~

~~**(a) All resellers of basic local exchange service shall ensure that the underlying basic local exchange carrier has sufficient facilities to transport the 9-1-1 calls from the reseller's customers to a BESP.**~~

~~(b) If the reseller is using a switch, for example a PBX, to aggregate or switch calls before the calls are in the facilities of a basic local exchange carrier, the reseller shall ensure that its switch is capable of delivering ANI for each telephone extension connected to the switch.~~

~~(c) On a quarterly basis, and no later than 30 days after the end of each quarter, each reseller shall report to the BESP the local exchange access line quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to each governing body for the tariff services provided by the BESP.~~

~~**2140. Obligations of Wireless Providers.**~~

~~All wireless providers interconnecting to the facilities of the BESP for the provision of Enhanced 9-1-1 services shall on a quarterly basis, 30 days after the end of each quarter, provide a report to the BESP the wireless communications quantities by geographical area in the manner specified by the BESP so that the BESP may compute the monthly billing to each governing body for the tariff services provided by the BESP.~~

2141. Obligations of Multi-line Telephone Systems (MLTS).

(a) For purposes of this rule:

(I) "End user" means the person making telephone calls, including 9-1-1 calls, from the MLTS that provides telephone service to the person's place of employment, school, or to the person's permanent or temporary residence.

(II) "Residence" or "residence facility" shall be interpreted broadly to mean single family and multi-family facilities including apartments, townhouses, condominiums, dormitories, hotels, motels, resorts, extended care facilities, or similar entities, facilities, or structures.

(III) "Written information" means information provided by electronic mail, facsimile, letter, memorandum, postcard, or other forms of printed communication.

(b) When the method of dialing a local call from an MLTS telephone requires the end user to dial an additional number to access the public switched network, MLTS operators shall provide written information to each of their end users describing the proper method of accessing ~~emergency telephone service (ETS), or~~ 9-1-1~~,~~ service in an emergency.

(I) Such written information shall be provided to each end user by placing stickers or cards including the appropriate method to access ~~ETS~~ 9-1-1 on each MLTS telephone. Additionally, such written information shall be provided to each individual end user annually and at the time of hiring in the case of an employer, at the time of registration in the case of a school, and at the time of occupancy in the case of a residence facility.

(II) At a minimum, such written information that is attached to the telephone and provided annually~~,~~ shall include the following words: "To dial 9-1-1 in an emergency, you must dial #-9-1-1." [# = Insert proper dialing sequence].

(c) When calls to access ~~ETS~~ 9-1-1 service from an MLTS do not give one distinctive ANI and one distinctive ALI, or both, for each end user, the MLTS operator shall instruct, in writing, that the end user must stay on the telephone and tell the ~~ETS~~ 9-1-1 telecommunicator operator the telephone number and exact location.

(I) Such written information shall be provided to each individual end user annually and at the time of hiring in the case of an employer, at the time of registration in the case of a school, and at the time of occupancy in the case of a residence facility. Whenever possible, such information also shall be placed on cards or stickers on or next to the MLTS telephone.

(II) At a minimum, such written information shall include the following words: "When calling 9-1-1 from this telephone in an emergency, you must stay on the telephone and tell ~~the~~ 9-1-1 ~~operator~~ your phone number and exact location. This telephone does not automatically give ~~the~~ 9-1-1 ~~operator~~ your phone number and exact location. This information is critical for a quick response by police, fire, or ambulance."

(III) If an MLTS operator provides telephones that are not assigned to a particular end user, but that may be used by members of the public, the MLTS operator shall place a sticker or card on or next to the pertinent telephone either identifying the method for dialing 9-1-1 from that telephone or stating there is no 9-1-1 access from that telephone.

(d) Exemption from rules. The disclosure requirements of this rule shall not apply to MLTS provided to inmates in penal institutions, jails, or correctional facilities, to residents of mental health facilities, or to residents of privately contracted community correctional facilities, including substance abuse and mental health treatment facilities, or other such facilities where access to ~~ETS~~ 9-1-1 service is not required.

2142. Nondisclosure of Name/Number/Address Information.

~~(a) ALI database providers, governing bodies and PSAPs shall sign non-disclosure agreements consistent with this rule. If an ALI database provider, governing body or PSAP does not execute a non-disclosure agreement, LECs, wireless carriers, other telecommunications providers, and BESPs shall not be required to provide telephone numbers, including non-published and non-listed telephone numbers.~~

~~(b) Pursuant to rules 1103, 1104, and 2360 through 2399, no basic local exchange carrier shall disclose personal information of any person to any BESP, ALI database provider, governing body, or PSAP unless each potential recipient of personal information has stated formally in writing to the basic local exchange carrier or reseller of basic local exchange service that it has agreed to non-disclosure of personal information consistent with this rule.~~

(~~c~~a) ALI database information shall not be used for purposes other than for responding to requests for 9-1-1 emergency assistance (including maintenance of GIS address data used for 9-1-1 responses), initiating delivery of emergency warnings using an emergency notification service (including development of an emergency notification database and addressing verification), or periodic testing of these services. BESPs that provide ALI service shall provide one database extract per year to requesting 9-1-1 governing bodies at no cost. Additional extracts may be purchased at cost. ~~For example, the ALI database includes listed as well as non-listed and non-published telephone numbers. Use of the ALI database to obtain non-listed or non-published~~

~~numbers for purposes other than responding to requests for 9-1-1 emergency assistance or emergency notification service is prohibited. However, a query, or reverse search of the ALI database, initiated at the PSAP to electronically obtain the ALI data associated with a known telephone for purposes of handling an 9-1-1 emergency call is permitted.~~

(~~d~~b) If personal information is improperly disclosed and that disclosure is the fault of a ~~by the~~ BESP, the ~~provider~~ BESP ~~responsible for disclosing it~~ shall pay the applicable ~~tariff rates of the basic local exchange carrier, wireless carrier, reseller, or other telecommunications provider~~ for changing a customer's telephone number, unless the customer declines such number change.

2143. Diverse Routing and Priority Service Restoration.

(a) Diversity of 9-1-1 circuits.

(I) All BESPs providing 9-1-1 service to a governing body or PSAP's demarcation point shall take reasonable measures to provide reliable basic emergency service with respect to circuit diversity, central-office backup power, and diverse network monitoring. Where feasible, 9-1-1 circuits shall be physically and geographically diverse.

(A) Circuits or equivalent data paths are physically diverse if they provide more than one physical route between end points with no common points where a single failure at that point would cause both circuits to fail. Circuits that share a common segment such as a fiber-optic cable or circuit board are not physically diverse even if they are logically diverse for purposes of transmitting data.

(B) Circuits or equivalent data paths are geographically diverse if they take different paths from endpoint to endpoint, not following the same geographic route.

(II) On a date six months from adoption of this rule, and at such other times as may be deemed necessary by the Commission, each BESP and ALI provider (if offering service separately from a BESP) shall develop and file confidentially, in an appropriate proceeding with the Commission, a 9-1-1 diversity plan for deploying, monitoring, backup power, and physically and geographically diverse redundancy for the provider's portion of the 9-1-1 system and network where such measures of reliability are lacking. Information confidentially filed with this diversity plan shall include:

(A) maps depicting the provider's basic emergency service architecture;

(B) a list and description, including geographic location, of every point within the provider's portion of the 9-1-1 system and network where monitoring, backup power, and/or physical and geographically diverse redundancy are not present;

(C) a description of which items from subparagraph (a)(II)(B) of this rule the provider proposes to improve, how the provider proposes to improve the items, and a proposed timetable for deploying these improvements;

(D) a description of which items from subparagraph (a)(II)(B) of this rule the provider proposes to not improve, and an explanation of why it proposes to not improve them; and

(E) the costs, averaged statewide, associated with each improvement listed in

subparagraphs (a)(II)(C) and (D) of this rule.

(III) Following Commission approval of the diversity plan, or portions thereof, the provider shall file a new tariff or modify an existing tariff for implementation of the plan, as directed by the Commission. A 9-1-1 governing body or PSAP may submit a request to a BESP for diversity not included in the approved diversity plan. Following negotiation, the BESP shall file an application requesting Commission approval of the proposed prices, terms, and conditions responsive to the request.

(IV) Pursuant to subparagraph (a)(II) of this rule, after the effective date of the tariff each provider shall file quarterly updates with the PUC on its efforts to meet the deployment schedule required by subparagraph (a)(II)(C).

~~(a) Facilities for 9-1-1 service shall be diversely routed, using different circuit routes wherever feasible. When the governing body requests diverse routing, the BESP shall develop cost-based tariff rates for diverse routing of 9-1-1 circuits. Basic local exchange carriers shall ensure that current 9-1-1 circuit routing profiles are maintained and that circuits are individually tagged where possible to prevent inadvertent disruption. Upon request by the governing body for priority service restoration, basic local exchange carriers and BESP shall develop and implement cost-based tariff rates for priority service restoration of 9-1-1 services.~~

(b) BESPs~~, wireless carriers, basic local exchange carriers, and other telecommunications providers~~ shall work cooperatively with the PSAPs to ensure an effective way of tracking the status ~~report~~ of ~~a~~ 9-1-1 ~~failure or~~ outages (e.g., issuance of ~~a~~ trouble ticket ~~number in order to track such a failure or outage~~). Originating service providers should work cooperatively with the PSAPs and the BESP to track the status of 9-1-1 outages. Each provider should provide to the 9-1-1 governing body or PSAP and the BESP a telephone number that the PSAPs or BESPs can use to report trouble. Such telephone number should be staffed seven days a week, 24 hours a day by personnel capable of processing the call to initiate immediate corrective action.

(c) A BESPs shall notify the ~~a person, agency, or~~ responsible part~~y~~ies designated by the governing bod~~y~~ies regarding a present or potential 9-1-1 ~~failure or~~ outage. These notifications shall include~~A BESP shall notify the designee of the governing body immediately of~~ the nature and~~,~~ extent of the~~, and actions being taken to correct the present or potential~~ 9-1-1 ~~failure or~~ outages and the actions taken to correct them, to the extent known by the BESP. In the event the PSAP detects a failure in the 9-1-1 system, the PSAP should ~~shall immediately~~ notify the BESPs which provide 9-1-1 service in ~~that~~ the geographic area affected by the outage~~of the failure~~. These notifications shall be made as soon as is practicable.

(d) ~~9-1-1 contingency plans.~~ Beginning in 2018, each BESP and ALI provider (if offering service separately from a BESP) shall develop a 9-1-1 reliability and contingency plan in collaboration with all affected BESPs, basic local exchange carriers which provide final delivery of 9-1-1 calls to a PSAP, ALI providers, intermediary aggregation service providers, originating service providers, governing bodies, and PSAPs, to be confidentially filed annually with the Commission no later than April 30. A 9-1-1 reliability and contingency plan shall include:

(I) identification and location of all primary and backup facilities, equipment and databases or any and all other components related to basic emergency service;

(II) an identification and description of all demarcation points with BESPs, ALI providers, and PSAPs;

(III) all contingency processes and information from BESPs, originating service providers, intermediary aggregation service providers, PSAPs, and governing bodies necessary

for public safety operations until 9-1-1 service is restored;

(IV) contact information for designated representatives for each PSAP and/or governing body; and

(V) any other details deemed relevant as determined by the relevant parties or the Commission.

(VI) All providers required to file a 9-1-1 reliability and contingency plan pursuant to this paragraph (d) shall notify affected PSAPs of any known changes that may require an update to the 9-1-1 reliability and contingency plan.

~~(I) Basic local exchange carriers, wireless carriers, other telecommunications providers, and BESPs, in cooperation with the governing bodies, shall develop 9-1-1 contingency plans. The plan shall detail the actions to be taken in the event of a 9-1-1 failure or outage. A BESP shall maintain a copy of each of these plans. BESPs are required to provide a copy of the plan to the Commission by April 30 each year. The basic local exchange carriers and BESP shall notify the PSAPs of any changes in the network which may require a change to the previously agreed upon 9-1-1 contingency plan. Nothing in this rule shall preclude the BESP or the basic local exchange carrier from developing and seeking rate recovery for permanent equipment or alternate route solutions to mitigate 9-1-1 failures or outages.~~

~~(II) A 9-1-1 contingency plan shall:~~

~~(A) Include the designated telephone number of the LEC, CLEC, reseller, wireless carrier, other telecommunications provider, PSAP, or governing body, as required in rule 2136(h);~~

~~(B) Arrange to temporarily re-route 9-1-1 calls to another PSAP;~~

~~(C) Arrange, with the cooperation of the basic local exchange carrier, wireless carrier, or other telecommunications provider to route 9-1-1 calls to a local telephone number; or~~

~~(D) Provide another mutually agreed upon temporary solution so that 9-1-1 calls can be answered until 9-1-1 service is restored.~~

(e) If a 9-1-1 failure ~~or outage~~ exceeds or is anticipated to exceed 15 minutes from the time a BESP becomes aware of the outage and after notification to the PSAP, the BESP shall implement the contingency plan ~~of~~required by ~~rule~~ paragraph 2143(d) or provide temporary solutions so that 9-1-1 calls can be answered until 9-1-1 service is restored, as mutually agreed upon~~and shall perform the following actions, if applicable:~~

~~(I) Arrange to temporarily re-route 9-1-1 calls to another PSAP;~~

~~(II) Arrange, with the cooperation of the basic local exchange carrier, to route 9-1-1 calls to a local telephone number;~~

~~(III) Use facilities obtained for alternative routing of E9-1-1 calls for temporary use during service interruptions, such as private network facilities and governmental facilities; or~~

~~(IV) Provide other mutually agreed upon temporary solutions so that 9-1-1 calls can be answered until 9-1-1 service is restored.~~

~~(f) In the event that the anticipated failure in the provision of 9-1-1 service is in the facilities of the basic local exchange carrier, wireless carrier, or other telecommunications provider, such provider shall notify the BESP that is responsible for delivering 9-1-1 calls to the PSAP for its customers. In the event that the anticipated failure in the provision of 9-1-1 Service is in the facilities of the BESP, it shall be responsible for notification of all basic local exchange carriers, wireless carriers, other telecommunications providers, and PSAPs that will be affected by the failure.~~

(~~g~~f) A BESP ~~and the basic local exchange carrier~~ shall have qualified service technicians on site, when necessary, within two hours ~~or their best effort, after being notified by the PSAP~~ of discovering a ~~a failure of the~~ 9-1-1 outage, or their best effort~~system~~.

(~~h~~g) If a disruption of basic emergency service ~~9-1-1 failure or outage~~ exceeds 30 minutes, the responsible BESP or the responsible basic local exchange carrier providing facilities pursuant to paragraph 2136(i) shall ~~verbally~~ inform the Commission within two hours.~~,~~ Such notification shall be made in a manner prescribed~~in compliance with the policies adopted~~ by the Commission, outlining the nature and extent of the outage. ~~to implement this paragraph, within two hours outlining the nature and extent of the outage, and shall file a written report with the Commission~~ This notification shall be followed by a report with the Commission, which follows Commission reporting format and guidelines within 30 days of such outage. As an alternative to or in addition to the 30-day written report, the Director, or the Director's designee, may request, on a case-by-case basis, a separate written report within five days from the time of the request, outlining the nature, cause~~,~~ and extent of the outage, and corrective action taken.

(h) Following the restoration of 9-1-1 service, the BESP shall, at the request of a PSAP or governing body, provide to the affected PSAPs the call back numbers of any calls that were made to 9-1-1 by were unable to be delivered due to the 9-1-1 outage, if available to the BESP. This information shall be provided within two hours of the restoration of 9-1-1 service or as soon as possible under the circumstances. When possible, this information should also include associated ALI information.

(i) Nothing in rule 2143 shall be construed to impose any obligation on any provider other than BESPs.

2144. Reports.

~~(a)~~ Each BESP ~~and basic local exchange carrier~~ shall furnish to the Commission at such time(s) and in such form as the Commission may require, a report(s) in which the provider shall specifically answer the Commission's questions regarding ~~all questions propounded regarding the implementation, usage, availability, 9-1-1 failures or outages, cost of providing, and such other information relevant to~~ the provision of ~~this~~ basic emergency service. ~~These reports shall be provided at regular intervals, to be determined by the Commission, and on a form approved by the Commission.~~

~~(b) Periodic or special reports concerning any matter about which the Commission is concerned relative to the provision of 9-1-1 services, such as the failure or outages of 9-1-1 services, shall be provided in a manner determined by the Commission, and on a form approved by the Commission.~~

~~(c) Each basic local exchange service carrier and BESP shall report to the Commission its progress in the implementation of basic emergency service in each local exchange area of the state. Such report shall be filed with its Annual Report.~~

2145. 9-1-1 Advisory Task Force.

(a) The Commission shall establish a 9-1-1 Advisory Task Force. The purpose of the Advisory Task Force is to provide oversight of the statewide implementation and provision of basic emergency service. The Advisory Task Force shall include, but is not limited to, the following representative parties directly interested in 9-1-1 services: customer groups, governing bodies, basic local exchange service providers, wireless service providers, providers of basic emergency services, customers of basic emergency service, ALI database providers, and other telecommunications providers. The Commission Staff shall be responsible for administering the Advisory Task Force and facilitating its meetings and agenda. The Advisory Task Force shall evaluate alternate technologies, service, and pricing issues related to implementing statewide 9-1-1 services in a cost effective fashion. The 9-1-1 Advisory Task Force~~Commission Staff~~ shall provide periodic reports to the Commission on the implementation of 9-1-1 services statewide.

(b) The Advisory Task Force shall:

(I) serve as a forum for the members to discuss matters pertaining to 9-1-1;

(II) ~~M~~make future recommendations and report to the Commission concerning the continued improvement and advancement of~~, but not limited to the development of database formatting standards, processes to facilitate the transfer of ALI data, and the implementation of~~ 9-1-1 services in Colorado;

(III) ~~C~~consider 9-1-1 service quality and ~~the~~ cost ~~of 9-1-1 service to the PSAPs, in both~~ urban and rural areas~~, and to end-use customers of 9-1-1 service~~ in developing its report and recommendations;

(IV) ~~I~~investigate, analyze, or recommend resolutions ~~and report~~ for existing or anticipated 9-1-1 issues within the state ~~to the Commission the impact of wireless carriers on PSAPs~~;

(V) ~~I~~investigate and report to the Commission the development, implementation, and transition to any ~~of~~ new 9-1-1 technologies and capabilities, including any impacts to the consumer, originating service provider, service end user, or PSAP; and

~~(V) Study and report to the Commission on the overall costing, funding and billing issues of providing 9-1-1 service, including the 9-1-1 surcharge, tariffs, and PSAP equipment costs; and~~

(VI) ~~M~~monitor and report to the Commission ~~on FCC~~ proceedings and activities of the FCC and other national organizations and agencies on matters that may affect 9-1-1 services in Colorado.

2146. ~~National Emergency Number Association (NENA) Data~~Technical Standards.

~~The NENA standards incorporated by reference as identified in rule 2008 shall be used for the purpose of defining standard formats for ALI data exchange between basic local exchange carriers, ALI database providers, governing bodies, and BESPs.~~The Commission may consider standards adopted by standards bodies using accredited, nonproprietary, consensus-based approaches to standards development, as appropriate, in connection with its interpretation, evaluations, or enforcement of rules 2130-2159. The Commission's 9-1-1 Advisory Task Force shall publish, at least annually, a list of standards that it recommends be considered by the Commission for this purpose.

2147. Applications by the Governing Body for Approval of an ~~9-1-1~~ Emergency Telephone Charge in Excess of Seventy Cents per Month.

(a) A governing body requesting approval pursuant to § 29-11-102(2)(b), C.R.S., for an emergency telephone charge in excess of ~~seventy cents per month~~the limit established by § 29-11-102(2), C.R.S., shall file an application with this Commission pursuant to 4 CCR 723-2-2002, paragraphs (a) through (c) and (e). The Commission may provide a form for this purpose, consistent with these rules. ~~Included in the application shall be supporting attachments or exhibits of budget information, cost information and such other information the Commission may rely upon for justification of the proposed increase in surcharge. The attached information should include present and proposed surcharge remittance estimates, all other revenue sources and amounts, and any other information such as audit reports that may be used to justify the proposed increase in the 9-1-1 charge above $0.70 per month.~~

(b) All applications shall include an attestation that the applicant has not used emergency telephone charge funds for purposes not authorized by § 29-11-104(2), C.R.S. within the last 18 months, that the planned use of all future revenues raised from emergency telephone charges are authorized by § 29-11-104(2), C.R.S. and that the applicant agrees to comply with § 29-11-104(5), C.R.S.

(c) Documentation to be included in the application shall be supporting attachments of budget information, cost information and such other information the Commission may rely upon for justification of the proposed increase in emergency telephone charge. The attached information should include present and proposed emergency telephone charge remittance estimates, all other revenue sources and amounts, and any other information that may be used to justify the proposed increase in the emergency telephone charge.

(~~b~~d) Notice. Notwithstanding paragraph 2002(d), this rule shall establish the notice procedure for governing bodies applying for approval of an emergency telephone charge in excess of the amount established pursuant to § 29-11-102(2), C.R.S. Within three days after the Commission issues notice of the application, the applicant shall publish a notice of the application in at least one newspaper of general circulation in the area of applicability in at least one edition. The notice shall also be made available for a period of no less than two weeks on the governing body's website, if one exists. The notice shall include:~~The governing body filing an application for approval of a 9-1-1 charge in excess of $0.70 per month shall:~~

~~(I) Within three days after filing the application, publish one notice of the application in at least one newspaper of general circulation in the area of applicability for at least two weeks.~~

~~(II) Ensure that newspaper notice contains:~~

(I~~A~~) ~~T~~the name, address and telephone number of the requesting governing body and the Colorado Public Utilities Commission;

(~~B~~II) ~~A~~a statement that the governing body has filed with the Colorado Public Utilities Commission an application to change its currently effective ~~surcharge~~ emergency telephone charge, and identify both the current and proposed emergency telephone charge~~to a charge in excess of $0.70 per month~~;

(III~~C~~) ~~T~~the ~~date the application was filed with the Commission and the assigned docket number~~proceeding number and the deadline for interventions or objections;

(IV~~D~~) ~~T~~the proposed effective date of the new charge;

(VE) Aa statement of the purpose of the application, including an explanation of the proposed changes;

(VIF) Aa statement that the application is available for inspection at the office of the governing body utility and at the Colorado Public Utilities Commission; and

~~(G) A statement that any person may file with the Commission a written objection to the application, or an intervention to participate as a party, and an explanation that a mere objection without an intervention shall not be adequate to permit participation as a party;~~

~~(H) A statement that any person filing a written objection within 60 days of the date the application was filed or a person may file an intervention within 30 days of the date the application was filed; and~~

(IVII) Aa statement that any person may attend the hearing, if any, and may make a statement under oath about the application, even if such person has not filed a written objection or intervention.

(cc) All persons other than the Commission who are required to provide notice shall, within 15 days of providing notice, file an affidavit with the Commission stating the date notice was completed, and the method used to provide it. This affidavit shall be accompanied by a copy of the notice or notices provided.

~~**2148. [Reserved].**~~

21498. – 2159. [Reserved].

Decision No. C17-0575

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 17R-0488T

IN THE MATTER OF PROPOSED AMENDMENTS TO TELECOMMUNICATIONS RULES 4 CODE OF COLORADO REGULATIONS 723-2-2130 THROUGH 2159 AND 2008(a).

NOTICE OF PROPOSED RULEMAKING

Mailed Date: July 28, 2017
Adopted Date: July 20, 2017

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I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking (NOPR) to amend the Rules Regulating Telecommunications Providers, Services, and Products contained in 4 *Code of Colorado Regulations* 723-2-2130 through 2159 and 2008(a) (9-1-1 Rules).

2. The changes proposed are reflective of the consensus revision of these rules submitted to the Commission by the 9-1-1 Advisory Task Force (Task Force) in a Petition for Rulemaking, granted by the Commission on July 12, 2017.[1] The proposed rules are included as Attachments A and B to this Decision. We welcome comments from interested participants. To the extent a participant disagrees with the proposed rules, comments should include suggested rule revisions, in legislative format.

3. Consistent with the below discussion, this matter is set for hearing and referred to an Administrative Law Judge (ALJ) for a recommended decision.

B. 9-1-1 Advisory Task Force Petition for Rulemaking

4. On May 24, 2017, the Task Force filed a Petition for the Commission to commence a rulemaking proceeding for the 9-1-1 Rules.[2] As attachments to that Petition,

[1] Decision No. C17-0561, Proceeding No. 17M-0319T.
[2] The Petition opened Proceeding No. 17M-0319T.

the Task Force provided a proposed set of consensus-based revisions to the 9-1-1 Rules, which the Task Force developed over the course of several months through the use of multi-stakeholder workshops. A full list of the participants to the workshops was attached as Exhibit C to the Petition. The Task Force stated that the rule revisions update, streamline, and make certain improvements to the 9-1-1 Rulemakings, including redefining existing terminology in a technology-neutral manner.

5. On June 2, 2017, the Commission issued Decision No. C17-0452-I accepting the Petition and requesting public comment, setting a due date for public comment of June 30, 2017. Additionally, the Commission published a press release on June 2, 2017, calling for public comments on the Petition by the due date.

6. Four comments were filed in response to the Petition, specifically from Qwest Corporation, doing business as CenturyLink QC; Comcast Phone of Colorado, LLC; Bresnan Broadband of Colorado, LLC, and Time Warner Cable Information Services (Colorado), LLC, filing jointly; and CTIA – The Wireless Association. All comments filed were supportive of the Commission granting the Petition and commencing the requested rulemaking.

7. The Commission granted the Petition for Rulemaking on July 12, 2017.[3]

C. Proposed Rule Changes

8. The changes proposed by the Task Force are extensive, but fall into general categories that are described here. This Decision provides an overview of the changes being proposed. We intend for Rule revisions proposed through this NOPR in Attachments A and B to

[3] Decision No. C17-0561, Proceeding No. 17M-0319T.

be consistent with Task Force proposals in its Petition for Rulemaking. Minor revisions are included for administrative corrections and consistency.

1. Rule 2008(a): Incorporations by Reference

9. The current version of Rule 2008(a) incorporates by reference a number of standards that the Task Force claim are now outdated. The Task Force also submitted that the rule potentially omits other important standards that may be important for the continued operation of 9-1-1 service as it exists today or may exist in future technological architectures of 9-1-1 networks in Colorado. In addition, this rule is largely redundant with Rule 2146, which is updated consistent with the discussion below. Therefore, we propose deleting the rule, consistent with the Task Force's recommendation.

2. Rule 2130: Applicability

10. Proposed changes to Rule 2130 indicate that the 9-1-1 Rules primarily apply to Basic Emergency Service Providers (BESPs), except where explicitly provided. Rule 2130(b) relates to rule applicability to wireless carriers as a condition of interconnection with a BESP. We propose deleting Rule 2130(b) as being obsolete and unnecessary.

3. Rule 2131: Definitions

11. We propose modifying definitions to become more technology neutral. Consistent with Task Force recommendations, we propose these changes in an effort to make the 9-1-1 Rules more adaptable to future changes in technology. The proposed rules also introduce and define new terms, including "9-1-1 service," "ALI service," and "demarcation point."

4. Rule 2134: Process for Certification of Basic Emergency Service Providers

12. Current rules cite Rules 2134, 2002, and 2103 for requirements of BESP applications. The proposed changes to Rule 2134 are intended to incorporate relevant sections of Rules 2002 and 2103, and adjust them to the specific needs of a BESP application. The resulting rule is proposed to contain all of the requirements of a BESP application. We anticipate that the revisions create efficiencies for applicants that currently must consult multiple sections of the Commission's Rules and incorporate the necessary components into their applications.

5. Rule 2136: Obligations of Basic Emergency Service Providers.

13. We propose the significant changes to Rule 2136 recommended by the Task Force. The changes to this rule are intended to: (1) remove what some participants in prior proceedings perceived as obligations on originating service providers; (2) make the BESP's billing processes to governing bodies more practical and consistent with current processes, while enabling flexibility for potential future billing processes; (3) establish a relationship between the BESP and the Task Force for ensuring proper billing practices to the governing bodies; (4) update the language ensuring transmittal of calls from deaf, hard of hearing, and persons with speech impairments; and (5) better integrate current Rule 2136 with other rules, such as the diversity and contingency planning requirements found in Rules 2143(a) and 2143(d).

6. Rule 2138: Obligations of Basic Local Exchange Carriers

14. With the exception of the obligations regarding payphone providers, the rule is deleted. In the remaining part of the rule, we propose amending the obligations on payphone providers to mirror federal regulations.

7. 2141. Obligations of Multi-line Telephone Systems

15. We propose minor amendments to this Rule to improve consistency in the use of defined terms.

8. 2142. Nondisclosure of Name/Number/Address Information

16. We propose deleting current Rules 2142(a) and 2142(b) as redundant, unnecessary, and potentially a hindrance to Public Safety Answering Points (PSAPs) being able to receive timely caller location information from service providers.

17. Changes to current Rule 2142(c) clarify that Automatic Location Identification (ALI) database information can be used for the creation of emergency notification databases. In addition, we propose revisions that remove examples the Task Force proposes were unnecessary and do not add clarity to the rule. We also propose modifications to current Rule 2142(c) to more accurately memorialize practices regarding the provision of ALI database extracts to PSAPs.

18. We also revise current Rule 2142(d) regarding rates paid by a BESP to change a customer's telephone number because of improper disclosure of personal information. Consistent with Task Force recommendations, the rule changes recognize that not all applicable rates for changing a customer's phone number will be tariffed.

9. Rule 2143: Diverse Routing and Priority Service Restoration

19. Proposed Rule 2143(a) establishes a collaborative process for the BESPs and the 9-1-1 governing body representatives of the state to develop a statewide 9-1-1 network diversity plan for Commission approval. The rule proposes that any state-wide diversity plan presented through this process include specific milestones and cost estimates. Provisions are included to ensure ongoing reporting to the Commission on progress toward achieving the milestones set forth in any Commission-approved diversity plan. In addition, the rule is revised to further

enable that the diversity planning process balances the needs of the citizens of Colorado for a diverse and resilient basic emergency service network, with the ability of 9-1-1 governing bodies to pay for necessary diversity and resilience.

20. Proposed Rule 2143(d) establishes an ongoing process for ensuring proper contingency planning documentation is taking place. These revisions are intended to allow for continued operations, where possible, during disruptions to the basic emergency service network.

21. Proposed Rule 2143(i) requires the BESP to provide call-back numbers for 9-1-1 callers that attempted to call 9-1-1 but were unable to complete the call due to a disruption of the basic emergency service network, to the extent that such information is available to the BESP.

22. We encourage participant comment on the diversity planning process and how Commission rules can continue to ensure a safe, reliable, and cost-effective statewide 9-1-1 network.

10. Rule 2144: Reports

23. Changes to Rule 2144(a) remove reporting obligations from BESPs, but maintains the reporting requirements on BESPs. Current Rules 2144(b) and (c) are deleted as unnecessary and redundant.

11. Rule 2145: 9-1-1 Advisory Task Force

24. Changes to Rule 2145 update the role and responsibilities of the 9-1-1 Advisory Task Force. The proposed revisions direct the Task Force toward analysis of new and emerging technologies that may affect the provision of 9-1-1 service in Colorado, while at the same time continuing to monitor and make recommendations to the Commission regarding the cost and pricing of 9-1-1 services.

12. Rule 2146: National Emergency Number Association Data Standards

25. Consistent with Task Force recommendations, changes to this Rule are intended to: (1) provide the Commission with more flexibility in which related technical standards should be considered in the application of its 9-1-1 Rules; (2) avoid enshrining technical standards that are likely to become outdated in the next few years as the 9-1-1 technology available for the provision of 9-1-1 service continues to evolve; and (3) task the Commission's Task Force with producing and continually updating a list of recommended standards that the Commission may consider when applying the 9-1-1 Rules.

13. Rule 2147: Applications by the Governing Body for Approval of a 9-1-1 Charge in Excess of Seventy Cents per Month.

26. We propose changes to Rule 2147 to remove contradictory or duplicative requirements that exist between current Rules 2147 and 2002. In addition, the proposed amendments remove the need for applicants to file a Motion for Alternative Form of Notice with each application.

14. Deletion of Outdated, Unnecessary, and Duplicative Rules

27. In addition to the deleted rules discussed above, we propose deletion of multiple rules that are potentially outdated, unnecessary, or needlessly duplicative. For example, we propose deletion of current Rule 2133 regarding service components and requirements. We also propose deleting current Rule 2137, regarding obligations of ALI database providers. The proposed definitions for Basic Emergency Service and BESP in Rules 2131(j) and (k), respectively, include ALI providers, thus making 2137 redundant with Rule 2136.

28. We propose that Rule 2139, regarding obligations of resellers of BESP, and Rule 2140, regarding obligations of wireless providers, each be deleted in their entirety as outdated and, therefore unnecessary, consistent with the Task Force's recommendation.

D. Conclusion

29. The statutory authority for the rules proposed here is found at §§ 24-4-101 *et seq.*; 40-2-108; 40-3-101, 102, 103, and 110; 40-4-101; 40-15-101, 107, 108(2), 201, 202, 302, 401, 501, 502, 503, and 503.5; and 40-17-103(2), C.R.S.

30. The proposed rules in legislative (*i.e.,* strikeout/underline) format (Attachment A) and final format (Attachment B) are available through the Commission's Electronic Filings (E-Filings) system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=17R-0488T.

31. The Commission encourages and invites public comment on all proposed rules. We request that commenters propose any changes in legislative redline format.

32. This matter is referred to an ALJ for the issuance of a recommended decision.

33. The ALJ will conduct a hearing on the proposed rules and related issues on September 18, 2017. Interested persons may submit written comments on the rules and present these orally at hearing, unless the ALJ deems oral presentations unnecessary.

34. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that comments be filed no later than August 21, 2017, and that any pre-filed comments responsive to the initial comments be submitted no later than September 4, 2017. The Commission prefers that comments be filed using its E-Filing System at https://www.dora.state.co.us/pls/efi/EFI.homepage.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B) attached hereto, shall be filed with the Colorado Secretary of State for publication in the August 10, 2017, edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge for the issuance of a recommended decision.

3. A hearing on the proposed rules and related matters shall be held as follows:

DATE September 18, 2017

TIME: 9:00 a.m. until not later than 5:00 p.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

4. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Administrative Law Judge deems oral comments unnecessary.

5. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than August 21, 2017, and that any pre-filed comments responsive to the initial comments be submitted no later than September 4, 2017. The Commission will consider all submissions, whether oral or written.

6. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING July 20, 2017.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

WENDY M. MOSER

Commissioners

Notice of Proposed Rulemaking

Tracking number

2017-00333

Department

700 - Department of Regulatory Agencies

Agency

723 - Public Utilities Commission

CCR number

4 CCR 723-3

Rule title

RULES REGULATING ELECTRIC UTILITIES

Rulemaking Hearing

Date

09/11/2017

Time

09:00 AM

Location

Colorado Public Utilities Commission Hearing Room, 1560 Broadway Suite 250 Denver, Colorado 80202

Subjects and issues involved

The proposed rule implements amendments to § 40 2-126(2), C.R.S., made by HB 16-1091, which allows the Commission to determine the date for the biennial filing of plans for the development of transmission facilities in energy resource zones.

Statutory authority

Sections 24-4-101 et seq.; § 40-2-108; §§ 40-3-101, -110; and §§ 40-17-101 to -104, C.R.S.

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COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 *CODE OF COLORADO REGULATIONS* (CCR) 723-3

PART 3
RULES REGULATING ELECTRIC UTILITIES

* * *

[indicates omission of unaffected rules]

TRANSMISSION PLANNING

3625. Applicability.

This rule shall apply to all electric utilities in the state of Colorado except municipally owned utilities and cooperative electric associations that have voted to exempt themselves from regulation pursuant to § 40 9.5-103, C.R.S.

3626. Overview and Purpose.

The purpose of these rules is to establish a process to coordinate the planning for additional electric transmission in Colorado. The Commission endorses the concept that planning should be done on a comprehensive, transparent, state-wide basis and should take into account the needs of all stakeholders.

3627. Transmission Planning.

(a) No later than February 1 of each even year, each electric utility shall file a ten-year transmission plan and supporting documentation pursuant to this rule.

(I) Each ten-year transmission plan shall meet the following goals:

(A) the proposed projects do not negatively impact the system of any other transmission provider or the overall transmission system in the near-term and long-term planning horizons;

(B) the proposed projects avoid duplication of facilities;

(C) the proposed projects reflect the development of joint projects where a proposed project services the mutual needs of more than one transmission provider and/or stakeholder; and

(D) the proposed projects are coordinated with all transmission providers in Colorado.

(II) The plan shall identify all proposed facilities 100kV or greater.

(III) If any of the information required to be filed pursuant to this rule is available on a utility or utility maintained website, then it is sufficient for purposes of this rule to include in the filing a web address that provides direct access to that specific piece of information. This address must remain active until the next biennial filing.

(b) Each ten-year transmission plan shall demonstrate compliance with the following requirements:

(I) The efficient utilization of the transmission system on a best-cost basis, considering both the short-term and long-term needs of the system. The best-cost is defined as balancing cost, risk and uncertainty and includes proper consideration of societal and environmental concerns, operational and maintenance requirements, consistency with short-term and long-term planning opportunities, and initial construction cost.

(II) All applicable reliability criteria for selected demand levels over a range of forecast system demands, including summer peak load, winter peak load and reduced load when renewable generation is maximized.

(III) All legal and regulatory requirements, including renewable energy portfolio standards and resource adequacy requirements.

(IV) Consistency with applicable transmission planning requirements in the FERC Order 890.

(c) Each ten-year transmission plan shall contain the following information.

(I) The methodology, criteria and assumptions used to develop the transmission plan. This includes the transmission facility rating methodology and established facility ratings; transmission base case data for all applicable power flows, short circuit and transient stability analyses; and utility specific reliability criteria.

(II) The load forecasts, load forecast reductions arising from net metered distributed generation and utility sponsored energy efficiency programs, and controllable demand -side management data including the interruptible demands and direct load control management used to develop the transmission plan.

(III) The generation assumptions and data used to develop the transmission plan.

(IV) The methodology used to determine system operating limits, transfer capabilities, capacity benefit margin, and transmission reliability margin, with supporting data and corresponding established values.

(V) The status of upgrades identified in the transmission plan, as well as changes, additions or deletions in the current plan when compared with the prior plan.

(VI) The related studies and reports for each new transmission facility identified in the transmission plan including alternatives considered and the rationale for choosing the preferred alternative. The depth of the studies, reports, and consideration of alternatives shall be commensurate with the nature and timing of the new transmission facility.

(VII) The expected in-service date for the facilities identified in the transmission plan and the entities responsible for constructing and financing each facility.

(VIII) A summary of stakeholder participation and input and how this input was incorporated in the transmission plan.

(IX) Each electric utility subject to rate regulation shall also include energy resource zone plans, designations, and applications for certificates of public convenience and necessity pursuant to § 40-2-126(2), C.R.S.

(d) No later than February 1 of each even year, each utility shall file all economic studies performed pursuant to FERC Order 890 since the last biennial filing. Such studies generally evaluate whether transmission upgrades or other investments can reduce the overall costs of serving native load. These studies are conducted for the purpose of planning for the alleviation of transmission bottlenecks or expanding the transmission system in a manner that can benefit large numbers of customers, such as the evaluation of transmission upgrades or additions necessary to build or acquire new generation resources. The report shall identify who requested the economic study and shall identify all economic studies requested but not performed.

(e) No later than February 1 of each even year, each utility shall file conceptual long-range scenarios that look 20 years into the future. These conceptual long-range scenarios shall analyze projected system needs for various credible alternatives, including, at a minimum, the following:

(I) reasonably foreseeable future public policy initiatives;

(II) possible retirement of existing generation due to age, environmental regulations or economic considerations;

(III) emerging generation, transmission and demand limiting technologies;

(IV) various load growth projections; and

(V) studies of any scenarios requested by the Commission in the previous biennial review process.

(f) Amended filings made pursuant to this rule are permitted at any time for good cause shown.

(g) Government agencies and other stakeholders shall have an opportunity for meaningful participation in the planning process.

(I) Government agencies include affected federal, state, municipal and county agencies. Other stakeholders include organizations and individuals representing various interests that have indicated a desire to participate in the planning process.

(II) During the development of the ten-year transmission plan when objectives and needs are being identified, each utility shall actively solicit input from the appropriate government agencies and stakeholders to identify alternative solutions.

(III) Once a utility has evaluated the alternative solutions and has prepared recommendations for inclusion in its ten-year transmission plan, the utility shall notify the government agencies and stakeholders of these recommendations.

(IV) The outreach anticipated in subparagraphs (g)(II) and (g)(III) shall occur in a timely manner prior to the filing of the ten-year plans.

(V) Each utility shall concurrently provide the filings made pursuant to this rule to all government agencies and other stakeholders that participate in the planning process.

(h) After the ten-year transmission plans have been filed by utilities, the Commission will consolidate the plans in one proceeding. In this proceeding, the Commission will solicit written comments and will hold a workshop(s) and/or a hearing(s) on the plans for the purpose of reviewing and rendering a decision regarding the adequacy of the utilities' filed transmission plans and process used in formulating the plans. The Commission, on its own motion or at the request of others, may request additional supporting information from the utilities or the commenters. The Commission will review the plans and supporting information, the written comments, and the information obtained at the workshop(s) or hearing(s), and will issue a written decision regarding compliance with these rules and the adequacy of the existing and planned transmission facilities in this state to meet the present and future energy needs in a reliable manner. In this decision, the Commission may also provide further guidance to be used in the preparation of the next biennial filing.

(i) Utilities shall make reference to the most recently filed ten-year transmission plan in any subsequent CPCN application for individual projects contained in that plan. Given sufficient documentation in the biennial ten-year transmission plan for the project under review and if circumstances for the project have not changed, the applicant may rely substantively on the information contained in the plan and the Commission's decision on the review of the plan to support its application. The Commission will take administrative notice of its decision on the plan. Any party challenging the need for the requested transmission project has the burden of proving that, due to a change in circumstances, the Commission's decision is no longer applicable or valid.

Decision No. C17-0576

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 17R-0489E

IN THE MATTER OF THE PROPOSED RULES IMPLEMENTING HOUSE BILL 16-1091 REGARDING PLANS FOR TRANSMISSION FACILITIES, 4 CCR 723-3-3627.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: July 28, 2017
Adopted Date: July 20, 2017

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I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission (Commission) issues this Notice of Proposed Rulemaking to amend the Rules Regulating Electric Utilities contained in 4 *Code of Colorado Regulations* 723-3 implementing House Bill (HB) 16-1091. The proposed rule implements amendments to § 40-2-126(2), C.R.S., made by HB 16-1091, which allows the

Commission to determine the date for the biennial filing of plans for the development of transmission facilities in energy resource zones.

2. We welcome comments from interested participants. To the extent a participant disagrees with the proposed rules, comments should include suggested rules revisions, in legislative format.

B. Background

3. Prior to the passage of the 2016 legislation, Colorado electric utilities subject to rate regulation were required to file their plans for the development of transmission facilities in energy resource zones by October 31 of each odd-numbered year, commencing in 2007. On March 23, 2016, the Governor signed HB 16-1091, which deleted the date requirement and instead allows the Commission to determine the biennial filing date, commencing in 2016. The information to be included in the plans was not changed.

4. House Bill 16-1091 also deleted the requirement that the Commission issue final orders within 180 days of the filing of an application for a certificate of public convenience and necessity for the construction or expansion of transmission facilities filed pursuant to § 40-2-126(2), C.R.S. This part of the legislation does not require a rule change and is therefore not included in this rulemaking.

5. The statutory changes took effect on August 10, 2016.

C. Findings and Conclusions

6. Currently, the information included in the development of transmission facilities in energy resource zone plans is required by statute, but not included explicitly in a Commission rule. Now that the Commission shall determine the date of submission, we suggest that

efficiencies could be gained if the information required in § 40-2-126(2), C.R.S., is filed concurrent with electric utilities' biennial transmission plans.

7. Therefore, by this Decision, we propose a rule amendment as follows: add language to Rule 3627(c) that requires electric utilities subject to the Commission's rate regulation to include the information listed in § 40-2-126(2), C.R.S., with their biennial transmission plans due February 1 of each even year.

D. Conclusion

8. The statutory authority for the rules proposed here is found at §§ 24-4-101 *et seq.*; § 40-2-108; §§ 40-3-101, -110; and §§ 40-17-101 to -104, C.R.S.

9. The proposed rules in legislative (strikeout and underline) format (Attachment A) and final format (Attachment B), are available through the Commission's E-Filings system[1] at: https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=17R-0489E.

10. The Commission encourages and invites public comment on all proposed rules. We request that commenters propose any changes in legislative redline format.

11. This matter is referred to an Administrative Law Judge for the issuance of a recommended decision.

12. The Administrative Law Judge will conduct a hearing on the proposed rules and related issues on September 11, 2017. Interested persons may submit written comments on the rules and present these orally at hearing, unless the Administrative Law Judge deems oral presentations unnecessary.

[1] From the *Electronic Filings* (E-Filings) system page (https://www.dora.state.co.us/pls/efi/EFI.homepage), the rules can also be accessed by selecting "*Search*" and entering this proceeding number (17R-0489E) in the "*Proceeding Number*" box and then selecting "Search".

13. The Commission encourages interested persons to submit written comments before the hearing scheduled in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that comments be filed no later than September 1, 2017. The Commission prefers that comments be filed using its E-Filing System at http://www.dora.state.co.us/pls/efi/EFI.homepage.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking (including Attachment A and Attachment B) attached hereto, shall be filed with the Colorado Secretary of State for publication in the August 10, 2017, edition of *The Colorado Register*.

2. This matter is referred to an Administrative Law Judge for the issuance of a recommended decision.

3. A hearing on the proposed rules and related matters shall be held as follows:

DATE September 11, 2017

TIME: 9:00 a.m. until not later than 5:00 p.m.

PLACE: Commission Hearing Room
1560 Broadway, Suite 250
Denver, Colorado

4. At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless the Administrative Law Judge deems oral comments unnecessary.

5. Interested persons may file written comments in this matter. The Commission requests that initial pre-filed comments be submitted no later than September 1, 2017. The Commission will consider all submissions, whether oral or written.

6. This Decision is effective upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING July 20, 2017.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

JEFFREY P. ACKERMANN

FRANCES A. KONCILJA

WENDY M. MOSER

Commissioners

Notice of Proposed Rulemaking

Tracking number

2017-00298

Department

1000 - Department of Public Health and Environment

Agency

1001 - Air Quality Control Commission

CCR number

5 CCR 1001-9

Rule title

REGULATION NUMBER 7 CONTROL OF OZONE VIA OZONE PRECURSORS AND CONTROL OF HYDROCARBONS VIA OIL AND GAS EMISSIONS

Rulemaking Hearing

Date

10/19/2017

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 7 that address Reasonably Available Control Technology requirements for each category of sources covered by the United States Environmental Protection Agencys Oil and Gas Control Techniques Guidelines in Colorados Ozone State Implementation Plan. These proposed revisions would incorporate existing State-Only requirements into Colorados Ozone SIP, propose new requirements for inclusion in Colorados Ozone SIP, and revise and/or clarify existing SIP and State-Only provisions.

The proposed revisions are offered to address the requirements of the federal Clean Air act for areas classified as moderate non-attainment. The proposed revisions would result in hydrocarbon emissions reductions in the Denver Metro Area/North Front Range Non-attainment area necessary to make progress toward attaining the 2008 8-hour ozone NAAQS. The Commission may also consider imposing similar requirements on facilities on a state-wide basis, not just in the Denver Metro Area/North Front Range. The Commission may also make clarifying revisions and typographical, grammatical, and formatting corrections throughout Regulation Number 7.

Statutory authority

Sections 25-7-105(1); 25-7-102; 25-7-301; 25-7-106; 25-7-109(1)(a), (2), and (3); 25-7-109(2)(c); 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended.

Contact information

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DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 7

Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions

(Emissions of Volatile Organic Compounds and Nitrogen Oxides)

5 CCR 1001-9

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

>>>>>>>>

II. General Provisions

>>>>>>>>

II.B. Exemptions

Emissions of the organic compounds listed as having negligible photochemical reactivity in the common provisions definition of Negligibly Reactive Volatile Organic Compound are exempt from the provisions of this regulation.

~~(State Only)~~ Notwithstanding the foregoing exemption, hydrocarbon emissions from oil and gas operations, including methane and ethane, are subject to this regulation as set forth in Sections XII.K. and L., XVII., and XVIII. The regulation of hydrocarbon emissions in Sections XVII. and XVIII. marked by (State Only) is not federally enforceable.

>>>>>>>>

XII. Volatile Organic Compound Emissions from Oil and Gas Operations

XII.A. Applicability

XII.A.1. Except as provided in Section XII.A.2. through ~~5~~7., this Section applies to oil and gas exploration and production operations, natural gas compressor stations and natural gas drip stations:

XII.A.1.a. that collect, store, or handle condensate in the 8-hour Ozone Control Area (State Only: or any ozone nonattainment or attainment/maintenance area),

XII.A.1.b. that are located upstream of a natural gas plant,

XII.A.1.c. for which the owner or operator filed, or was required to file, an APEN pursuant to Regulation Number 3, and

XII.A.1.d. (State Only) that emit any amount of uncontrolled actual volatile organic compound emissions with the following exceptions.

XII.A.1.d.(i) (State Only) Volatile organic compounds emitted during the first 90 days from the date of first production for new and modified condensate storage tanks as defined in Section XII.B. shall be equipped with a

control device pursuant to Section XII.D., and comply with applicable monitoring, recordkeeping, and reporting requirements; and

XII.A.1.d.(ii) All dehydrators regardless of uncontrolled actual emissions are subject to XII.H.

XII.A.2. Oil refineries are not subject to this Section XII.

XII.A.3. Natural gas-processing plants and qualifying natural gas compressor stations located in an ozone nonattainment or attainment maintenance area are subject to Sections XII.G. or XII.I.

XII.A.4. Glycol natural gas dehydrators located at an oil and gas exploration and production operation, natural gas compressor station, drip station or gas processing plant in an ozone nonattainment or attainment maintenance area are only subject to Sections XII.B. and XII.H.

XII.A.5. Well production facilities with uncontrolled actual volatile organic compound emissions greater than one (1) ton per year and natural gas compressor stations that collect, store, or handle hydrocarbon liquids are also subject to Sections XII.B. and XII.L.

XII.A.6. Centrifugal compressors, reciprocating compressors, and pneumatic pumps are subject to Sections XII.B., XII.C.1, XII.J., and XII.K.

XII.A.~~5~~7. The requirements of ~~this s~~Sections XII.~~A~~ B. through XII.I. shall not apply to any owner or operator in any calendar year in which the APENs for all of the atmospheric condensate storage tanks associated with the affected operations owned or operated by such person reflect a total of less than 30 tons-per-year of actual uncontrolled emissions of VOCs in the 8-Hour Ozone Control Area. Such requirements shall, however, apply to such owner or operator in any subsequent calendar year in which the APENs for atmospheric condensate storage tanks associated with such affected operations reflect a total of 30 tons per year or more of actual uncontrolled emissions of VOCs in the 8-Hour Ozone Control Area.

XII.B. Definitions Specific to Section XII

XII.B.1. “Affected Operations” means oil and gas exploration and production operations, natural gas compressor stations and natural gas drip stations to which this Section XII applies.

XII.B.2. “Air Pollution Control Equipment”, as used in this Section XII, means a combustion device or vapor recovery unit. Air pollution control equipment also means alternative emissions control equipment, pollution prevention devices and processes that comply with the requirements of Section XII.D.2.b. that are approved by the Division.

XII.B.3. “Approved Instrument Monitoring Method,” means an infra-red camera, EPA Method 21, or other instrument based monitoring device or method approved in accordance with Section XII.L.8. If an owner or operator elects to use Division approved continuous emission monitoring, the Division may approve a streamlined inspection, recordkeeping, and reporting program for such operations.

XII.B.~~3~~4. “Atmospheric Storage Tanks or Atmospheric Condensate Storage Tanks” means a type of condensate storage tank that vents, or is designed to vent, to the atmosphere.

XII.B.~~4~~5. "Auto-Igniter" means a device which will automatically attempt to relight the pilot flame in the combustion chamber of a control device in order to combust volatile organic compound emissions.

XII.B.~~5~~6. "Calendar Week" shall mean a week beginning with Sunday and ending with Saturday.

XII.B.~~6~~7. "Condensate Storage Tank" shall mean any tank or series of tanks that store condensate and are either manifolded together or are located at the same well pad.

XII.B.8. "Centrifugal Compressor" means any machine used for raising the pressure of natural gas by drawing in low pressure natural gas and discharging significantly higher pressure natural gas by means of mechanical rotating vanes or impellers. Screw, sliding vane, and liquid ring compressors are not centrifugal compressors.

XII.B.9. "Component" means each pump seal, flange, pressure relief device (including storage tank thief hatches), connector, and valve that contains or contacts a process stream with hydrocarbons, except for components in process streams consisting of glycol, amine, produced water, or methanol.

XII.B.10. "Connector" means flanged, screwed, or other joined fittings used to connect two pipes or a pipe and a piece of process equipment or that close an opening in a pipe that could be connected to another pipe. Joined fittings welded completely around the circumference of the interface are not considered connectors.

XII.B.11. "Custody Transfer" means the transfer of crude oil or natural gas after processing and/or treatment in the producing operations or from storage vessels or automatic transfer facilities or other such equipment, including product loading racks, to pipelines or any other forms of transportation.

XII.B.~~7~~12. "Downtime" shall mean the period of time when a well is producing and the air pollution control equipment is not in operation.

XII.B.~~8~~13. "Existing" shall mean any atmospheric condensate storage tank that began operation before February 1, 2009, and has not since been modified.

XII.B.~~9~~14. "Glycol Natural Gas Dehydrator" means any device in which a liquid glycol (including, ethylene glycol, diethylene glycol, or triethylene glycol) absorbent directly contacts a natural gas stream and absorbs water.

XII.B.15. "Infra-red Camera" means an optical gas imaging instrument designed for and capable of detecting hydrocarbons.

XII.B.~~10~~16. "Modified or Modification" shall mean any physical change or change in operation of a stationary source that results in an increase in actual uncontrolled volatile organic compound emissions from the previous calendar year that occurs on or after February 1, 2009. For atmospheric condensate storage tanks, a physical change or change in operation includes but is not limited to drilling new wells and recompleting, refracturing or otherwise stimulating existing wells.

XII.B.17. "Natural Gas Compressor Station" means a facility, located downstream of well production facilities, which contains one or more compressors designed to compress natural gas from well pressure to gathering system pressure prior to the inlet of a natural gas processing plant.

XII.B.18. "Natural Gas-Driven Diaphragm Pump" means a positive displacement pump powered by pressurized natural gas that uses the reciprocating action of flexible diaphragms in conjunction with check valves to pump a fluid. A pump in which a fluid is displaced by a piston driven by a diaphragm is not considered a diaphragm pump. A lean glycol circulation pump that relies on energy exchange with the rich glycol from the contractor is not considered a diaphragm pump.

XII.B.19. "Natural Gas Processing Plant" means any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both. A Joule-Thompson valve, a dew point depression valve, or an isolated or standalone Joule-Thompson skid is not a natural gas processing plant.

XII.B.~~11~~20. "New" shall mean any atmospheric condensate storage tank that began operation on or after February 1, 2009.

XII.B.21. "Reciprocating Compressor" means a piece of equipment that increases the pressure of process gas by positive displacement, employing linear movement of the piston rod.

XII.B.~~12~~2. "Stabilized" when used to refer to stored condensate, means that the condensate has reached substantial equilibrium with the atmosphere and that any emissions that occur are those commonly referred to within the industry as "working and breathing losses".

XII.B.~~12~~3. (State Only) "Surveillance System" means monitoring pilot flame presence or temperature in a combustion device either by visual observation or with an electronic device to record times and duration of periods where a pilot flame is not detected at least once per day.

XII.B.~~12~~4. "System-Wide" when used to refer to emissions and emission reductions in Section XII.D., shall mean collective emissions and emission reductions from all atmospheric condensate storage tanks under common ownership within the 8-hour Ozone Control Area or other specific Ozone Nonattainment or Attainment Maintenance Area for which uncontrolled actual volatile organic compound emissions are equal to or greater than two tons per year.

XII.B.25. "Well Production Facility" means all equipment at a single stationary source directly associated with one or more oil wells or gas wells. This equipment includes, but is not limited to, equipment used for storage, separation, treating, dehydration, artificial lift, combustion, compression, pumping, metering, monitoring, and flowline.

XII.C. General Provisions to Section XII

XII.C.1. General Requirements for Air Pollution Control Equipment – Prevention of Leakage

XII.C.1.a. All air pollution control equipment used to demonstrate compliance with this Section XII. shall be operated and maintained consistent with manufacturer specifications and good engineering and maintenance practices. The owner or operator shall keep manufacturer specifications on file. In addition, all such air pollution control equipment shall be adequately designed and sized to achieve the control efficiency rates required by this Section XII. and to handle reasonably foreseeable fluctuations in emissions of volatile organic compounds. Fluctuations in emissions that occur when the separator dumps into the tank are reasonably foreseeable.

XII.C.1.b. All condensate collection, storage, processing and handling operations, regardless of size, shall be designed, operated and maintained so as to minimize leakage of volatile organic compounds to the atmosphere to the maximum extent practicable.

XII.C.1.c. All air pollution control equipment used to demonstrate compliance with Sections XII.D., XII.J., and XII.K. must meet a control efficiency of at least 95%. Failure to properly install, operate, and maintain air pollution control equipment at the locations indicated in the Division-approved spreadsheet shall be a violation of this regulation.

XII.C.1.d. If a flare or other combustion device is used to control emissions of volatile organic compounds to comply with Sections XII.D., XII.J., and XII.K., it shall be enclosed, have no visible emissions, and be designed so that an observer can, by means of visual observation from the outside of the enclosed flare or combustion device, or by other convenient means, such as a continuous monitoring device, approved by the Division, determine whether it is operating properly.

XII.C.1.e. All combustion devices used to control emissions of volatile organic compounds to comply with Sections XII.D., XII.J., and XII.K. shall be equipped with and operate an auto-igniter as follows:

XII.C.1.e.(i) (State Only) For condensate storage tanks that are constructed or modified after May 1, 2009, and before January 1, 2017, and controlled by a combustion device, auto-igniters shall be installed and operational, beginning the date of first production after any new tank installation or tank modification.

XII.C.1.e.(ii) (State Only) For all existing condensate storage tanks controlled by a combustion device in order to comply with the emissions control requirements of Section XII.D.2., auto-igniters shall be installed and operational beginning May 1, 2009, for condensate storage tanks with actual uncontrolled emissions of greater than or equal to 50 tons per year, and beginning May 1, 2010, for all other existing condensate storage tanks controlled by a combustion device, or within 180 days from first having installed the combustion device, whichever date comes later.

XII.C.1.e.(iii) All combustion devices installed on or after January 1, 2017, must be equipped with an operational auto-igniter upon installation of the combustion device.

XII.C.1.e.(iv) All combustion devices installed on or after January 1, 2018, to comply with Sections XII.J. or XII.K. must be equipped with an operational auto-igniter upon installation of the combustion device.

XII.C.1.f. (State Only) If a combustion device is used to control emissions of volatile organic compounds, surveillance systems shall be employed and operational as follows:

XII.C.1.f.(i) (State Only) Beginning May 1, 2010, for all existing condensate storage tanks with uncontrolled actual emissions of 100 tons per year or more based on data from the previous twelve consecutive months.

XII.C.1.f.(ii) (State Only) For all new and modified condensate storage tanks controlled by a combustion device for the first 90 days surveillance systems shall be employed and operational beginning 180 days from the date of first production after the tank was newly installed, or after the well was newly drilled, re-completed, re-fractured or otherwise stimulated, if uncontrolled actual emissions projected for the first twelve months based on data from the first 90 days of operation from the condensate storage tank are 100 tons or more of uncontrolled VOCs.

XII.C.2. The emission estimates and emission reductions required by Section XII.D. shall be demonstrated using one of the following emission factors:

XII.C.2.a. In the 8-Hour Ozone Control Area

XII.C.2.a.(i) For atmospheric condensate storage tanks at oil and gas exploration and production operations, a default emission factor of 13.7 pounds of volatile organic compounds per barrel of condensate shall be used unless a more specific emission factor has been established pursuant to Section XII.C.2.a.(ii)(B). The Division may require a more specific emission factor that complies with Section XII.C.2.a.(ii)(B).

XII.C.2.a.(ii) For atmospheric condensate storage tanks at natural gas compressor stations and natural gas drip stations, a specific emission factor established pursuant to this Section XII.C.2.a.(ii) shall be used. A specific emission factor developed pursuant to Section XII.C.2.a.(ii)(B) may also be used for atmospheric storage tanks at oil and gas exploration and production operations and, once established, or required by the Division, shall be used for such operations.

XII.C.2.a.(ii)(A) For atmospheric condensate storage tanks at natural gas compressor stations and natural gas drip stations a source may use a specific emissions factor that was used for reporting emissions from the source on APENs filed on or before February 28, 2003. The Division may, however, require the source to develop and use a more recent specific emission factor pursuant to Section XII.C.2.a.(ii)(B) if such a more recent emission factor would be more reliable or accurate.

XII.C.2.a.(ii)(B) Except as otherwise provided in XII.C.2.a.(i), a specific emission factor shall be one for which the Division has no objection, and which is based on collection and analysis of a representative sample of condensate pursuant to a test method approved by the Division.

XII.C.2.b. (State Only) For any other Ozone Nonattainment Area or Attainment/Maintenance Areas

XII.C.2.b.(i) (State Only) For atmospheric condensate storage tanks at oil and gas exploration and production operations, the source shall use a default basin-specific uncontrolled volatile organic compound emission factor established by the Division unless a source-specific emission factor has been established pursuant to Section XII.C.2.b.(iii). If the Division has established no default emission factor, if the Division has reason to believe that the default emission factor is no longer representative, or if it deems it otherwise necessary, the Division may

require use of an alternative emission factor that complies with Section XII.C.2.b.(iii).

XII.C.2.b.(ii) (State Only) For atmospheric condensate storage tanks at natural gas compressor stations and natural gas drip stations, the source shall use a source-specific volatile organic compound emission factor established pursuant to Section XII.C.2.b.(iii). If the Division has reason to believe that the source-specific emission factor is no longer representative, or if it deems it otherwise necessary, the Division may require use of an alternative emission factor that complies with Section XII.C.2.b.(iii).

XII.C.2.b.(iii) (State Only) Establishment of or Updating Approved Emission Factors

XII.C.2.b.(iii)(A) (State Only) The Division may require the source to develop and/or use a more recent default basin-specific or source-specific volatile organic compound emission factor pursuant to Section XII.C.2.b., if such emission factor would be more reliable or accurate.

XII.C.2.b.(iii)(B) (State Only) For atmospheric condensate storage tanks at oil and gas exploration and production operations, the source may use a source-specific volatile organic compound emission factor for which the Division has no objection, and which is based on collection and analysis of a representative sample of condensate pursuant to a test method approved by the Division.

XII.C.2.b(iii)(C) (State Only) For atmospheric storage tanks at natural gas compressor stations and natural gas drip stations, a source may use a volatile organic compound emissions factor that was used for reporting emissions from the source on APENs filed on or before February 28, 2003, or an alternative source-specific volatile organic compound emission factor established pursuant to Section XII.C.2.b.

XII.C.2.b.(iii)(D) (State Only) A default basin-specific volatile organic compound emissions factor shall be one for which the Division has no objection, and which is based on collection and analysis of a representative sample of condensate or an alternative method, pursuant to a test method approved by the Division, except as otherwise provided in XII.C.2.b.(i).

XII.C.2.b.(iii)(E) (State Only) A source-specific volatile organic compound emissions factor shall be one for which the Division has no objection, and which is based on collection and analysis of a representative sample of condensate pursuant to a test method approved by the Division.

XII.D. Emission Controls

The owners and operators of affected operations shall employ air pollution control equipment to reduce emissions of volatile organic compounds from atmospheric condensate storage tanks associated with affected operations by the dates and amounts listed below. Emission reductions shall not be required for each and every unit, but instead shall be based on overall reductions in uncontrolled actual emissions

from all the atmospheric storage tanks associated with the affected operations for which the owner or operator filed, or was required to file, an APEN pursuant to Regulation Number 3, due to either having exceeded reporting thresholds or retrofitting with air pollution control equipment in order to comply with system-wide control requirements.

XII.D.1. (State Only) New and Modified Condensate Tanks

Beginning February 1, 2009, owners or operators of any new or modified atmospheric condensate storage tank at exploration and production sites shall collect and control emissions by routing emissions to and operating air pollution control equipment pursuant to Section XII.D. The air pollution control equipment shall have a control efficiency of at least 95%, and shall control volatile organic compounds during the first 90 calendar days after the date of first production after the tank was newly installed, or after the well was newly drilled, re-completed, re-fractured or otherwise stimulated. The air pollution control equipment and associated monitoring equipment required pursuant to XII.C.1. may be removed after the first 90 calendar days as long as the source can demonstrate compliance with the applicable system-wide standard.

XII.D.2. System-Wide Control Strategy

XII.D.2.a. The owners and operators of all atmospheric condensate storage tanks that emit greater than two tons per year of actual uncontrolled volatile organic compounds and are subject to this Section XII.D.2.a. in the 8-hour Ozone Control Area (State Only: or any other specific Ozone Nonattainment area or Attainment/Maintenance Area) shall employ air pollution control equipment to reduce emissions of volatile organic compounds from atmospheric condensate storage tanks by the dates and amounts listed below. The dates and requisite reductions are as follows:

XII.D.2.a.(i) For the period May 1 through September 30, 2005 such emissions shall be reduced by 37.5% from uncontrolled actual emissions on a daily basis.

XII.D.2.a.(ii) For the period of May 1 through September 30 of 2006, such emissions shall be reduced by 47.5% from uncontrolled actual emissions on a daily basis.

XII. D.2.a.(iii) For the period of May 1 through September 30 of each year from 2007 through 2008, such emissions shall be reduced by 75% from uncontrolled actual emissions on a weekly basis.

XII.D.2.a.(iv) Emission reductions achieved between January 1 and April 30, 2005 shall be averaged with emission reductions achieved between October 1 and December 31, 2005. For these two time periods, emissions shall be reduced by 30% from uncontrolled actual emissions and shall be calculated as an average of the emission reductions achieved during the seven months covered by the two periods.

XII.D.2.a.(v) Emission reductions achieved between January 1 and April 30, 2006 shall be averaged with emission reductions achieved between October 1 and December 31, 2006. Emissions shall be reduced by 38% from uncontrolled actual emissions, calculated as an average of the emission reduction achieved during the seven months covered by the two periods.

XII.D.2.a.(vi) For the period between January 1, 2007 and April 30, 2007, such emissions shall be reduced by 38% from uncontrolled actual emissions , For the period between October 1, 2007, and December 31, 2007, such emissions shall be reduced by 60% from uncontrolled actual emissions, calculated for each period as an average of the emission reduction achieved during the months covered by each period.

XII.D.2.a.(vii) Beginning with the year 2008, and each year thereafter, emission reductions achieved between January 1 and April 30 shall be averaged with emission reductions achieved between October 1 and December 31. Emissions shall be reduced by 70% from uncontrolled actual emissions, calculated as an average of the emission reduction achieved during the seven months covered by the two periods with the exception of XII.D.2.a.(viii) - XII.D.2.a.(x).

XII.D.2.a.(viii) For the calendar weeks that include May 1, 2009 through April 30, 2010, such emissions shall be reduced by 81% from uncontrolled actual emissions on a calendar weekly basis from May 1 through September 30 and 70% from uncontrolled actual emissions on a calendar monthly basis during October 1 through April 30.

XII.D.2.a.(ix) For the calendar weeks that include May 1, 2010 through April 30, 2011, such emissions shall be reduced by 85% from uncontrolled actual emissions on a calendar weekly basis in the May 1 through September 30 and 70% from uncontrolled actual emissions on a calendar monthly basis during October 1 through April 30.

XII.D.2.a.(x) Beginning May 1, 2011 and each thereafter, such emissions shall be reduced by 90% from uncontrolled actual emissions on a calendar weekly basis in the May 1 through September 30 and 70% from uncontrolled actual emissions on a calendar monthly basis during October 1 through April 30.

XII.D.2.b. Alternative emissions control equipment and pollution prevention devices and processes installed and implemented after June 1, 2004, shall qualify as air pollution control equipment, and may be used in lieu of, or in combination with, combustion devices and/or vapor recovery units to achieve the emission reductions required by this Section XII.D.2.a., if the following conditions are met:

XII.D.2.b.(i) The owner or operator obtains a construction permit authorizing such use of the alternative emissions control equipment or pollution prevention device or process. The proposal for such equipment, device or process shall comply with all regulatory provisions for construction permit applications and shall include the following:

XII.D.2.b.(i)(A) A description of the equipment, device or process;

XII.D.2.b.(i)(B) A description of where, when and how the equipment, device or process will be used;

XII.D.2.b.(i)(C) The claimed control efficiency and supporting documentation adequate to demonstrate such control efficiency;

XII.D.2.b.(i)(D) An adequate method for measuring actual control efficiency; and

XII.D.2.b.(i)(E) Description of the records and reports that will be generated to adequately track emission reductions and implementation and operation of the equipment, device or process, and a description of how such matters will be reflected in the spreadsheet and annual report required by Sections XII.F.3. and XII.F.4.

XII.D.2.b.(ii) Public notice of the application is provided pursuant to Regulation Number 3, Part B, Section III.C.4.

XII.D.2.b.(iii) EPA approves the proposal. The Division shall transmit a copy of the permit application and any other materials provided by the applicant, all public comments, all Division responses and the Division's permit to EPA Region 8. If EPA fails to approve or disapprove the proposal within 45 days of receipt of these materials, EPA shall be deemed to have approved the proposal.

XII.E. Monitoring

The owner or operator of any condensate storage tank that is being controlled pursuant to this Section XII shall inspect or monitor the Air Pollution Control Equipment at least weekly to ensure that it is operating properly.

XII.E.1. Tanks controlled by Air Pollution Control Equipment other than a combustion device shall follow manufacturer's recommended maintenance. Air Pollution Control Equipment shall be periodically inspected to ensure proper maintenance and operation according to the Division-approved operation and maintenance plan.

XII.E.2. The owner or operator of any condensate storage tank that is being controlled pursuant to Section XII. shall inspect or monitor the Air Pollution Control Equipment at least weekly to ensure that it is operating. The inspection shall include the following:

XII.E.2.a. For combustion devices, a check that the pilot light is lit by either visible observation or other means approved by the Division. For devices equipped with an auto-igniter, a check that the auto-igniter is properly functioning;

XII.E.2.b. For combustion devices, a check that the valves for piping of gas to the pilot light are open;

XII.E.2.c. (State Only) In addition to complying with Sections XII.E.2.a. and XII.E.2.b., the owner or operator of tanks subject to the system-wide control strategy under Section XII.D.2.a. that have installed combustion devices may use a surveillance system to maintain records on combustion device operation.

XII.E.3. The owner or operator of all tanks subject to Section XII.D. shall document the time and date of each inspection, the person conducting the inspection, a notation that each of the checks required under this Section XII.E. were completed, description of any problems observed during the inspection, description and date of any corrective actions taken, and name of individual performing corrective actions. Further, all tanks subject to Section XII.D. shall comply with the following:

XII.E.3.a. For combustion devices, the owner or operator shall visually check for and document, on a weekly basis, the presence or absence of smoke;

XII.E.3.b. For vapor recovery units, the owner or operator shall check for and document on a weekly basis that the unit is operating and that vapors from the condensate tank are being routed to the unit;

XII.E.3.c. For all control devices, the owner or operator shall check for and document on a weekly basis that the valves for the piping from the condensate tank to the air pollution control equipment are open;

XII.E.3.d. For all atmospheric condensate storage tanks, the owner or operator shall check for and document on a weekly basis that the thief hatch is closed and latched.

XII.E.3.e. Beginning January 1, 2017, owners or operators of atmospheric condensate storage tanks with uncontrolled actual emissions of VOCs equal to or greater than six (6) tons per year based on a rolling twelve-month total must conduct and document audio, visual, olfactory ("AVO") inspections of the storage tank at the same frequency as liquids are loaded out from the storage tank. These inspections are not required more frequently than every seven (7) days but must be conducted at least every thirty one (31) days.

XII.E.4. (State Only) For atmospheric condensate storage tanks equipped with a~~n~~ surveillance system or other Division-approved monitoring system, the owner or operator shall check weekly that the system is functioning properly and that necessary information is being collected. Any loss of data or failure to collect required data may be treated by the Division as if the data were not collected.

XII.F. Recordkeeping and Reporting

The owner or operator of any atmospheric condensate storage tank subject to control pursuant to Section XII.D.2. shall maintain records and submit reports to the Division as required:

XII.F.1. The AIRS number assigned by the Division shall be marked on all condensate storage tanks required to file an APEN.

XII.F.2. If air pollution control equipment is required to comply with Section XII.D.2. visible signage shall be located with the control equipment identifying the AIRS number for each atmospheric condensate storage tank that is being controlled by that equipment.

XII.F.3. Recordkeeping for Tanks Subject to the System-Wide Control Strategy under Section XII.D.2.

The owner or operator shall, at all times, track the emissions and specifically volatile organic compound emissions reductions on a calendar weekly and calendar monthly basis to demonstrate compliance with the applicable emission reduction requirements of Section XII.D.2. This shall be done by maintaining a Division-approved spreadsheet of information describing the affected operations, the air pollution control equipment being used, and the emission reductions achieved, as follows.

XII.F.3.a. The Division-approved spreadsheet shall:

XII.F.3.a(i) List all atmospheric condensate storage tanks subject to this Section XII by name and AIRS number, or if no AIRS number has been assigned the site location. The spreadsheet also shall list the monthly production volumes for each tank. The spreadsheet shall list the most

recent measurement of such production at each tank, and the time period covered by such measurement of production.

XII.F.3.a(ii) List the emission factor used for each atmospheric condensate storage tank. The emission factors shall comply with Section XII.C.2.

XII.F.3.a(iii) List the location and control efficiency value for each unit of air pollution control equipment. Each atmospheric condensate storage tank being controlled shall be identified by name and an AIRS number.

XII.F.3.a(iv) List the production volume for each tank, expressed as a weekly and monthly average based on the most recent measurement available. The weekly and monthly average shall be calculated by averaging the most recent measurement of such production, which may be the amount shown on the receipt from the refinery purchaser for delivery of condensate from such tank, over the time such delivered condensate was collected. The weekly and monthly average from the most recent measurement will be used to estimate weekly and monthly volumes of controlled and uncontrolled actual emissions for all weeks and months following the measurement until the next measurement is taken.

XII.F.3.a(v) Show the calendar weekly and calendar monthly-uncontrolled actual emissions and the calendar weekly and calendar monthly controlled actual emissions for each atmospheric condensate storage tank.

XII.F.3.a(vi) Show the total system-wide calendar weekly and calendar monthly-uncontrolled actual emissions and the total system-wide calendar weekly and calendar monthly controlled actual emissions.

XII.F.3.a(vii) Show the total system-wide calendar weekly and calendar monthly percentage reduction of emissions.

XII.F.3.a(viii) Note any downtime of air pollution control equipment, and shall account for such downtime in the weekly control efficiency value and emission reduction totals. The notations shall include the date, time and duration of any scheduled downtime. For any unscheduled downtime, the spreadsheet shall record the date and time the downtime was discovered and the date and time the air pollution control equipment was last observed to be operating.

XII.F.3.a(ix) Be maintained in a manner approved by the Division and shall include any other information requested by the Division that is reasonably necessary to determine compliance with this Section XII.

XII.F.3.a(x) Be updated on a calendar weekly and calendar monthly basis and shall be promptly provided by e-mail or fax to the Division upon its request. The U.S. mail may also be used if acceptable to the Division.

XII.F.3.b. Failure to properly install, operate, and maintain air pollution control equipment at the locations indicated in the spreadsheet shall be a violation of this regulation.

XII.F.3.c. A copy of each calendar weekly and calendar monthly spreadsheet shall be retained for five years. A spreadsheet may apply to more than one week if

there are no changes in any of the required data and the spreadsheet clearly identifies the weeks it covers. The spreadsheet may be retained electronically. However, the Division may treat any loss of data or failure to maintain the Division-approved spreadsheet, as if the data were not collected.

XII.F.3.d. Each owner or operator shall maintain records of the inspections required pursuant to Section XII.E. and retain those records for five years. These records shall include the time and date of the inspection, the person conducting the inspection, a notation that each of the checks required under Section XII.C. and XII.E. were completed and a description of any problems observed during the inspection, and a description and date of any corrective actions taken.

XII.F.3.e. (State Only) Each owner or operator shall maintain records of required surveillance system or other monitoring data and shall make these records available promptly upon Division request.

XII.F.3.f. (State Only) Each owner or operator shall maintain records on when an atmospheric condensate storage tank is newly installed, or when a well is newly drilled, re-completed, re-fractured or otherwise stimulated. Records shall be maintained per well associated with each tank and the date of first production associated with these activities.

XII.F.4. Reporting for Tanks Subject to the System-Wide Control Strategy under Section XII.D.2.a.

On or before April 30, 2006, and semi-annually by April 30 and November 30 of each year thereafter, each owner or operator shall submit a report using Division-approved format describing the air pollution control equipment used during the preceding calendar year (for the April 30 report) and ~~during the preceding ozone season~~from May 1 through September 30 (for the November 30 report) and how each company complied with the emission reductions required by Section XII.D.2. during those periods for the 8-hour Ozone Control Area or other specific Ozone Non-attainment or Attainment-Maintenance area. Such reports shall be submitted to the Division on a Division-approved form provided for that purpose.

XII.F.4.a. The report shall list all condensate storage tanks subject or used to comply with Section XII.D.2. and the production volumes for each tank. Production volumes may be estimated by the amounts shown on the receipt from refinery purchasers for delivery of condensate from such tanks.

XII.F.4.b. The report shall list the emission factor used for each tank. The emission factors shall comply with Section XII.C.2.

XII.F.4.c. The report shall list the location and control efficiency value for each piece of air pollution control equipment, and shall identify the atmospheric condensate storage tanks being controlled by each.

XII.F.4.d. The April 30 report shall show the calendar monthly-uncontrolled actual emissions and the controlled actual emissions for each atmospheric condensate storage tank for January 1 through April 30, May 1 through September 30 and October 1 through December 31 of the previous year. The November 30 report shall show such calendar weekly information for the weeks including May 1st through September 30th only.

XII.F.4.e. The April 30 report shall show the calendar monthly total system-wide uncontrolled actual emissions and the total system-wide controlled actual

emissions for January 1 through April 30, May 1 through September 30 and October 1 through December 31 of the previous year. The November 30 report shall show such calendar weekly information for the weeks including May 1st through September 30th only.

XII.F.4.f. The April 30 report shall show the calendar monthly total system-wide percentage reduction of emissions for May 1 through September 30 of the previous year, and for the combined periods of January 1 through April 30 and October 1 through December 31 of the previous year. The November 30 report shall show such calendar weekly information for the weeks including May 1 through September 30 period only.

XII.F.4.g. The report shall note any downtime of air pollution control equipment, and shall account for such downtime in the weekly control efficiency value and emission reduction totals. The notations shall include the date, time and duration of any scheduled downtime. For any unscheduled downtime, the date and time the downtime was discovered and the last date the air pollution control equipment was observed to be operating should be recorded in the report.

XII.F.4.h. The report shall state whether the required emission reductions were achieved on a weekly basis during the preceding ozone season (calendar weeks including May 1 through September 30) for the November 30 report, and whether the required emission reductions were achieved on a calendar monthly basis during the preceding year for the April 30 report. If the required emission reductions were not achieved, the report shall state why not, and shall identify steps being taken to ensure subsequent compliance.

XII.F.4.i. The report shall include any other information requested by the Division that is reasonably necessary to determine compliance with this Section XII.

XII.F.4.j. A copy of each semi-annual report shall be retained for five years.

XII.F.4.k. In addition to submitting the semi-annual reports, on or before the 30th of each month commencing in June 2007, the owner or operator of any condensate storage tank that is required to control volatile organic compound emissions pursuant to Sections XII.A. and XII.D. shall notify the Division of any instances where the air pollution control equipment was not properly functioning during the previous month. The report shall include the time and date that the equipment was not properly operating, the time and date that the equipment was last observed operating properly, and the date and time that the problem was corrected. The report shall also include the specific nature of the problem, the specific steps taken to correct the problem, the AIRS number of each of the condensate tanks being controlled by the equipment or if no AIRS number has been assigned the site name, and the estimated production from those tanks during the period of non-operation.

XII.F.4.l. Commencing in 2007, on or before April 30 of each year, the owner or operator shall submit a list identifying by name and AIRS number or if no AIRS number has been assigned the site name, each condensate storage tank that is being controlled to meet the requirements set forth in Section XII.D.2. On the 30th of each month during ozone season (May through September) and on November 30 and February 28, the owner or operator shall submit a list identifying any condensate storage tank whose control status has changed since submission of the previous list.

XII.F.4.m. (State Only) Semi-annual report submittals shall be signed by a responsible official who shall also sign the Division-approved compliance certification form for atmospheric condensate storage tanks. The compliance certification shall include both a certification of compliance with all applicable requirements of Section XII. If any non-compliance is identified, citation, dates and durations of deviations from this Section XII., associated reasoning, and compliance plan and schedule to achieve compliance. Compliance certifications for state only conditions shall be identified separately from compliance certifications required under the State Implementation Plan.

XII.F.4.n. (State Only) Each Division-approved self-certification form, and compliance certification submitted pursuant to Section XII. shall contain a certification by a responsible official of the truth, accuracy and completeness of such form, report or certification stating that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate and complete.

XII.F.5. The record-keeping and reporting required in Section XII. above shall not apply to the owner or operator of any natural gas compressor station or natural gas drip station that is authorized to operate pursuant to a construction permit or Title V operating permit issued by the Division if the following criteria are met:

XII.F.5.a. Such permits are obtained by the owner or operator on or after the effective date of this provision and contain the provisions necessary to ensure the emissions reductions required by Section XII.D;

XII.F.5.b. The owners and operators of such natural gas compressor stations or natural gas drip stations do not own or operate any exploration and production operation(s); and

XII.F.5.c. Total emissions from atmospheric condensate storage tanks associated with such natural gas compressor stations or drip stations subject to APEN reporting requirements under Regulation Number 3 owned or operated by the same person do not exceed 30 tons per year in the 8-hour Ozone Control Area.

XII.G. ~~Gas~~Natural gas~~-~~ processing plants located in the 8-hour Ozone Control Area (State Only: or any specific Ozone Nonattainment or Attainment/Maintenance Area) shall comply with requirements of this Section XII.G., as well as the requirements of Sections XII.B., XII.C.1.a., XII.C.1.b., XII.H., and XVI.

XII.G.1. For fugitive VOC emissions from leaking equipment, the leak detection and repair (LDAR) program as provided at 40 CFR Part 60, Subpart ~~KKK~~ OOOO (July 1, 201~~6~~76) shall apply, regardless of the date of construction of the affected facility, unless subject to ~~applicable~~ the LDAR program ~~as~~ provided at 40 CFR Part 60, Subpart~~s OOOO or~~ OOOOa (July 1, 201~~6~~76).

XII.G.2. Air pollution control equipment shall be installed and properly operated to reduce emissions of volatile organic compounds from any atmospheric condensate storage tank (or tank battery) used to store condensate that has not been stabilized that has uncontrolled actual emissions of greater than or equal to two tons per year. Such air pollution control equipment shall have a control efficiency of at least 95%.

XII.G.3. ~~Existing n~~Natural gas processing plants within the 8-hour Ozone Control Area ~~shall~~ constructed before January 1, 2018, must begin complying with the requirements of this Section XII.G. beginning January 1, 2018 ~~by May 1, 2005~~. (State Only: Existing natural

gas processing plants within any new Ozone Nonattainment or Attainment/Maintenance Area shall comply with this regulation within three years after the nonattainment designation.)

XII.G.4. The provisions of Sections XII.B., XII.C., XII.G., and XVI., shall apply upon the commencement of operations to any natural gas processing plant that commences operation in the 8-Hour Ozone Control Area or Ozone Nonattainment (State Only: or Attainment/Maintenance Area) after the effective date of this subsection.

XII.H. Emission Reductions from glycol natural gas dehydrators

XII.H.1. Beginning May 1, 2005, still vents and vents from any flash separator or flash tank on a glycol natural gas dehydrator located at an oil and gas exploration and production operation, natural gas compressor station, drip station or gas-processing plant in the 8-Hour Ozone Control Area and subject to control requirements pursuant to Section XII.H.3., shall reduce uncontrolled actual emissions of volatile organic compounds by at least 90 percent on a rolling twelve-month basis through the use of a condenser or air pollution control equipment.

XII.H.2. (State Only) Beginning January 30, 2009, still vents and vents from any flash separator or flash tank on a glycol natural gas dehydrator located at an oil and gas exploration and production operation, natural gas compressor station, drip station or gas-processing plant in any Ozone Nonattainment or Attainment/Maintenance Area and subject to control requirements pursuant to Section XII.H.3., shall reduce uncontrolled actual emissions of volatile organic compounds by at least 90 percent on a rolling twelve-month basis through the use of a condenser or air pollution control equipment.

XII.H.3. The control requirements of Sections XII.H.1. and XII.H.2. shall apply where:

XII.H.3.a. Actual uncontrolled emissions of volatile organic compounds from the glycol natural gas dehydrator are equal to or greater than one ton per year; and

XII.H.3.b. The sum of actual uncontrolled emissions of volatile organic compounds from any single glycol natural gas dehydrator or grouping of glycol natural gas dehydrators at a single stationary source is equal to or greater than 15 tons per year. To determine if a grouping of dehydrators meets or exceeds the 15 tons per year threshold, sum the total actual uncontrolled emissions of volatile organic compounds from all individual dehydrators at the stationary source, including those with emissions less than one ton per year.

XII.H.4. For purposes of Section XII.H., emissions from still vents and vents from any flash separator or flash tank on a glycol natural gas dehydrator shall be calculated using a method approved in advance by the Division.

XII.H.5. Monitoring and recordkeeping

XII.H.5.a. Beginning January 1, 2017, owners or operators of glycol natural gas dehydrators subject to the control requirements of Sections XII.H.1. or XII.H.2. must check on a weekly basis that any condenser or air pollution control equipment used to control emissions of volatile organic compounds is operating properly, and document:

XII.H.5.a.(i) The date of each inspection;

XII.H.5.a.(ii) A description of any problems observed during the inspection of the condenser or air pollution control equipment; and

XII.H.5.a.(iii) A description and date of any corrective actions taken to address problems observed during the inspection of the condenser or air pollution control equipment.

XII.H.5.b. The owner or operator must check and document on a weekly basis that the pilot light on a combustion device is lit, that the valves for piping of gas to the pilot light are open, and visually check for the presence or absence of smoke.

XII.H.5.c. The owner or operator must document the maintenance of the condenser or air pollution control equipment, consistent with manufacturer specifications or good engineering and maintenance practices.

XII.H.5.d. The owner or operator must retain records for a period of five years and make these records available to the Division upon request.

XII.H.6. Reporting

XII.H.6.a. On or before November 30, 2017, and semi-annually by April 30 and November 30 of each year thereafter, the owner or operator must submit the following information for the preceding calendar year (April 30 report) and for May 1 through September 30 (November 30 report) using Division-approved format:

XII.H.6.a.(i) A list of the glycol natural gas dehydrator(s) subject to Section XII.H.;

XII.H.6.a.(ii) A list of the condenser or air pollution control equipment used to control emissions of volatile organic compounds from the glycol natural gas dehydrator(s); and

XII.H.6.a.(iii) The date(s) of inspection(s) where the condenser or air pollution control equipment was found not operating properly or where smoke was observed.

XII.I. The requirements of Sections XII.C. through XII.G. shall not apply to the owner or operator of any natural gas compressor station or natural gas drip station located in an Ozone Nonattainment or Attainment/Maintenance Area if:

XII.I.1. Air pollution control equipment is installed and properly operated to reduce emissions of volatile organic compounds from all atmospheric condensate storage tanks (or tank batteries) that have uncontrolled actual emissions of greater than or equal to two tons per year;

XII.I.2. The air pollution control equipment is designed to achieve a VOC control efficiency of at least 95% on a rolling 12-month basis and meets the requirements of Sections XII.C.1.a. and XII.C.1.b;

XII.I.3. The owner or operator of such natural gas compressor station or natural gas drip station does not own or operate any exploration and production facilities in the Ozone Non-attainment or Attainment-maintenance Area; and

XII.I.4. The owner or operator of such natural gas compressor station or natural gas drip station does the following and maintains associated records and reports for a period of five years:

XII.I.4.a. Documents the maintenance of the air pollution control equipment according to manufacturer specifications;

XII.I.4.b. Conducts an annual opacity observation once each year on the air pollution control equipment to verify opacity does not exceed 20% during normal operations;

XII.I.4.c. Maintains records of the monthly stabilized condensate throughput and monthly actual VOC emissions; and

XII.I.4.d. Reports compliance with these requirements to the Division annually.

XII.I.5. A natural gas compressor station or natural gas drip station subject to this Section XII.~~G~~I. at which a glycol natural gas dehydrator and/or natural gas-fired stationary or portable engine is operated shall be subject to Sections XII.H. and/or XVI.

XII.J. Compressors

XII.J.1. Centrifugal compressor

XII.J.1.a. Beginning January 1, 2018, uncontrolled actual volatile organic compound emissions from wet seal fluid degassing systems on wet seal centrifugal compressors located after the well production facility and before the point of custody transfer to the natural gas transmission and storage segment must be reduced by at least 95%.

XII.J.1.b. If the owner or operator uses a control device or routes emissions to a process to reduce emissions, the owner or operator must equip the wet seal fluid degassing system with a continuous, impermeable cover that is connected through a closed vent system designed and operated to route all gases, vapors, and fumes to a process or control device.

XII.J.1.c. The owner or operator must conduct annual visual inspections of the cover and closed vent system for defects that could result in air emissions.

XII.J.1.d. The owner or operator must conduct annual EPA Method 21 inspections to determine whether a potential leak interface operates with volatile organic compound emissions less than 500 ppm.

XII.J.1.e. In the event that a leak or defect is detected, the owner or operator must repair the leak or defect as soon as practicable. First attempt to repair must be made no later than five (5) days after detecting the defect or leak and completed no later than fifteen (15) days after finding the defect or leak.

XII.J.1.f. Owners or operators may delay inspection or repair of a cover or closed vent system if:

XII.J.1.f.(i) Repair is technically infeasible without a shutdown. Repair must be completed by the end of the next scheduled shutdown.

XII.J.1.f.(ii) The cover or closed vent system is unsafe to inspect because inspecting personnel would be exposed to an immediate danger as a consequence of completing the monitoring.

XII.J.1.f.(iii) The cover or closed vent system is difficult to inspect because inspecting personnel must be elevated more than two (2) meters above a supported surface or are unable to inspect via a wheeled scissor-lift or hydraulic type scaffold that allows access up to 7.6 meters (25 feet) above the ground.

XII.J.1.g. The owner or operator must conduct monthly inspections of a combustion device used to reduce emissions to ensure the device is operating with no visible emissions.

XII.J.1.h. Recordkeeping

XII.J.1.h.(i) Owners or operators must maintain the following records for at least five (5) years and make records available to the Division upon request:

XII.J.1.h.(i)(A) Identification of each centrifugal compressor using a wet seal system;

XII.J.1.h.(i)(B) Each combustion device visible emissions inspection and any resulting maintenance or repair activities;

XII.J.1.h.(i)(C) Each cover and closed vent system inspection and any resulting maintenance or repair activities; and

XII.J.1.h.(i)(D) Each cover or closed vent system on the delay of inspection or repair list and the schedule for inspecting or repairing such cover or closed vent system.

XII.J.1.i. As an alternative to the inspection, repair, and recordkeeping provisions in Sections XII.J.1.c.-f. and XII.J.1.h.(i)(C)-(D), the owner or operator may inspect, repair, and document the cover and closed system in accordance with the leak detection and repair program in Section XII.L., including the inspection frequency.

XII.J.1.j. As an alternative to the requirements described in Sections XII.J.1.a.-i., the owner or operator may comply with wet seal centrifugal compressors requirements of a New Source Performance Standard in 40 CFR Part 60.

XII.J.2. Reciprocating compressor

XII.J.2.a. Beginning January 1, 2018, the rod packing on any reciprocating compressor located after the well production facility and before the point of custody transfer to the natural gas transmission and storage segment must be replaced every 26,000 hours of operation or every thirty six (36) months.

XII.J.2.a.(i) Owners or operators of reciprocating compressors located at a natural gas processing plant and constructed before January 1, 2018, must

XII.J.2.a.(i)(A) Begin monitoring the hours of operation starting January 1, 2018; or

XII.J.2.a.(i)(B) Replace the rod packing prior to January 1, 2021.

XII.J.2.b. As an alternative to the requirement described in Section XII.J.2.a., beginning May 1, 2018, the owner or operator may collect volatile organic compound emissions from the rod packing using a rod packing emissions collection system that operates under negative pressure and route the rod packing emissions through a closed vent system designed and operated to route all gases, vapors, and fumes to a process.

XII.J.2.b.(i) The owner or operator must conduct annual visual inspections of the cover and closed vent system for defects that could result in air emissions.

XII.J.2.b.(ii) The owner or operator must conduct annual EPA Method 21 inspections to determine whether a potential leak interface operates with volatile organic compound emissions less than 500 ppm.

XII.J.2.b.(iii) In the event that a leak or defect is detected, the owner or operator must repair the leak or defect as soon as practicable. First attempt to repair must be made no later than five (5) days after detecting the defect or leak and completed no later than fifteen (15) days after finding the defect or leak.

XII.J.2.b.(iv) Owners or operators may delay inspection or repair of a cover or closed vent system if:

XII.J.2.b.(iv)(A) Repair is technically infeasible without a shutdown. Repair must be completed by the end of the next scheduled shutdown.

XII.J.2.b.(iv)(B) The cover or closed vent system is unsafe to inspect because inspecting personnel would be exposed to an immediate danger as a consequence of completing the monitoring.

XII.J.2.b.(iv)(C) The cover or closed vent system is difficult to inspect because inspecting personnel must be elevated more than two (2) meters above a supported surface or are unable to inspect via a wheeled scissor-lift or hydraulic type scaffold that allows access up to 7.6 meters (25 feet) above the ground.

XII.J.2.b.(v) The owner or operator must conduct monthly inspections of a combustion device used to reduce emissions to ensure the device is operating with no visible emissions.

XII.J.2.c. Recordkeeping

XII.J. 2.c.(i) Owners or operators must maintain the following records for at least five (5) years and make records available to the Division upon request:

XII.J.2.c.(i)(A) Identification of each reciprocating compressor;

XII.J.2.c.(i)(B) The hours of operation or the number of months since the previous rod packing replacement, whichever is later, or a statement that emissions from the rod packing are being routed to a process through a closed vent system under negative pressure;

XII.J.2.c.(i)(C) The date of each rod packing replacement, or date of installation of a rod packing emissions collection system and closed vent system;

XII.J.2.c.(i)(D) Each combustion device visible emissions inspection and any resulting maintenance or repair activities;

XII.J.2.c.(i)(E) Each cover and closed vent system inspection and any resulting maintenance or repair activities; and

XII.J.2.c.(i)(F) Each cover or closed vent system on the delay of inspection or repair list and the schedule for inspecting or repairing such cover or closed vent system.

XII.J.2.d. As an alternative to the inspection, repair, and recordkeeping provisions in Sections XII.J.2.b.(i)-(iv). and XII.J.2.c.(i)(E)-(F), the owner or operator may inspect, repair, and document the cover and closed system in accordance with the leak detection and repair program in Section XII.L., including the inspection frequency.

XII.J.2.e. As an alternative to the requirements described in Sections XII.J.2.a.-d., the owner or operator may comply with reciprocating compressor requirements of a New Source Performance Standard in 40 CFR Part 60.

XII.K. Pneumatic pumps

XII.K.1. Beginning May 1, 2018, the owner or operator of each natural gas-driven diaphragm pneumatic pump located at a natural gas processing plant must ensure the pneumatic pump has a volatile organic compound emission rate of zero.

XII.K.2. Beginning May 1, 2018, the owner or operator of each natural gas-driven diaphragm pneumatic pump located at a well production facility must reduce natural gas emissions from the pneumatic pump by 95% if a control device is installed at the well production facility or the owner or operator has the ability to route natural gas emissions to a process. Natural gas-driven diaphragm pneumatic pumps that are in operation during any period of time during a calendar day less than 90 days per calendar year are not subject to Section XII.K.2.

XII.K.2.a. If the control device available onsite is unable to achieve a 95% emission reduction and the owner or operator does not have the ability to route the emissions to a process, the owner or operator must still route the pneumatic pump emissions to the existing control device.

XII.K.2.b. The owner or operator is not required to control pneumatic pump emissions if, through an engineering assessment by a qualified professional engineer, routing a pneumatic pump to a control device or process is shown to be technically infeasible.

XII.K.2.c. If the owner or operator uses a control device or routes emissions to a process to reduce emissions, the owner or operator must connect the pneumatic pump through a closed vent system designed and operated such that all gases, vapors, and fumes are routed to a process or control device.

XII.K.2.d. The owner or operator must conduct annual visual inspections of the closed vent system for defects that could result in air emissions.

XII.K.2.e. The owner or operators must conduct annual EPA Method 21 inspections to determine whether a potential leak interface operates with volatile organic compound emissions less than 500 ppm.

XII.K.2.f. In the event that a leak or defect is detected, the owner or operator must repair the defect or leak as soon as practicable. First attempt to repair must be made no later than five (5) days after detecting the defect or leak and completed no later than fifteen (15) days after detecting the defect or leak.

XII.K.2.g. Owners or operators may delay inspection or repair of a closed vent system if:

XII.K.2.g.(i) Repair is technically infeasible without a shutdown. Repair must be completed by the end of the next scheduled shutdown.

XII.K.2.g.(ii) The closed vent system is unsafe to inspect because inspecting personnel would be exposed to an immediate danger as a consequence of completing the monitoring.

XII.K.2.g.(iii) The closed vent system is difficult to inspect because inspecting personnel must be elevated more than two (2) meters above a supported surface or are unable to inspect via a wheeled scissor-lift or hydraulic type scaffold that allows access up to 7.6 meters (25 feet) above the ground.

XII.K.3. Recordkeeping

XII.K.3.a. Owners or operators must maintain the following records for at least five (5) years and make records available to the Division upon request:

XII.K.3.a.(i) Identification of each natural gas-driven diaphragm pneumatic pump;

XII.K.3.a.(ii) For natural gas-driven diaphragm pneumatic pumps in operation less than 90 days per calendar year, records of the days of operation each calendar year;

XII.K.3.a.(iii) Records of control devices designed to achieve less than 95% emission reduction, including a design evaluation or manufacturer specifications indicating the percentage reduction the control device is designed to achieve;

XII.K.3.a.(iv) Records of the engineering assessment and certification by a qualified professional engineer that routing a natural gas-driven diaphragm pneumatic pump to a control device or process is technically infeasible;

XII.K.3.a.(v) Each closed vent system inspection and any resulting maintenance or repair activities; and

XII.K.3.a.(vi) Each closed vent system on the delay of inspection or repair list, and the schedule for inspecting or repairing such closed vent system.

XII.K.4. As an alternative to the inspection, repair, and recordkeeping provisions in Sections XII.K.2.d.-g. and XII.K.3.a.(v)-(vi), the owner or operator may inspect, repair, and document the closed system in accordance with the leak detection and repair program in Section XII.L., including the inspection frequency.

XII.K.5. As an alternative to the requirements described in Sections XII.K.1.-4., the owner or operator may comply with natural gas-driven diaphragm pneumatic pump requirements of a New Source Performance Standard in 40 CFR Part 60.

XII.L. Leak detection and repair program for well production facilities and natural gas compressor stations located in the 8-hour Ozone Control Area.

XII.L.1. Natural gas compressor stations

XII.L.1.a. Beginning January 1, 2018, owners or operators of natural gas compressor stations must inspect components for leaks using an approved instrument monitoring method at least on a quarterly basis.

XII.L.1.b. Owners or operators of natural gas compressor stations constructed on or after January 1, 2018, must conduct an initial inspection for leaks from components using an approved instrument monitoring method no later than ninety (90) days after the facility commences operation. Thereafter, approved instrument monitoring method inspections must be conducted at least on a quarterly basis.

XII.L.2. Well production facilities

XII.L.2.a. Beginning January 1, 2018, owners or operators of well production facilities with uncontrolled actual VOC emissions greater than one (1) ton per year and less than or equal to six (6) tons per year must inspect components for leaks using an approved instrument monitoring method at least annually.

XII.L.2.b. Beginning January 1, 2018, owners or operators of well production facilities with uncontrolled actual VOC emissions greater than six (6) tons per year must inspect components for leaks using an approved instrument monitoring method at least semi-annually.

XII.L.2.c. The estimated uncontrolled actual VOC emissions from the highest emitting storage tank at the well production facility determines the frequency at which inspections must be performed. If no storage tanks storing oil or condensate are located at the well production facility, owners or operators must rely on the facility emissions (controlled actual VOC emissions from all permanent equipment, including emissions from components determined by utilizing the emission factors defined as less than 10,000 ppmv of Table 2-8 of the 1995 EPA Protocol for Equipment Leak Emission Estimates).

XII.L.2.d. Owners or operators of well production facilities constructed on or after January 1, 2018, must conduct an initial inspection for leaks from components using an approved instrument monitoring method no sooner than fifteen (15)

days and no later than thirty (30) days after the facility commences operation. Thereafter, approved instrument monitoring method inspections must be conducted in accordance with Sections XII.L.2.a. and b.

XII.L.3. If a component is unsafe, difficult, or inaccessible to monitor, the owner or operator is not required to monitor the component until it becomes feasible to do so.

XII.L.3.a. Difficult to monitor components are those that cannot be monitored without elevating the monitoring personnel more than two (2) meters above a supported surface or are unable to be reached via a wheeled scissor-lift or hydraulic type scaffold that allows access to components up to 7.6 meters (25 feet) above the ground.

XII.L.3.b. Unsafe to monitor components are those that cannot be monitored without exposing monitoring personnel to an immediate danger as a consequence of completing the monitoring.

XII.L.3.c. Inaccessible to monitor components are those that are buried, insulated, or obstructed by equipment or piping that prevents access to the components by monitoring personnel.

XII.L.4. Leaks requiring repair: Only leaks from components exceeding the thresholds in Section XII.L.4. require repair under Section XII.L.5.

XII.L.4.a. For EPA Method 21 monitoring, or other approved quantitative instrument based monitoring, repair is required for leaks with any concentration of hydrocarbon above 500 ppm not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

XII.L.4.b. For infra-red camera or other approved non-quantitative instrument based monitoring, repair is required for leaks with any detectable emissions not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

XII.L.4.c. For other approved monitoring devices or methods, leak identification requiring repair will be established as set forth in the approval according to Section XII.L.8.

XII.L.4.d. For leaks identified using an approved non-quantitative instrument monitoring method, owners or operators have the option of either repairing the leak in accordance with the repair schedule set forth in Section XII.L.5. or conducting follow-up monitoring using EPA Method 21 within five (5) working days of the leak detection. If the follow-up EPA Method 21 monitoring shows that the emission is a leak requiring repair as set forth in Section XII.L.4.a., the leak must be repaired and remonitored in accordance with Section XII.L.5.

XII.L.4.e. Owners or operators must maintain and operate approved non-quantitative instrument based monitoring methods according to manufacturer recommendations.

XII.L.5. Repair and remonitoring

XII.L.5.a. First attempt to repair a leak must be made no later than five (5) working days after discovery and completed no later than thirty (30) working days after discovery, unless parts are unavailable, the equipment requires shutdown to

complete repair, or other good cause exists. If parts are unavailable, they must be ordered promptly and the repair must be made within fifteen (15) working days of receipt of the parts. If shutdown is required, the leak must be repaired during the next scheduled shutdown. If delay is attributable to other good cause, repairs must be completed within fifteen (15) working days after the cause of delay ceases to exist.

XII.L.5.b. Within fifteen (15) working days of completion of a repair the leak must be remonitored using an approved instrument monitoring method to verify the repair was effective.

XII.L.5.c. Leaks discovered pursuant to the leak detection methods of Section XII.L.4. shall not be subject to enforcement by the Division unless the owner or operator fails to perform the required repairs in accordance with Section XII.L.5. or keep required records in accordance with Section XII.L.6.

XII.L.6. Recordkeeping

XII.L.6.a. Documentation of the initial approved instrument monitoring method inspection for new well production facilities and natural gas compressor stations;

XII.L.6.b. The date and site information for each inspection;

XII.L.6.c. A list of the leaks requiring repair and the monitoring method(s) used to determine the presence of the leak;

XII.L.6.d. The date of first attempt to repair the leak and, if necessary, any additional attempt to repair;

XII.L.6.e. The date the leak was repaired and repair methods applied;

XII.L.6.f. The delayed repair list, including the date and duration of any period where the repair of a leak was delayed due to unavailable parts, required shutdown, or delay for other good cause, an explanation for the delay, and the schedule for repairing the leak. Delay of repair beyond thirty (30) days after discovery due to unavailable parts must be certified by a responsible official;

XII.L.6.g. The date the leak was remonitored to verify the effectiveness of the repair, and the results of the remonitoring; and

XII.L.6.h. A list of components that are designated as unsafe, difficult, or inaccessible to monitor, as described in Section XII.L.3., an explanation stating why the component is so designated, and the schedule for monitoring such component(s).

XII.L.6.i. Records must be maintained for a minimum of five years and made available to the Division upon request.

XII.L.7. Reporting: The owner or operator of each facility subject to the leak detection and repair requirements in Section XII.L. must submit a single annual report on or before May 31st of each year that includes, at a minimum, the following information regarding leak detection and repair activities at their subject facilities conducted the previous calendar year:

XII.L.7.a. The number of well production facilities, per inspection frequency tier, and natural gas compressor stations inspected;

XII.L.7.b. The total number of leaks requiring repair, broken out by component type, monitoring method, and well production facility, per inspection frequency tier, or natural gas compressor station;

XII.L.7.c. The total number of leaks repaired and whether located at a well production facility, per inspection frequency tier, or a natural gas compressor station;

XII.L.7.d. The number and component type of leaks on the delayed repair list as of December 31st, whether located at a well production facility, per inspection frequency tier, or a natural gas compressor station, and an explanation for each delay of repair;

XII.L.7.e. Each report shall be accompanied by a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

XII.L.8. Alternative approved instrument monitoring methods may be used in lieu of, or in combination with an infra-red camera, EPA Method 21, or other approved instrument based monitoring device or method to inspect for leaks as required by Section XII.L., if the following conditions are met:

XII.L.8.a. The proponent of the alternative approved instrument monitoring method applies for a determination of an alternative approved instrument monitoring method. The application must include, at a minimum, the following:

XII.L.8.a.(i) The proposed alternative approved instrument monitoring method manufacturer information;

XII.L.8.a.(ii) A description of the proposed alternative approved instrument monitoring method including, but not limited to:

XII.L.8.a.(ii)(A) Whether the proposed alternative approved instrument monitoring method is a quantitative detection method, and how emissions are quantified, or qualitative leak detection method;

XII.L.8.a.(ii)(B) Whether the proposed alternative approved instrument monitoring method is commercially available;

XII.L.8.a.(ii)(C) Whether the proposed alternative approved instrument monitoring method is approved by other regulatory authorities and for what application (e.g., pipeline monitoring, emissions detected);

XII.L.8.a.(ii)(D) The leak detection capabilities, reliability, and limitations of the proposed alternative approved instrument monitoring method, including but not limited to ability to identify specific leak or location, detection limits, and any restrictions on use, as well as supporting data;

XII.L.8.a.(ii)(E) The frequency of measurements and data logging capabilities of the proposed alternative approved instrument monitoring method;

XII.L.8.a.(ii)(F) Data quality indicators for precision and bias of the proposed alternative approved instrument monitoring method;

XII.L.8.a.(ii)(G) Quality control and quality assurance procedures necessary to ensure proper operation of the proposed alternative approved instrument monitoring method.

XII.L.8.a.(ii)(H) A description of where, when and how the proposed alternative approved instrument monitoring method will be used;

XII.L.8.a.(ii)(I) Documentation, including field or test data, adequate to demonstrate the proposed alternative approved instrument monitoring method is capable of detecting leaks comparable to the repair thresholds in Section XII.L.4.;

XII.L.8.a.(iii) Public notice of the application is provided pursuant to Regulation Number 3, Part B, Section III.C.4.

XII.L.8.a.(iv) The Division and the EPA approves the proposal. The Division shall transmit a copy of the application and any other materials provided by the applicant, all public comments, all Division responses and the Division's permit to EPA Region 8. If EPA fails to approve or disapprove the proposal within 45 days of receipt of these materials, EPA shall be deemed to have approved the proposal.

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XVII. (State Only, except Section XVII.E.3.a. which was submitted as part of the Regional Haze SIP) Statewide Controls for Oil and Gas Operations and Natural Gas-Fired Reciprocating Internal Combustion Engines

XVII.A. (State Only) Definitions

XVII.A.1 "Air Pollution Control Equipment," as used in this Section XVII, means a combustion device or vapor recovery unit. Air pollution control equipment also means alternative emissions control equipment and pollution prevention devices and processes intended to reduce uncontrolled actual emissions that comply with the requirements of Section XVII.B.2.e.

XVII.A.2. "Approved Instrument Monitoring Method," means an infra-red camera, EPA Method 21, or other Division approved instrument based monitoring device or method. Any instrument monitoring method approved by the Division must be capable of detecting leaks as defined in Section XVII.F.6. If an owner or operator elects to use Division approved continuous emission monitoring, the Division may approve a streamlined inspection and reporting program for such operations.

XVII.A.3. "Auto-Igniter" means a device which will automatically attempt to relight the pilot flame in the combustion chamber of a control device in order to combust VOC emissions.

XVII.A.4. "Centrifugal Compressor" means any machine used for raising the pressure of natural gas by drawing in low pressure natural gas and discharging significantly higher

pressure natural gas by means of mechanical rotating vanes or impellers. Screw, sliding vane, and liquid ring compressors are not centrifugal compressors.

XVII.A.5. "Component" means each pump seal, flange, pressure relief device (including storage tank thief hatch), connector, and valve that contains or contacts a process stream with hydrocarbons, except for components in process streams consisting of glycol, amine, produced water, or methanol.

XVII.A.6. "Connector" means flanged, screwed, or other joined fittings used to connect two pipes or a pipe and a piece of process equipment or that close an opening in a pipe that could be connected to another pipe. Joined fittings welded completely around the circumference of the interface are not considered connectors.

XVII.A.7. "Date of First Production" means the date reported to the COGCC as the "date of first production."

XVII.A.8. "Glycol Natural Gas Dehydrator" means any device in which a liquid glycol (including ethylene glycol, diethylene glycol, or triethylene glycol) absorbent directly contacts a natural gas stream and absorbs water.

XVII.A.9. "Infra-red Camera" means an optical gas imaging instrument designed for and capable of detecting hydrocarbons.

XVII.A.~~9~~10. "Intermediate Hydrocarbon Liquid" means any naturally occurring, unrefined petroleum liquid.

XVII.A.~~10~~11. "Natural Gas Compressor Station" means a facility, located downstream of well production facilities, which contains one or more compressors designed to compress natural gas from well pressure to gathering system pressure prior to the inlet of a natural gas processing plant.

XVII.A.~~11~~12. "Normal Operation" means all periods of operation, excluding malfunctions as defined in Section I.G. of the Common Provisions regulation. For storage tanks at well production facilities, normal operation includes but is not limited to liquid dumps from the separator.

XVII.A.~~12~~13. "Open-Ended Valve or Line" means any valve, except safety relief valves, having one side of the valve seat in contact with process fluid and one side open to the atmosphere, either directly or through open piping.

XVII.A.~~13~~14. "Reciprocating Compressor" means a piece of equipment that increases the pressure of process gas by positive displacement, employing linear movement of the ~~driveshaft~~piston rod.

XVII.A.~~14~~15. "Stabilized" when used to refer to crude oil, condensate, intermediate hydrocarbon liquids, or produced water means that the vapor pressure of the liquid is sufficiently low to prevent the production of vapor phase upon transferring the liquid to an atmospheric pressure in a storage tank, and that any emissions that occur are limited to those commonly referred to within the industry as working, breathing, and standing losses.

XVII.A.~~15~~16. "Storage Tank" means any fixed roof storage vessel or series of storage vessels that are manifolded together via liquid line. Storage vessel is as defined in 40 CFR Part 60, Subpart OOOO. Storage tanks may be located at a well production facility or other location.

XVII.A.~~16~~17. “Visible Emissions” means observations of smoke for any period or periods of duration greater than or equal to one (1) minute in any fifteen (15) minute period during normal operation, pursuant to EPA Method 22. Visible emissions do not include radiant energy or water vapor.

XVII.A.~~17~~18. “Well Production Facility” means all equipment at a single stationary source directly associated with one or more oil wells or gas wells. This equipment includes, but is not limited to, equipment used for storage, separation, treating, dehydration, artificial lift, combustion, compression, pumping, metering, monitoring, and flowline.

XVII.B. (State Only) General Provisions

XVII.B.1. General requirements for prevention of emissions and good air pollution control practices for all oil and gas exploration and production operations, well production facilities, natural gas compressor stations, and natural gas processing plants.

XVII.B.1.a. All intermediate hydrocarbon liquids collection, storage, processing, and handling operations, regardless of size, shall be designed, operated, and maintained so as to minimize leakage of VOCs and other hydrocarbons to the atmosphere to the extent reasonably practicable.

XVII.B.1.b. At all times, including periods of start-up and shutdown, the facility and air pollution control equipment must be maintained and operated in a manner consistent with good air pollution control practices for minimizing emissions. Determination of whether or not acceptable operation and maintenance procedures are being used will be based on information available to the Division, which may include, but is not limited to, monitoring results, opacity observations, review of operation and maintenance procedures, and inspection of the source.

XVII.B.2. General requirements for air pollution control equipment used to comply with Section XVII.

XVII.B.2.a. All air pollution control equipment shall be operated and maintained pursuant to the manufacturing specifications or equivalent to the extent practicable, and consistent with technological limitations and good engineering and maintenance practices. The owner or operator shall keep manufacturer specifications or equivalent on file. In addition, all such air pollution control equipment shall be adequately designed and sized to achieve the control efficiency rates and to handle reasonably foreseeable fluctuations in emissions of VOCs and other hydrocarbons during normal operations. Fluctuations in emissions that occur when the separator dumps into the tank are reasonably foreseeable.

XVII.B.2.b. If a combustion device is used to control emissions of VOCs and other hydrocarbons, it shall be enclosed, have no visible emissions during normal operation, and be designed so that an observer can, by means of visual observation from the outside of the enclosed combustion device, or by other means approved by the Division, determine whether it is operating properly.

XVII.B.2.c. Any of the effective dates for installation of controls on storage tanks, dehydrators, and/or internal combustion engines may be extended at the Division’s discretion for good cause shown.

XVII.B.2.d. Auto-igniters: All combustion devices used to control emissions of hydrocarbons must be equipped with and operate an auto-igniter as follows:

XVII.B.2.d.(i) All combustion devices installed on or after May 1, 2014, must be equipped with an operational auto-igniter upon installation of the combustion device.

XVII.B.2.d.(ii) All combustion devices installed before May 1, 2014, must be equipped with an operational auto-igniter by or before May 1, 2016, or after the next combustion device planned shutdown, whichever comes first.

XVII.B.2.e. Alternative emissions control equipment shall qualify as air pollution control equipment, and may be used in lieu of, or in combination with, combustion devices and vapor recovery units to achieve the emission reductions required by this Section XVII., if the Division approves the equipment, device or process. As part of the approval process the Division, at its discretion, may specify a different control efficiency than the control efficiencies required by this Section XVII.

XVII.B.3. Requirements for compressor seals and open-ended valves or lines

XVII.B.3.a. Beginning January 1, 2015, each open-ended valve or line at well production facilities and natural gas compressor stations must be equipped with a cap, blind flange, plug, or a second valve that seals the open end at all times except during operations requiring process fluid flow through the open-ended valve or line. Open-ended valves or lines in an emergency shutdown system which are designed to open automatically in the event of a process upset are exempt from the requirement to seal the open end of the valve or line. Alternatively, an open-ended valve or line may be treated as if it is a “component” as defined in Section XVII.A.5., and may be monitored under the provisions of Section XVII.F.

XVII.B.3.b. Beginning January 1, 2015, uncontrolled actual hydrocarbon emissions from wet seal fluid degassing systems on wet seal centrifugal compressors must be reduced by at least 95%, unless the centrifugal compressor is subject to 40 C.F.R. Part 60, Subpart OOOO on that date or thereafter.

XVII.B.3.c. Beginning January 1, 2015, the rod packing on any reciprocating compressor located at a natural gas compressor station must be replaced every 26,000 hours of operation or every thirty six (36) months, unless the reciprocating compressor is subject to 40 C.F.R. Part 60, Subpart OOOO on that date or thereafter. The measurement of accumulated hours of operation (26,000) or months elapsed (36) begins on January 1, 2015.

XVII.B.4. Oil refineries are not subject to Section XVII.

XVII.B.5. Glycol natural gas dehydrators and internal combustion engines that are subject to an emissions control requirement in a federal maximum achievable control technology (“MACT”) standard under 40 CFR Part 63, a Best Available Control Technology (“BACT”) limit, or a New Source Performance Standard (“NSPS”) under 40 CFR Part 60 are not subject to Section XVII., except for the leak detection and repair requirements in Section XVII.F.

XVII.C. (State Only) Emission reduction from storage tanks at oil and gas exploration and production operations, well production facilities, natural gas compressor stations, and natural gas processing plants.

XVII.C.1. Control and monitoring requirements for storage tanks

XVII.C.1.a. Beginning May 1, 2008, owners or operators of all storage tanks storing condensate with uncontrolled actual emissions of VOCs equal to or greater than twenty (20) tons per year based on a rolling twelve-month total must operate air pollution control equipment that has an average control efficiency of at least 95% for VOCs.

XVII.C.1.b. Owners or operators of storage tanks with uncontrolled actual emissions of VOCs equal to or greater than six (6) tons per year based on a rolling twelve-month total must operate air pollution control equipment that achieves an average hydrocarbon control efficiency of 95%. If a combustion device is used, it must have a design destruction efficiency of at least 98% for hydrocarbons, except where the combustion device has been authorized by permit prior to May 1, 2014.

XVII.C.1.b.(i) Control requirements of Section XVII.C.1.b. must be achieved in accordance with the following schedule:

XVII.C.1.b.(i)(~~a~~A) A storage tank constructed on or after May 1, 2014, must be in compliance within ninety (90) days of the date that the storage tank commences operation.

XVII.C.1.b.(i)(~~b~~B) A storage tank constructed before May 1, 2014, must be in compliance by May 1, 2015.

XVII.C.1.b.(i)(~~c~~C) A storage tank not otherwise subject to Sections XVII.C.1.b.(i)(a) or XVII.C.1.b.(i)(b) that increases uncontrolled actual emissions to six (6) tons per year VOC or more on a rolling twelve month basis after May 1, 2014, must be in compliance within sixty (60) days of discovery of the emissions increase.

XVII.C.1.c. Control requirements within ninety (90) days of the date of first production.

XVII.C.1.c.(i) Beginning May 1, 2014, owners or operators of storage tanks at well production facilities must collect and control emissions by routing emissions to operating air pollution control equipment during the first ninety (90) calendar days after the date of first production. The air pollution control equipment must achieve an average hydrocarbon control efficiency of 95%. If a combustion device is used, it must have a design destruction efficiency of at least 98% for hydrocarbons. This control requirement does not apply to storage tanks that are projected to have emissions less than 1.5 tons of VOC during the first ninety (90) days after the date of first production.

XVII.C.1.c.(ii) The air pollution control equipment and any associated monitoring equipment required pursuant to Section XVII.C.1.c.(i) may be removed at any time after the first ninety (90) calendar days as long as the source can demonstrate that uncontrolled actual emissions from the storage tank will be below the threshold in Section XVII.C.1.b.

XVII.C.1.d. Beginning May 1, 2014, or the applicable compliance date in Section XVII.C.1.b.(i), whichever comes later, owners or operators of storage tanks

subject to Section XVII.C.1. must conduct audio, visual, olfactory ("AVO") and additional visual inspections of the storage tank and any associated equipment (e.g. separator, air pollution control equipment, or other pressure reducing equipment) at the same frequency as liquids are loaded out from the storage tank. These inspections are not required more frequently than every seven (7) days but must be conducted at least every thirty one (31) days. Monitoring is not required for storage tanks or associated equipment that are unsafe, difficult, or inaccessible to monitor, as defined in Section XVII.C.1.e. The additional visual inspections must include, at a minimum:

XVII.C.1.d.(i) Visual inspection of any thief hatch, pressure relief valve, or other access point to ensure that they are closed and properly sealed;

XVII.C.1.d.(ii) Visual inspection or monitoring of the air pollution control equipment to ensure that it is operating, including that the pilot light is lit on combustion devices used as air pollution control equipment;

XVII.C.1.d.(iii) If a combustion device is used, visual inspection of the auto-igniter and valves for piping of gas to the pilot light to ensure they are functioning properly;

XVII.C.1.d.(iv) Visual inspection of the air pollution control equipment to ensure that the valves for the piping from the storage tank to the air pollution control equipment are open; and

XVII.C.1.d.(v) If a combustion device is used, inspection of the device for the presence or absence of smoke. If smoke is observed, either the equipment must be immediately shut-in to investigate the potential cause for smoke and perform repairs, as necessary, or EPA Method 22 must be conducted to determine whether visible emissions are present for a period of at least one (1) minute in fifteen (15) minutes.

XVII.C.1.e. If storage tanks or associated equipment is unsafe, difficult, or inaccessible to monitor, the owner or operator is not required to monitor such equipment until it becomes feasible to do so.

XVII.C.1.e.(i) Difficult to monitor means it cannot be monitored without elevating the monitoring personnel more than two meters above a supported surface or is unable to be reached via a wheeled scissor-lift or hydraulic type scaffold that allows access up to 7.6 meters (25 feet) above the ground.

XVII.C.1.e.(ii) Unsafe to monitor means it cannot be monitored without exposing monitoring personnel to an immediate danger as a consequence of completing the monitoring.

XVII.C.1.e.(iii) Inaccessible to monitor means buried, insulated, or obstructed by equipment or piping that prevents access by monitoring personnel.

XVII.C.2. Capture and monitoring requirements for storage tanks that are fitted with air pollution control equipment as required by Sections XII.D. or XVII.C.1.

XVII.C.2.a. Owners or operators of storage tanks must route all hydrocarbon emissions to air pollution control equipment, and must operate without venting hydrocarbon emissions from the thief hatch (or other access point to the tank) or

pressure relief device during normal operation, unless venting is reasonably required for maintenance, gauging, or safety of personnel and equipment. Compliance must be achieved in accordance with the schedule in Section XVII.C.2.b.(ii).

XVII.C.2.b. Owners or operators of storage tanks subject to the control requirements of Sections XII.D.2., XVII.C.1.a, or XVII.C.1.b. must develop, certify, and implement a documented Storage Tank Emission Management System ("STEM") plan to identify, evaluate, and employ appropriate control technologies, monitoring practices, operational practices, and/or other strategies designed to meet the requirements set forth in Section XVII.C.2.a. Owners or operators must update the STEM plan as necessary to achieve or maintain compliance. Owners or operators are not required to develop and implement STEM for storage tanks containing only stabilized liquids. The minimum elements of STEM are listed below.

XVII.C.2.b.(i) STEM must include selected control technologies, monitoring practices, operational practices, and/or other strategies; procedures for evaluating ongoing storage tank emission capture performance; and monitoring in accordance with approved instrument monitoring methods following the applicable schedule in Section XVII.C.2.b.(ii) and Inspection Frequency in Table 1.

XVII.C.2.b.(ii) Owners or operators must achieve the requirements of Sections XVII.C.2.a. and XVII.C.2.b. and begin implementing the required approved instrument monitoring method in accordance with the following schedule:

XVII.C.2.b.(ii)(~~a~~A) A storage tank constructed on or after May 1, 2014, must comply with the requirements of Section XVII.C.2.a. by the date the storage tank commences operation. The storage tank must comply with Section XVII.C.2.b. and implement the approved instrument monitoring method inspections within ninety (90) days of the date that the storage tank commences operation.

XVII.C.2.b.(ii)(~~b~~B) A storage tank constructed before May 1, 2014, must comply with the requirements of Sections XVII.C.2.a. and XVII.C.2.b. by May 1, 2015. Approved instrument monitoring method inspections must begin within ninety (90) days of the Phase-In Schedule in Table 1, or within thirty (30) days for storage tanks with uncontrolled actual VOC emissions greater than 50 tons per year.

XVII.C.2.b.(ii)(~~c~~C) A storage tank not otherwise subject to Sections XVII.C.2.b.(ii)(a) or XVII.C.2.b.(ii)(b) that increases uncontrolled actual emissions to six (6) tons per year VOC or more on a rolling twelve month basis after May 1, 2014, must comply with the requirements of Sections XVII.C.2.a. and XVII.C.2.b. and implement the required approved instrument monitoring method inspections within sixty (60) days of discovery of the emissions increase.

XVII.C.2.b.(ii)(~~d~~D) Following the first approved instrument monitoring method inspection, owners or operators must continue conducting approved instrument monitoring method

inspections in accordance with the Inspection Frequency in Table 1.

Table 1 – Storage Tank Inspections		
Threshold: Storage Tank Uncontrolled Actual VOC Emissions (tpy)	Approved Instrument Monitoring Method Inspection Frequency	Phase-In Schedule
≥ 6 and ≤ 12	Annually	January 1, 2016
> 12 and ≤ 50	Quarterly	July 1, 2015
> 50	Monthly	January 1, 2015

XVII.C.2.b.(iii) Owners or operators are not required to monitor storage tanks and associated equipment that are unsafe, difficult, or inaccessible to monitor, as defined in Section XVII.C.1.e.

XVII.C.2.b.(iv) STEM must include a certification by the owner or operator that the selected STEM strategy(ies) are designed to minimize emissions from storage tanks and associated equipment at the facility(ies), including thief hatches and pressure relief devices.

XVII.C.3. Recordkeeping: The owner or operator of each storage tank subject to Sections XII.D. or XVII.C. must maintain records of STEM, if applicable, including the plan, any updates, and the certification, and make them available to the Division upon request. In addition, for a period of two (2) years, the owner or operator must maintain records of any required monitoring and make them available to the Division upon request, including:

XVII.C.3.a. The AIRS ID for the storage tank.

XVII.C.3.b. The date and duration of any period where the thief hatch, pressure relief device, or other access point are found to be venting hydrocarbon emissions, except for venting that is reasonably required for maintenance, gauging, or safety of personnel and equipment.

XVII.C.3.c. The date and duration of any period where the air pollution control equipment is not operating.

XVII.C.3.d. Where a combustion device is being used, the date and result of any EPA Method 22 test or investigation pursuant to Section XVII.C.1.d.(v).

XVII.C.3.e. The timing of and efforts made to eliminate venting, restore operation of air pollution control equipment, and mitigate visible emissions.

XVII.C.3.f. A list of equipment associated with the storage tank that is designated as unsafe, difficult, or inaccessible to monitor, as described in Section XVII.C.1.e., an explanation stating why the equipment is so designated, and the plan for monitoring such equipment.

XVII.D. (State Only) Emission reductions from glycol natural gas dehydrators

XVII.D.1. Beginning May 1, 2008, still vents and vents from any flash separator or flash tank on a glycol natural gas dehydrator located at an oil and gas exploration and production operation, natural gas compressor station, or gas-processing plant subject to control requirements pursuant to Section XVII.D.2., shall reduce uncontrolled actual emissions of volatile organic compounds by at least 90 percent through the use of a condenser or air pollution control equipment.

XVII.D.2. The control requirement in Section XVII.D.1. shall apply where:

XVII.D.2.a. Actual uncontrolled emissions of volatile organic compounds from the glycol natural gas dehydrator are equal to or greater than two tons per year; and

XVII.D.2.b. The sum of actual uncontrolled emissions of volatile organic compounds from any single glycol natural gas dehydrator or grouping of glycol natural gas dehydrators at a single stationary source is equal to or greater than 15 tons per year. To determine if a grouping of dehydrators meets or exceeds the 15 tons per year threshold, sum the total actual uncontrolled emissions of volatile organic compounds from all individual dehydrators at the stationary source, including those with emissions less than two tons per year.

XVII.D.3. Beginning May 1, 2015, still vents and vents from any flash separator or flash tank on a glycol natural gas dehydrator located at an oil and gas exploration and production operation, natural gas compressor station, or gas-processing plant subject to control requirements pursuant to Section XVII.D.4., shall reduce uncontrolled actual emissions of hydrocarbons by at least 95 percent on a rolling twelve-month basis through the use of a condenser or air pollution control equipment. If a combustion device is used, it shall have a design destruction efficiency of at least 98% for hydrocarbons, except where:

XVII.D.3.a. The combustion device has been authorized by permit prior to May 1, 2014; and

XVII.D.3.b. A building unit or designated outside activity area is not located within 1,320 feet of the facility at which the natural gas glycol dehydrator is located.

XVII.D.4. The control requirement in Section XVII.D.3. shall apply where:

XVII.D.4.a. Uncontrolled actual emissions of VOCs from a glycol natural gas dehydrator constructed on or after May 1, 2015, are equal to or greater than two (2) tons per year. Such glycol natural gas dehydrators must be in compliance with Section XVII.D.3. by the date that the glycol natural gas dehydrator commences operation.

XVII.D.4.b. Uncontrolled actual emissions of VOCs from a single glycol natural gas dehydrator constructed before May 1, 2015, are equal to or greater than six (6) tons per year, or two (2) tons per year if the glycol natural gas dehydrator is located within 1,320 feet of a building unit or designated outside activity area.

XVII.D.4.c. For purposes of Sections XVII.D.3. and XVII.D.4.:

XVII.D.4.c.(i) Building Unit shall mean a residential building unit, and every five thousand (5,000) square feet of building floor area in commercial facilities or every fifteen thousand (15,000) square feet of building floor area in warehouses that are operating and normally occupied during working hours.

XVII.D.4.c.(ii) A Designated Outside Activity Area shall mean an outdoor venue or recreation area, such as a playground, permanent sports field, amphitheater, or other similar place of public assembly owned or operated by a local government, which the local government had established as a designated outside activity area by the COGCC; or an outdoor venue or recreation area where ingress to or egress from could be impeded in the event of an emergency condition at an oil and gas location less than three hundred and fifty (350) feet from the venue due to the configuration of the venue and the number of persons known or expected to simultaneously occupy the venue on a regular basis.

XVII.E. Control of emissions from new, modified, existing, and relocated natural gas fired reciprocating internal combustion engines.

XVII.E.1. (State Only) The requirements of this Section XVII.E. shall not apply to any engine having actual uncontrolled emissions below permitting thresholds listed in Regulation Number 3, Part B.

XVII.E.2. (State Only) New, Modified and Relocated Natural Gas Fired Reciprocating Internal Combustion Engines

XVII.E.2.a. Except as provided in Section XVII.E.2.b. below, the owner or operator of any natural gas fired reciprocating internal combustion engine that is either constructed or relocated to the state of Colorado from another state, on or after the date listed in the table below shall operate and maintain each engine according to the manufacturer's written instructions or procedures to the extent practicable and consistent with technological limitations and good engineering and maintenance practices over the entire life of the engine so that it achieves the emission standards required in Section XVII.E.2.b. Table 2 below.

XVII.E.2.b. Actual emissions from natural gas fired reciprocating internal combustion engines shall not exceed the emission performance standards in Table 2 below as expressed in units of grams per horsepower-hour (G/hp-hr)

TABLE 2

Maximum Engine Hp	Construction or Relocation Date	Emission Standards is G/hp-hr		
		NOx	CO	VOC
< 100 Hp	Any	NA	NA	NA
≥100 Hp and < 500 Hp	On or after January 1, 2008	2.0	4.0	1.0
	On or after January 1, 2011	1.0	2.0	0.7
≥500 Hp	On or after July 1, 2007	2.0	4.0	1.0
	On or after July 1, 2010	1.0	2.0	0.7

XVII.E.3. Existing Natural Gas Fired Reciprocating Internal Combustion Engines

XVII.E.3.a. (Regional Haze SIP) Rich Burn Reciprocating Internal Combustion Engines

XVII.E.3.a.(i) Except as provided in Sections XVII.3.1.(i)(b) and (c) and XVII.E.3.a.(ii), all rich burn reciprocating internal combustion engines with a manufacturer's name plate design rate greater than 500 horsepower, constructed or modified before February 1, 2009 shall install and operate both a non-selective catalytic reduction system and an air fuel controller by July 1, 2010. A rich burn reciprocating internal combustion engine is one with a normal exhaust oxygen concentration of less than 2% by volume.

XVII.E.3.a.(i)(~~a~~A) All control equipment required by this Section XVII.E.3.a. shall be operated and maintained pursuant to manufacturer specifications or equivalent to the extent practicable, and consistent with technological limitations and good engineering and maintenance practices. The owner or operator shall keep manufacturer specifications or equivalent on file.

XVII.E.3.a.(i)(~~b~~B) Internal combustion engines that are subject to an emissions control requirement in a federal maximum achievable control technology ("MACT") standard under 40 CFR Part 63, a Best Available Control Technology ("BACT") limit, or a New Source Performance Standard under 40 CFR Part 60 are not subject to this Section XVII.E.3.a.

XVII.E.3.a.(i)(~~c~~C) The requirements of this Section XVII.E.3.a. shall not apply to any engine having actual uncontrolled emissions below permitting thresholds listed in Regulation Number 3, Part B.

XVII.E.3.a.(ii) Any rich burn reciprocating internal combustion engine constructed or modified before February 1, 2009, for which the owner or operator demonstrates to the Division that retrofit technology cannot be installed at a cost of less than $ 5,000 per ton of combined volatile organic compound and nitrogen oxides emission reductions (this value shall be adjusted for future applications according to the current day consumer price index) is exempt complying with Section XVII.E.3.a. Installation costs and the best information available for determining control efficiency shall be considered in determining such costs. In order to qualify for such exemption, the owner or operator must submit an application making such a demonstration, together with all supporting documents, to the Division by August 1,2009.

XVII.E.3.b. (State Only) Lean Burn Reciprocating Internal Combustion Engines

XVII.E.3.b.(i) Except as provided in Section XVII.E.3.b.(ii), all lean burn reciprocating internal combustion engines with a manufacturer's nameplate design rate greater than 500 horsepower shall install and operate an oxidation catalyst by July 1, 2010. A lean burn reciprocating internal combustion engine is one with a normal exhaust oxygen concentration of 2% by volume, or greater.

XVII.E.3.b.(ii) Any lean burn reciprocating internal combustion engine constructed or modified before February 1, 2009, for which the owner or

operator demonstrates to the Division that retrofit technology cannot be installed at a cost of less than $ 5,000 per ton of volatile organic compound emission reduction (this value shall be adjusted for future applications according to the current day consumer price index) is exempt complying with Section XVII.E.3.b.(i). Installation costs and the best information available for determining control efficiency shall be considered in determining such costs. In order to qualify for such exemption, the owner or operator must submit an application making such a demonstration, together with all supporting documents, to the Division by August 1, 2009.

XVII.F. (State Only) Leak detection and repair program for well production facilities and natural gas compressor stations

XVII.F.1. The following provisions of Section XVII.F. shall apply in lieu of any directed inspection and maintenance program requirements established pursuant to Regulation Number 3, Part B, Section III.D.2.

XVII.F.2. Owners or operators of well production facilities or natural gas compressor stations that monitor components as part of Section XVII.F. may estimate uncontrolled actual emissions from components for the purpose of evaluating the applicability of component fugitive emissions to Regulation Number 3 by utilizing the emission factors defined as less than 10,000 ppmv of Table 2-8 of the 1995 EPA Protocol for Equipment Leak Emission Estimates (Document EPA-453/R-95-017).

XVII.F.3. Beginning January 1, 2015, owners or operators of natural gas compressor stations must inspect components for leaks using an approved instrument monitoring method, in accordance with the following schedule:

XVII.F.3.a. Approved instrument monitoring method inspections must begin within ninety (90) days after January 1, 2015, or the date the natural gas compressor station commences operation if such date is after January 1, 2015, for natural gas compressor stations with fugitive VOC emissions greater than zero (0) but less than or equal to fifty (50) tons per year.

XVII.F.3.b. Approved instrument monitoring method inspections must begin within thirty (30) days after January 1, 2015, or the date the natural gas compressor station commences operation if such date is after January 1, 2015, for natural gas compressor stations with fugitive VOC emissions greater than fifty (50) tons per year.

XVII.F.3.c. Following the first approved instrument monitoring method inspection, owners or operators must continue conducting approved instrument monitoring method inspections in accordance with the Inspection Frequency in Table 3.

XVII.F.3.d. For purposes of Section XVII.F.3., fugitive emissions must be calculated using the emission factors of Table 2-4 of the 1995 EPA Protocol for Equipment Leak Emission Estimates (Document EPA-453/R-95-017), or other Division approved method.

Table 3 – Natural Gas Compressor Station Component Inspections	
Fugitive VOC Emissions (tpy)	Inspection Frequency

> 0 and ≤ 12	Annually
> 12 and ≤ 50	Quarterly
> 50	Monthly

XVII.F.4. Requirements for well production facilities

XVII.F.4.a. Owners or operators of well production facilities constructed on or after October 15, 2014, must identify leaks from components using an approved instrument monitoring method no sooner than fifteen (15) days and no later than thirty (30) days after the facility commences operation. This initial test constitutes the first, or only for facilities subject to a one time approved instrument monitoring method inspection, of the periodic approved instrument monitoring method inspections. Thereafter, approved instrument monitoring method and AVO inspections must be conducted in accordance with the Inspection Frequencies in Table 4.

XVII.F.4.b. Owners or operators of well production facilities constructed before October 15, 2014, must identify leaks from components using an approved instrument monitoring method within ninety (90) days of the Phase-In Schedule in Table 4; within thirty (30) days for well production facilities subject to monthly approved instrument monitoring method inspections; or by January 1, 2016, for well production facilities subject to a one time approved instrument monitoring method inspection. Thereafter, approved instrument monitoring method and AVO inspections must be conducted in accordance with the Inspection Frequencies in Table 4.

XVII.F.4.c. The estimated uncontrolled actual VOC emissions from the highest emitting storage tank at the well production facility determines the frequency at which inspections must be performed. If no storage tanks storing oil or condensate are located at the well production facility, owners or operators must rely on the facility emissions (controlled actual VOC emissions from all permanent equipment, including emissions from components determined by utilizing the emission factors defined as less than 10,000 ppmv of Table 2-8 of the 1995 EPA Protocol for Equipment Leak Emission Estimates).

Table 4 – Well Production Facility Component Inspections

Thresholds (per XVII.F.4.c.)				
Well production facilities without storage tanks (tpy)	Well production facilities with storage tanks (tpy)	Approved Instrument Monitoring Method Inspection Frequency	AVO Inspection Frequency	Phase-In Schedule
> 0 and ≤ 6	> 0 and ≤ 6	One time	Monthly	January 1, 2016
> 6 and ≤ 12	> 6 and ≤ 12	Annually	Monthly	January 1, 2016

> 12 and ≤ 20	> 12 and ≤ 50	Quarterly	Monthly	January 1, 2015
> 20	> 50	Monthly		January 1, 2015

XVII.F.5. If a component is unsafe, difficult, or inaccessible to monitor, the owner or operator is not required to monitor the component until it becomes feasible to do so.

XVII.F.5.a. Difficult to monitor components are those that cannot be monitored without elevating the monitoring personnel more than two (2) meters above a supported surface or are unable to be reached via a wheeled scissor-lift or hydraulic type scaffold that allows access to components up to 7.6 meters (25 feet) above the ground.

XVII.F.5.b. Unsafe to monitor components are those that cannot be monitored without exposing monitoring personnel to an immediate danger as a consequence of completing the monitoring.

XVII.F.5.c. Inaccessible to monitor components are those that are buried, insulated, or obstructed by equipment or piping that prevents access to the components by monitoring personnel.

XVII.F.6 Leaks requiring repair: Leaks must be identified utilizing the methods listed in Section XVII.F.6. Only leaks ~~detected pursuant to~~from components exceeding the thresholds in Section XVII.F.6. require repair under Section XVII.F.7.

XVII.F.6.a. For EPA Method 21 monitoring, or other Division approved quantitative instrument based monitoring, at facilities constructed before May 1, 2014, ~~a~~ repair is required for leaks ~~is~~with any concentration of hydrocarbon above 2,000 parts per million (ppm) not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation, except for well production facilities where a leak is defined as any concentration of hydrocarbon above 500 ppm not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

XVII.F.6.b. For EPA Method 21 monitoring, or other Division approved quantitative instrument based monitoring, at facilities constructed on or after May 1, 2014, ~~a~~ repair is required for leaks ~~is~~with any concentration of hydrocarbon above 500 ppm not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

XVII.F.6.c. For infra-red camera and AVO monitoring, or other Division approved non-quantitative instrument based monitoring, ~~a~~ repair is required for leaks ~~is~~with any detectable emissions not associated with normal equipment operation, such as pneumatic device actuation and crank case ventilation.

XVII.F.6.d. For other Division approved monitoring devices or methods, leak identification requiring repair will be established as set forth in the Division's approval.

XVII.F.6.e. For leaks identified using an approved non-quantitative instrument monitoring method or AVO, owners or operators have the option of either repairing the leak in accordance with the repair schedule set forth in Section XVII.F.7. or conducting follow-up monitoring using EPA Method 21 within five (5) working days of the leak detection. If the follow-up EPA Method 21 monitoring

shows that the emission is a leak requiring repair as ~~defined~~ set forth in Section XVII.F.6., the leak must be repaired and remonitored in accordance with Section XVII.F.7.

XVII.F.7. Repair and remonitoring

XVII.F.7.a. First attempt to repair a leak must be made no later than five (5) working days after discovery and repair completed no later than thirty (30) working days after discovery, unless parts are unavailable, the equipment requires shutdown to complete repair, or other good cause exists. If parts are unavailable, they must be ordered promptly and the repair must be made within fifteen (15) working days of receipt of the parts. If shutdown is required, the leak must be repaired during the next scheduled shutdown. If delay is attributable to other good cause, repairs must be completed within fifteen (15) working days after the cause of delay ceases to exist.

XVII.F.7.b. Within fifteen (15) working days of completion of a repair, the leak must be remonitored using an approved instrument monitoring method to verify the repair was effective.

XVII.F.7.c. Leaks discovered pursuant to the leak detection methods of Section XVII.F.6. shall not be subject to enforcement by the Division unless the owner or operator fails to perform the required repairs in accordance with Section XVII.F.7. or keep required records in accordance with Section XVII.F.8.

XVII.F.8. Recordkeeping: The owner or operator of each facility subject to the leak detection and repair requirements in Section XVII.F. must maintain the following records for a period of two (2) years and make them available to the Division upon request.

XVII.F.8.a. Documentation of the initial approved instrument monitoring method inspection for new well production facilities;

XVII.F.8.b. The date and site information for each inspection;

XVII.F.8.c. A list of the leaking components requiring repair and the monitoring method(s) used to determine the presence of the leak;

XVII.F.8.d. The date of first attempt to repair the leak and, if necessary, any additional attempt to repair the leak;

XVII.F.8.e. The date the leak was repaired and repair methods applied;

XVII.F.8.f. The delayed repair list, including the date and duration of any period where the repair of a leak was delayed due to unavailable parts, required shutdown, or delay for other good cause, an explanation for the delay, and the schedule for repairing the leak. Delay of repair beyond thirty (30) days after discovery due to unavailable parts must be certified by a responsible official~~basis for placing leaks on the list~~;

XVII.F.8.g. The date the leak was remonitored to verify the effectiveness of the repair, and the results of the remonitoring; and

XVII.F.8.h. A list of components that are designated as unsafe, difficult, or inaccessible to monitor, as described in Section XVII.F.5., an explanation stating

why the component is so designated, and the schedule ~~plan~~ for monitoring such component(s).

XVII.F.9. Reporting: The owner or operator of each facility subject to the leak detection and repair requirements in Section XVII.F. must submit a single annual report on or before May 31st of each year that includes, at a minimum, the following information regarding leak detection and repair activities at their subject facilities conducted the previous calendar year:

XVII.F.9.a. The number of well production facilities and natural gas compressor stations~~facilities~~ inspected;

XVII.F.9.b. The total number of inspections per inspection frequency tier of well production facilities and natural gas compressor stations;

XVII.F.9.c. The total number of leaks requiring repair identified, broken out by component type, monitoring method, and inspection frequency tier of well production facilities and natural gas compressor stations;

XVII.F.9.d. The total number of leaks repaired per inspection frequency tier of well production facilities and natural gas compressor stations;

XVII.F.9.e. The number, component type, and inspection frequency tier of well production facilities and natural gas compressor stations of leaks on the delayed repair list as of December 31st and an explanation for each delay of repair; and

XVII.F.9.f. Each report shall be accompanied by a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete.

XVII.G. (State Only) Control of emissions from well production facilities

Well Operation and Maintenance: On or after August 1, 2014, gas coming off a separator, produced during normal operation from any newly constructed, hydraulically fractured, or recompleted oil and gas well, must either be routed to a gas gathering line or controlled from the date of first production by air pollution control equipment that achieves an average hydrocarbon control efficiency of 95%. If a combustion device is used, it must have a design destruction efficiency of at least 98% for hydrocarbons.

XVII.H. (State Only) Venting during downhole well maintenance and liquids unloading events

XVII.H.1. Beginning May 1, 2014, owners or operators must use best management practices to minimize hydrocarbon emissions and the need for well venting associated with downhole well maintenance and liquids unloading, unless venting is necessary for safety.

XVII.H.1.a. During liquids unloading events, any means of creating differential pressure must first be used to attempt to unload the liquids from the well without venting. If these methods are not successful in unloading the liquids from the well, the well may be vented to the atmosphere to create the necessary differential pressure to bring the liquids to the surface.

XVII.H.1.b. The owner or operator must be present on-site during any planned well maintenance or liquids unloading event and must ensure that any venting to the atmosphere is limited to the maximum extent practicable.

XVII.H.1.c. Records of the cause, date, time, and duration of venting events under Section XVII.H. must be kept for two (2) years and made available to the Division upon request.

>>>>>>>>

XVIII. ~~(State Only)~~ Natural Gas-Actuated Pneumatic Controllers Associated with Oil and Gas Operations

XVIII.A. Applicability

This section applies to pneumatic controllers that are actuated by natural gas, and located at, or upstream of natural gas processing plants (upstream activities include: oil and gas exploration and production operations and natural gas compressor stations).

XVIII.B. Definitions

XVIII.B.1. "Affected Operations" shall mean pneumatic controllers that are actuated by natural gas, and located at, or upstream of natural gas processing plants (upstream activities include: oil and gas exploration and production operations and natural gas compressor stations).

XVIII.B.2. "Continuous Bleed" means a continuous flow of pneumatic supply natural gas to a pneumatic controller.

XVIII.B.3. "Custody Transfer" means the transfer of crude oil or natural gas after processing and/or treatment in the producing operations or from storage vessels or automatic transfer facilities or other such equipment, including product loading racks, to pipelines or any other forms of transportation.

XVIII.B.~~2~~4. "Enhanced Maintenance" ~~is specific to high-bleed devices and shall~~ include~~s~~ but is not limited to cleaning, tuning, and repairing leaking gaskets, tubing fittings, and seals; tuning to operate over a broader range of proportional band; and eliminating unnecessary valve positioners.

XVIII.B.~~3~~5. "High-Bleed Pneumatic Controller" shall mean a pneumatic controller that is designed to have a constant bleed rate that emits in excess of 6 standard cubic feet per hour (scfh) of natural gas to the atmosphere.

XVIII.B.~~4~~6. "Low-Bleed Pneumatic controller" shall mean a pneumatic controller that is designed to have a constant bleed rate that emits less than or equal to 6 scfh of natural gas to the atmosphere.

XVIII.B.~~5~~7. "Natural Gas Processing Plant" shall mean any processing site engaged in the extraction of natural gas liquids from field gas, fractionation of mixed natural gas liquids to natural gas products, or both. A Joule-Thompson valve, a dew point depression valve, or an isolated or standalone Joule-Thompson skid is not a natural gas processing plant.

XVIII.B.~~6~~8. "No-Bleed Pneumatic Controller" shall mean any pneumatic controller that is not using hydrocarbon gas as the valve's actuating gas.

XVIII.B.~~7~~9. "Pneumatic Controller" shall mean an instrument that is actuated using pressurized gas and used to control or monitor process parameters such as liquid level, gas level, pressure, valve position, liquid flow, gas flow and temperature.

XVIII.C. Emission Reduction Requirements

The owners and operators of affected operations shall reduce emissions of volatile organic compounds from pneumatic controllers associated with affected operations as follows:

XVIII.C.1. Continuous bleed, natural gas-driven pneumatic controllers ~~i~~in the 8-Hour Ozone Control Area and located from the wellhead to the natural gas processing plant or point of custody transfer to an oil pipeline:

XVIII.C.1.a. All pneumatic controllers placed in service on or after February 1, 2009, shall emit VOCs in an amount equal to or less than a low-bleed pneumatic controller, unless allowed pursuant to Section XVIII.C.1.c.

XVIII.C.1.b. All high-bleed pneumatic controllers in service prior to February 1, 2009 shall be replaced or retrofit such that VOC emissions are reduced to an amount equal to or less than a low-bleed pneumatic controller, by May 1, 2009, unless allowed pursuant to Section XVIII.C.1.c.

XVIII.C.1.c. All high-bleed pneumatic controllers that must remain in service ~~-~~due to safety and/or process purposes must ~~have Division approval and~~ comply with Sections XVIII.D. and XVIII.E.

XVIII.C.1.c.(i) For high-bleed pneumatic controllers in service prior to February 1, 2009, the owner/operator shall submit justification for high-bleed pneumatic controllers to remain in service due to safety and /or process purposes by March 1, 2009. ~~The Division shall be deemed to have approved the justification if it does not object to the owner/operator within 30-days upon receipt.~~

XVIII.C.1.c.(ii) For high-bleed pneumatic controllers placed in service on or after February 1, 2009, the owner/operator shall submit justification for high-bleed pneumatic controllers to be installed due to safety and /or process purposes thirty (30) days prior to installation. ~~The Division shall be deemed to have approved the justification if it does not object to the owner/operator within 30-days upon receipt.~~

XVIII.C.2. Continuous bleed, natural gas-driven pneumatic controllers in the 8-Hour Ozone Control Area and located at a natural gas processing plant:

XVIII.C.2.a. All pneumatic controllers placed in service on or after January 1, 2018, must have a natural gas bleed rate of zero, unless allowed pursuant to Section XVIII.C.2.c.

XVIII.C.2.b. All pneumatic controllers with a bleed rate greater than zero in service prior to January 1, 2018, must be replaced or retrofit such that the pneumatic controller has a natural gas bleed rate of zero by May 1, 2018, unless allowed pursuant to Section XVIII.C.2.c.

XVIII.C.2.c. All pneumatic controllers with a natural gas bleed rate greater than zero that must remain in service due to safety and/or process purposes must comply with Sections XVIII.D. and XVIII.E.

XVIII.C.2.c.(i) For pneumatic controllers with a natural gas bleed rate greater than zero in service prior to January 1, 2018, the owner/operator shall submit justification for pneumatic controllers to remain in service due to safety and /or process purposes by May 1, 2018.

XVIII.C.2.c.(ii) For pneumatic controllers with a natural gas bleed rate greater than zero placed in service on or after January 1, 2018, the owner/operator shall submit justification for pneumatic controllers to be installed due to safety and /or process purposes thirty (30) days prior to installation.

XVIII.C.~~2~~3. (State Only) Statewide:

XVIII.C.~~2~~3.a. ~~A~~Owners or operators of all pneumatic controllers placed in service on or after May 1, 2014, must:

XVIII.C.~~2~~3.a.(i) Utilize no-bleed pneumatic controllers where on-site electrical grid power is being used and use of a no-bleed pneumatic controller is technically and economically feasible.~~Emit VOCs in an amount equal to or less than a low-bleed pneumatic controller, unless allowed pursuant to Section XVIII.C.2.c.; or~~

XVIII.C.~~2~~3.a.(ii) ~~Utilize no-bleed pneumatic controllers where on-site electrical grid power is being used and use of a no-bleed pneumatic controller is technically and economically feasible.~~ If on-site electrical grid power is not being used or a no-bleed pneumatic controller is not technically and economically feasible, utilize pneumatic controllers that emit VOCs in an amount equal to or less than a low-bleed pneumatic controller, unless allowed pursuant to Section XVIII.C.3.c.

XVIII.C.~~2~~3.b. All high-bleed pneumatic controllers in service prior to May 1, 2014, must be replaced or retrofitted by May 1, 2015, such that VOC emissions are reduced to an amount equal to or less than a low-bleed pneumatic controller, unless allowed pursuant to Section XVIII.C.~~2~~3.c.

XVIII.C.~~2~~3.c. All high-bleed pneumatic controllers that must remain in service due to safety and/or process purposes must ~~have Division approval and~~ comply with Sections XVIII.D. and XVIII.E.

XVIII.C.~~2~~3.c.(i) For high-bleed pneumatic controllers in service prior to May 1, 2014, the owner/operator shall submit justification for high-bleed pneumatic controllers to remain in service due to safety and/or process purposes by March 1, 2015. ~~The Division shall be deemed to have approved the justification if it does not object to the owner/operator within 30-days upon receipt.~~

XVIII.C.~~2~~3.c.(ii) For high-bleed pneumatic controllers placed in service on or after May 1, 2014, the owner/operator shall submit justification for high-bleed pneumatic controllers to be installed due to safety and/or process purposes thirty (30) days prior to installation. ~~The Division shall be deemed to have approved the justification if it does not object to the owner/operator within 30-days upon receipt.~~

XVIII.D. Monitoring

This section applies ~~only~~ to ~~high-bleed~~ pneumatic controllers identified in Sections XVIII.C.1.c. and XVIII.C.2.c. (State Only: and in Section XVIII.C.3.c.)

XVIII.D.1. In the 8-Hour Ozone Control Area and located from the wellhead to the natural gas processing plant or point of custody transfer to an oil pipeline:

XVIII.D.1.a. Effective May 1, 2009, each high-bleed pneumatic controller shall be physically tagged by the owner/operator identifying it with a unique high-bleed pneumatic controller number that is assigned and maintained by the owner/operator.

XVIII.D.1.b. Effective May 1, 2009, the owner or operator must inspect each high-bleed pneumatic controller ~~shall be inspected~~ on a monthly basis, perform necessary enhanced maintenance as defined in Section XVIII.B.2.~~.~~, and maintain the ~~device~~ pneumatic controller according to manufacturer specifications to ensure that the controller's VOC emissions are minimized.

XVIII.D.2. In the 8-Hour Ozone Control Area and located at a natural gas processing plant:

XVIII.D.2.a. Effective May 1, 2018, each pneumatic controller with a natural gas bleed rate greater than zero shall be physically tagged by the owner/operator identifying it with a unique pneumatic controller number that is assigned and maintained by the owner/operator.

XVIII.D.2.b. Effective May 1, 2018, the owner or operator must inspect each pneumatic controller with a natural gas bleed rate greater than zero on a monthly basis, perform necessary enhanced maintenance as defined in Section XVIII.B.2, and maintain the pneumatic controller according to manufacturer specifications to ensure that the controller's VOC emissions are minimized.

XVIII.D.~~2~~3. (State Only) Statewide:

~~–~~XVIII.D.~~2~~3.a. Effective May 1, 2015, each high-bleed pneumatic controller shall be physically tagged by the owner/operator identifying it with a unique high-bleed pneumatic controller number that is assigned and maintained by the owner/operator.

XVIII.D.~~2~~3.b. Effective May 1, 2015, the owner or operator must inspect each high-bleed pneumatic controller ~~shall be inspected~~ on a monthly basis, ~~undergo~~ perform necessary enhanced maintenance as defined in Section XVIII.B.~~2~~4.~~-~~, and ~~be~~ maintain~~ed~~ the pneumatic controller according to manufacturer specifications to ensure that the controller's VOC emissions are minimized.

XVIII.E. Recordkeeping

XVIII.E.1. In the 8-Hour Ozone Control Area

XVIII.E.1.a. The owner or operator must maintain records of the total number of continuous bleed, natural gas-driven pneumatic controllers located from the wellhead to the natural gas processing plant, location, and documentation that the natural gas bleed rate is less than or equal to 6 standard cubic feet of gas per hour.

XVIII.E.1.b. The owner or operator must maintain records of the total number of continuous bleed, natural gas-driven pneumatic controllers located at a natural gas processing plant, location, and documentation that the natural gas bleed rate is zero.

XVIII.E.1.c. Records must be maintained for a minimum of five years and records made available to the Division upon request.

XVIII.E.2. This section applies only to ~~high-bleed~~ pneumatic controllers identified in Sections XVIII.C.1.c. and XVIII.C.2.c. (State Only: and in Section XVIII.C.3.c.)

XVIII.E.2.a. The owner or operator of affected operations shall maintain a log of the total number of ~~high-bleed~~ pneumatic controllers and their associated controller numbers per facility, the total number of ~~high-bleed~~ pneumatic controllers per company and the associated justification that the ~~high-bleed~~ pneumatic controllers must be used pursuant to Sections XVIII.C.1.c. and XVIII.C.2.c. (State Only: and in Section XVIII.C.3.c.) The log shall be updated on a monthly basis.

XVIII.E.2.b. The owner or operator shall maintain a log of enhanced maintenance which shall include, at a minimum, inspection dates, the date of the maintenance activity, ~~high-bleed~~ pneumatic controller number, description of the maintenance performed, results and date of any corrective action taken, and the printed name and signature of the individual performing the maintenance. The log shall be updated on a monthly basis.

XVIII.E.2.c. Records of enhanced maintenance of pneumatic controllers shall be maintained for a minimum of three years and readily made available to the Division upon request.~~XVIII.E.3.~~

XVIII.F. (State Only) Pneumatic Controller Inspection and Maintenance in the 8-Hour Ozone Control Area

XVIII.F.1. Beginning January 1, 2018, owners or operators of natural gas-driven pneumatic controllers must operate and maintain pneumatic controllers consistent with manufacturer's specifications, if available, or good engineering and maintenance practices.

XVIII.F.2. Pneumatic controller inspection

XVIII.F.2.a. Beginning January 1, 2018, owners or operators of natural gas-driven pneumatic controllers at natural gas compressor stations or well production facilities must inspect pneumatic controllers using an approved instrument monitoring method at least

XVIII.F.2.a.(i) Annually at well production facilities with uncontrolled actual VOC emissions greater than one (1) ton per year and less than or equal to six (6) tons per year.

XVIII.F.2.a.(ii) Semi-annually at well production facilities with uncontrolled actual VOC emissions greater than six (6) tons per year.

XVIII.F.2.a.(iii) Quarterly at natural gas compressor stations.

XVIII.F.2.b. Where detectable emissions from the pneumatic controller are observed, owners or operators must determine whether the pneumatic controller is operating properly within five (5) working days after detecting emissions. In making this determination, owners or operators may use techniques other than approved instrument monitoring methods.

XVIII.F.2.c. For pneumatic controllers not operating properly, the owner or operator must conduct enhanced maintenance or follow manufacturer specifications to return the pneumatic controller to proper operation.

XVIII.F.3. Maintenance and remonitoring

XVIII.F.3.a. Enhanced maintenance must begin no later than five (5) working days after discovering the pneumatic controller is not operating properly and the pneumatic controller returned to proper operation no later than thirty (30) working days after discovery, unless parts are unavailable, the equipment requires shutdown to complete enhanced maintenance, or other good cause exists. If parts are unavailable, they must be ordered promptly and enhanced maintenance conducted within fifteen (15) working days of receipt of the parts. If shutdown is required, enhanced maintenance must be conducted during the next scheduled shutdown. If delay is attributable to other good cause, enhanced maintenance must be completed within fifteen (15) working days after the cause of delay ceases to exist.

XVIII.F.3.b. Within fifteen (15) working days of completion of enhanced maintenance or other actions to return the pneumatic controller to proper operation, the owner or operator must verify the pneumatic controller is operating properly. In verifying proper operation, owners or operators may use techniques other than approved instrument monitoring methods.

XVIII.F.3.c. Pneumatic controllers found emitting detectable emissions shall not be subject to enforcement by the Division unless the owner or operator fails to determine whether the pneumatic controller is operating properly in accordance with Section XVIII.F.2.b., perform any necessary enhanced maintenance or other action in accordance with Section XVIII.F.3., keep records in accordance with Section XVIII.F.4., or submit reports in accordance with Section XVIII.F.5.

XVIII.F.4. Owners or operators must maintain the following records for a minimum of five years and make records available to the Division upon request.

XVIII.F.4.a. The date, site information, and approved instrument monitoring method used for each inspection;

XVIII.F.4.b. A list of pneumatic controllers, including type, found not operating properly;

XVIII.F.4.c. The date(s) of enhanced maintenance and a description of the actions taken to return the pneumatic controller to proper operation;

XVIII.F.4.d. The date the owner or operator verified the pneumatic controller was returned to proper operation;

XVIII.F.4.e. The delayed repair list, including the date and duration of any period where the enhanced maintenance or other action was delayed beyond thirty (30) days after discovery due to unavailable parts, required shutdown, or delay for other good cause, an explanation for the delay, and the schedule for returning the pneumatic controller to proper operation. Delay of enhanced maintenance or other action due to unavailable parts must be certified by a responsible official; and

XVIII.F.4.f. The date the owner or operator verified the pneumatic controller was returned to proper operation.

XVIII.F.5. Owners or operators of pneumatic controllers at well production facilities or natural gas compressor stations must submit a single annual report on or before May 31st of each year that includes, at a minimum, the following information regarding

pneumatic controller inspection and maintenance activities at their subject facilities conducted the previous calendar year:

XVIII.F.5.a. The total number and type of pneumatic controllers returned to proper operation and whether located at a well production facility or natural gas compressor station; and

XVIII.F.5.b. The number and type of pneumatic controllers on the delayed repair list as of December 31st, whether located at a well production facility or natural gas compressor station, and an explanation for each delay.

XVIII.F.6. The provisions in Section XVIII.F. will be reassessed by the Division and stakeholders in 2020.

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STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

XX.P. October 19 & 20, 2017 (Sections II., XII., Section XVII., and Section XVIII.)

This Statement of Basis, Specific Statutory Authority and Purpose complies with the requirements of the Colorado Administrative Procedure Act Sections 24-4-103, C.R.S. and the Colorado Air Pollution Prevention and Control Act Sections 25-7-110 and 25-7-110.5, C.R.S. ("the Act").

Basis

On May 4, 2016, the U.S. Environmental Protection Agency's ("EPA") published a final rule that determined that Colorado's Marginal ozone nonattainment area failed to attain the 2008 8-hour Ozone National Ambient Air Quality Standard ("NAAQS"). EPA, therefore, reclassified the Denver Metro North Front Range ("DMNFR") area to Moderate and required attainment of the NAAQS no later than July 20, 2018, based on 2015-2017 ozone data.

As a result of the reclassification, on May 31, 2017, Colorado submitted to EPA revisions to its State Implementation Plan ("SIP") to address the Clean Air Act's ("CAA") Moderate nonattainment area requirements, as set forth in CAA § 182(b) and the final SIP Requirements Rule for the 2008 Ozone NAAQS (*See* 80 Fed. Reg. 12264 (March 6, 2015)). As a Moderate nonattainment area, Colorado must revise its SIP to include Reasonably Available Control Technology ("RACT") requirements for each category of volatile organic compound ("VOC") sources covered by a Control Technique Guideline ("CTG") for which Colorado has sources in the DMNFR that EPA finalized prior to a nonattainment area's attainment date. EPA finalized the Control Techniques Guidelines for the Oil and Natural Gas Industry ("Oil and Gas CTG") on October 27, 2016, with a state SIP submittal deadline of October 27, 2018. Given this timing, the November, 2016, SIP revisions did not include RACT for the oil and natural gas source category and Colorado must further revise its SIP.

The Oil and Gas CTG recommends controls that are presumptively approvable as RACT and provide guidance to states in developing RACT for their specific sources. In many cases, Colorado has similar, or more stringent, regulations comparable to the recommendations in the Oil and Gas CTG, though many of these provisions are not currently in Colorado's Ozone SIP. The Commission is adopting RACT for the oil and gas sources covered by the Oil and Gas CTG (as of October 27, 2016) into the Ozone SIP (Sections XII. and XVIII.). In order to make additional progress towards attainment of the NAAQS, the Commission is also adopting State-Only revisions to require owners or operators of natural gas driven pneumatic controllers in the DMNFR area to inspect and maintain pneumatic controllers.

Further, the Commission is making clarifying revisions and typographical, grammatical, and formatting corrections throughout Regulation Number 7.

Specific Statutory Authority

Section 25-7-105(1) of the Act directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in Section 25-7-102 and are necessary for the proper implementation and administration of the Act. The Act broadly defines air pollutant and provides the Commission broad authority to regulate air pollutants. Section 25-7-301 directs the Commission to develop a program providing for the attainment and maintenance of each national ambient air quality standard in each nonattainment area of the state. Section 25-7-106 provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106 also authorizes the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution. Sections 25-7-109(1)(a), (2), and (3) of the Act authorize the Commission to promulgate regulations requiring effective and practical air pollution controls for significant sources and categories of sources, emission control regulations pertaining to nitrogen oxides and hydrocarbons, and emissions control regulations pertaining to the storage and transfer of petroleum products and other VOCs. Section 25-7-109(2)(c), in particular, provides the Commission broad authority to regulate hydrocarbons.

Purpose

As discussed above, Colorado must adopt RACT into its Ozone SIP for sources covered by the Oil and Gas CTG. While the Oil and Gas CTG provides presumptive RACT, it does allow states the flexibility to adopt equivalent levels of controls for covered sources. The Commission determined that some of Colorado's existing regulations (*i.e.,* the "system-wide" control program for condensate tanks in Section XII.D.2.) were equivalent to or better than the RACT recommended by the Oil and Gas CTG. The Commission determined that some sources covered by the Oil and Gas CTG were not addressed in existing regulations (*i.e.,* pneumatic pumps). The Commission also determined that some sources addressed in the Oil and Gas CTG (*i.e.,* components at well production facilities and natural gas compressor stations, compressors, pneumatic controllers) are already subject to existing regulations that were not yet part of Colorado's Ozone SIP. The Commission adopted many of these rules in 2014, and intends to preserve the substance of these rules, where possible, in moving them into the Ozone SIP, while making a few adjustments and improvements in response to recommendations in the Oil and Gas CTG. The Commission also adopted correlating revisions to the applicability provisions of Sections II. and XII.

The Commission relied on existing regulations in the Ozone SIP for RACT for condensate tank controls to satisfy Colorado's obligation to address storage vessels under the Oil and Gas CTG. The Commission adopted requirements for pneumatic pumps in Section XII. to address recommendations in the Oil and Gas CTG. The Commission revised the existing SIP requirements in Section XII.G. for equipment leaks at natural gas processing plants to address recommendations in the Oil and Gas CTG. The Commission duplicated into the Ozone SIP from Section XVII. the provisions for compressors and leak detection and repair ("LDAR") for components at well production facilities and natural gas compressor stations. The Commission adjusted these LDAR requirements to address recommendations in the Oil and Gas CTG, along with updates to the recordkeeping and reporting requirements. Corresponding revisions to the LDAR program in Section XVII. are made on a State-Only basis. The Commission also revised Section XVIII. to include existing State-Only requirements for continuous bleed pneumatic controllers in the Ozone SIP and specify that continuous bleed pneumatic controllers located at natural gas processing plants maintain a natural gas bleed rate of zero scfh.

The Commission adopted State-Only provisions for the inspection and maintenance of natural gas driven pneumatic controllers in Section XVIII.

The Commission also made clarifying revisions and corrected typographical, grammatical, and formatting errors found within the regulation.

The following explanations provide further insight into the Commission's intention for certain revisions and, where appropriate, the technological or scientific rationale for the revision.

Oil and Gas CTG, generally

The Oil and Gas CTG provides recommendations for states to consider in determining RACT for certain oil and natural gas industry emission sources. EPA included storage vessels, pneumatic controllers, pneumatic pumps, compressors, equipment leaks, and fugitive emissions in the Oil and Gas CTG because EPA determined that these sources are significant sources of VOC emissions. EPA defines RACT as "the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility." States may implement approaches that differ from the recommendations in the Oil and Gas CTG so long as they are consistent with the CAA, EPA's implementing regulations, and policies on interpreting RACT.

Applicability to hydrocarbons (Section II.B.)

Section II.B. currently exempts negligibly reactive hydrocarbons, such as methane and ethane, from requirements of the SIP. However, many of the revisions have the benefit of reducing both VOC and these other hydrocarbon emissions. The Commission is therefore revising Section II.B to reflect that some of the Ozone SIP revisions adopted by the Commission regulate hydrocarbons other than VOCs. The Commission makes this revision in recognition that non-VOC hydrocarbon emissions can contribute to ozone formation. Further, that the Oil and Gas CTG LDAR program employs a methane-based threshold, while the Oil and Gas CTG recommendations for pneumatic pumps speak to reducing natural gas emissions. Therefore, this revision is consistent with the Oil and Gas CTG and the CAA.

The Commission intends that the scope of the existing provisions in Section XII. will not be affected by this revision to Section II., but intends that certain requirements in Section XII.K. and XII.L. will apply to non-VOC hydrocarbons. Specifically, Section XII.K.2. requires a 95% reduction of natural gas emissions from pneumatic pumps, not just VOC emissions. Similarly, Section XII.L.4. requires repair of leaks that exceed a 500 ppm hydrocarbon threshold, not a VOC threshold (and not the methane threshold recommended by the Oil and Gas CTG). With respect to Section XVIII., the Commission intends to reduce the spectrum of natural gas emissions from pneumatic devices, where feasible.

Applicability of Section XII. (Section XII.A.)

The Commission is clarifying the applicability of Section XII. Historically, Section XII. has applied to operations that involve the collection, storage, or handling of condensate in the DMNFR. While this remains the case, the requirements in Section XII.J. for compressors, Section XII.K. for pneumatic pumps, and Section XII.L. for components at well production facilities and natural gas compressor stations also apply to those facilities and equipment collecting, storing, or handling other hydrocarbon liquids.

Section XII.A.5. further provides that subject well production facilities are those with uncontrolled actual VOC emissions greater than one ton per year ("tpy"). This applicability threshold addresses the Oil and Gas CTG's recommended barrels of oil equivalent ("BOE") exemption. EPA crafted the BOE exemption believing that well production facilities with an average production less than 15 BOE per well per day were inherently low emitting facilities. EPA later determined that information submitted on the draft CTG did not support this conclusion. Therefore, in addition to the complications concerning tracking BOE, the Commission chose to rely upon an actual uncontrolled VOC tpy threshold for well production facility applicability. The use of a tpy threshold is also consistent with Colorado's current air pollutant reporting and permitting thresholds.

Further, Section XII.A. historically exempted from the requirements of Section XII. those operations reflecting a total of less than 30 tons-per-year of actual uncontrolled emissions of VOCs in the DMNFR

area. That exemption continues to apply to Sections XII.B. through XII.I., but is not extended to Sections XII.J., XII.K., and XII.L.

Definitions (Sections XII.B. and XVII.A.)

The Commission is adopting definitions into Section XII.B., most of which are consistent with the existing definitions of Section XVII.

In the definition of "component", the Commission is clarifying both in Section XII.B. and in Section XVII.A., that thief hatches on tanks are included in the definition as a pressure relief device. This revision clarifies that leaks can occur from the thief hatch (e.g., faulty or dirty seals) that are different than vented emissions under the standard in Section XVII.C.2.a, and that such leaks are subject to the LDAR program.

The Commission is adding a definition of "custody transfer" that applies to custody transfers of both natural gas and oil products. The Commission is also adding definitions for "natural gas driven diaphragm pump" and "natural gas processing plant" that correspond to federal definitions.

Ozone season clarification (Sections XII.F.4. and XII.H.6.)

In October 2015, the EPA finalized a revision to the ozone NAAQS. (80 Fed. Reg. 65292 (Oct. 26, 2015)). In publishing its final rule, the EPA revised the length of Colorado's ozone season. Colorado's ozone season is now year-round, rather than the months of May through September. The Commission therefore revised references to "ozone season" in Sections XII.F.4. and XII.H.6. to reflect that the requirements now apply during the months of May to September. There are no substantive changes to the underlying requirements resulting from this revision.

Equipment leaks at natural gas processing plants (Section XII.G.)

The Commission is updating the LDAR program applicable to equipment leaks at natural gas processing plants in the DMNFR by requiring owners or operators to comply with 40 C.F.R. Part 60 (NSPS), Subparts OOOO or OOOOa, as they existed on July 1, 2017, instead of complying with NSPS Subpart KKK, which is an earlier NSPS and less stringent. Subpart KKK requires sources to implement a NSPS Subpart VV level LDAR program, while Subpart OOOO requires sources to implement a NSPS Subpart VVa level LDAR program. Both Subparts VV and VVa require owners or operators to inspect equipment (e.g., valves, pumps) and repair leaks above specified thresholds. The leak repair thresholds in Subpart VVa are lower than Subpart VV for pumps in light liquid service, valves in gas/vapor service and in light liquid service, and connectors in gas/vapor service and in light liquid service. Similarly, the leak repair thresholds in Subpart OOOO are lower than Subpart KKK for pressure relief devices in gas/vapor service.

Compressors (Section XII.J.)

The Commission is adopting the centrifugal and reciprocating compressor provisions from existing Section XVII.B.3. into proposed Section XII.J. in order to include the requirements in Colorado's Ozone SIP. The Commission intends that the requirements of Section XII.J.1. and Section XII.J.2. apply to compressors located after the well production facility and before the point of custody transfer. These sections then would not apply to compressors located at well production facilities. The Commission is expanding the existing reciprocating compressor requirements to reciprocating compressors located at natural gas processing plants to address recommendations in the Oil and Gas CTG.

The Commission intends to allow owners or operators the option to reduce VOC emissions by routing centrifugal compressor emissions to a process or control and reciprocating compressor emissions to a process, consistent with the recommendations in the Oil and Gas CTG. With respect to centrifugal compressors, the Oil and Gas CTG and related federal requirements reveal that "process" generally refers to routing emissions via a closed vent system to any enclosed portion of a process unit (*e.g.*,

compressor or fuel gas system) where the emissions are predominantly recycled, consumed in the same manner as a material that fulfills the same function in the process, transformed by chemical reaction into materials that are not regulated materials, incorporated into a product, or recovered. With respect to reciprocating compressors, routing to a process refers to using a rod packing emissions collecting system that operates under negative pressure and meets the cover requirements. The Commission intends that owners or operators will follow similar procedures when complying with Section XII.J.

The Commission has adopted an inspection program for compressors, but also intends to provide owners or operators with the alternative of complying with other requirements, including the LDAR program adopted into Section XII.L. While the requirements of the LDAR program would replace the annual visual inspections and EPA Method 21 inspections of the cover and closed vent systems, owners or operators would still need to conduct monthly inspections of their combustion devices. Compliance with the LDAR program is not limited to the inspection frequency and methods specified therein; owners or operators will also need to maintain records of the inspections and submit reports to the Division, consistent with the requirements of the LDAR program.

The Commission has specified an inspection and repair schedule for compressors, but has recognized that there may be reasons that a system is unsafe or difficult to inspect, or where a repair may not be feasible. Owners or operators will need to maintain records of each cover or closed vent system that is unsafe or difficult to inspect, and create a plan for inspection when circumstances allow. Similarly, when a repair is infeasible, insofar as it would require a shutdown of the equipment, repair can be delayed until the next scheduled shutdown. The Commission intends that if upon attempting the repair during shutdown, and finding that the repair was not effective upon returning to operation, the owner or operator will continue repair efforts until successful, and will not wait until the next scheduled shutdown. However, the Commission intends that owners or operators may delay repairs during the May 1 – September 30 timeframe if a subsequent shutdown will result in greater emissions than the emissions that will occur from leaving the equipment unrepaired. Stakeholders have advised, and the Commission recognizes, that unplanned shutdowns may occur, and the owner or operator may not have all necessary parts and labor in place to affect the repair. The Commission expects, however, that if the repair can be made during such an unplanned shutdown, it will be.

The Commission also adopts monitoring and recordkeeping requirements to ensure and demonstrate compliance with the control requirements.

As an alternative to complying with the control, monitoring, recordkeeping, and reporting requirements in Section XII.J., owners or operators may instead comply with centrifugal or reciprocating compressor requirements in an NSPS, including Subparts OOOO, OOOOa, or future standards.

Natural gas driven diaphragm pumps (Section XII.K.)

The Oil and Gas CTG contains recommendations for RACT for natural gas driven diaphragm pumps. The Commission has not previously adopted regulations specifically directed at this type of equipment, and does so in Section XII.K.

The Oil and Gas CTG recommends that the pumps located at a natural gas processing plant have zero VOC emissions. The Oil and Gas CTG also recommends that pumps located at well sites route natural gas emissions from the pneumatic pump to an onsite control device or process, unless the pneumatic pump operates on fewer than 90 days. This 90 day exemption for pumps was included to address intermittently used or portable pumps. Consistent with the Oil and Gas CTG, the Commission intends that if a pump operates on any period of a calendar day, that day would be included in the calculation for applicability of the 90 day exemption. Routing to a process generally refers to routing the emissions to a vapor recovery unit (“VRU”). The Commission also intends that when an owner or operators subsequently installs a control device or has the ability to route to a process, then the owner or operator must capture the emissions from the pneumatic pump and route the emissions to the newly installed control device or available process.

The Commission has applied the same flexibility for pneumatic pumps as it has for compressors; owners or operators may comply with the inspection requirements in Section XII.K., or may follow the LDAR program in Section XII.L. Also similar to compressors, owners or operators may delay subsequent repair attempts of equipment during the months of May – September, where, during a scheduled shutdown, the owner or operator unsuccessfully repaired the leak or equipment requiring repair if a subsequent shutdown will result in greater emissions than the emissions that will occur from leaving the equipment unrepaired.

As an alternative to complying with the control, monitoring, recordkeeping, and reporting requirements in Section XII.K., owners or operators may instead comply with pneumatic pump requirements in a NSPS, including Subparts OOOO, OOOOa, or future standards.

Fugitive emissions at well production facilities and natural gas compressor stations (Section XII.L.)

The Oil and Gas CTG recommends LDAR programs at well sites and gathering and boosting stations, including inspection frequencies, recordkeeping, and reporting. The Commission established Colorado's well production facility and natural gas compressor station LDAR program in 2014 in Section XVII.F., which is not part of the Ozone SIP. In creating a LDAR program in the Ozone SIP, the Commission intends to maintain as much of the current program as feasible. Where the Commission adopted revisions in Section XII.L. that differ from language currently found in the State-Only LDAR program, the Commission in most cases made the same or similar revisions to the corresponding provisions in Section XVII.F.

Inspection, repair, and remonitoring

The Oil and Gas CTG recommends LDAR inspections at a minimum quarterly frequency for gathering and boosting stations and a minimum semi-annual frequency for well sites. The Commission is adopting inspection frequencies to address those recommendations in Section XII.L. The Commission is not modifying the LDAR schedules in Section XVII.F. The Commission intends that for those sources required by Section XVII.F. to conduct more frequent LDAR monitoring than annual or semi-annual (*i.e.* quarterly or monthly), the source may comply with Section XII.L.2. by complying with Section XVII.F. As with the LDAR inspection frequency in Section XVII.F., the Commission expects that owners and owners or operators will ensure that inspections are appropriately spaced on the frequency schedules (*e.g.*, quarterly inspections will occur every three months but not, for example, on March 31 and April 1).

The Oil and Gas CTG does not recommend a semi-annual LDAR inspection frequency at well production facilities with a gas to oil ratio less than 300 and which produce, on average, less than or equal to 15 BOE per well per day. The Commission recognizes that a component of RACT is balancing the emissions to be reduced with the cost of the controls, and agrees that there should be a floor below which the recommended minimum frequencies shall not apply. The Commission determined a threshold of one tpy VOC emissions addresses this balance and the recommendation in the Oil and Gas CTG. Adopting an emissions based threshold maintains consistency with the current Regulation Number 7 applicability program and promotes the clarity and effectiveness of the regulation. The Commission determined that annual LDAR inspections of well production facilities with uncontrolled actual VOC emissions greater than one tpy and equal to or less than six tpy are adequate to address the Oil and Gas CTG's recommendations.

The Commission understands that the revised inspection frequencies will result in a significant number of new inspections. However, annual LDAR inspections of well production facilities with uncontrolled actual VOC emissions greater than one tpy and equal to or less than six tpy will be less burdensome than semi-annual inspections. The Commission has determined that the emission reductions achieved by this program will improve the ability of the DMNFR area to attain the ozone standard and are cost-effective. While the rule specifies that the inspection frequencies begin to apply as of January 1, 2018, the rule does not require that the first periodic inspection be completed by January 1, 2018. The Commission is permitting owners or operators to take 2018 to implement the new LDAR inspection frequencies. As a result, in 2018 owners or operators of well production facilities will need to begin annual or semi-annual

LDAR monitoring and owners or operators of natural gas compressor stations will need to begin quarterly LDAR monitoring. The Commission does not require that the semi-annual monitoring be conducted in advance of this date; however, inspections done after July 1, 2017, that are in addition to current required LDAR monitoring frequencies may count towards the first semi-annual inspection (or inspections done in the previous quarter at natural gas compressor stations).

To ensure that the Ozone SIP LDAR program works together with the existing State-Only LDAR program in Section XVII.F., the Commission has maintained the same thresholds for identifying leaks that require repair. While the Oil and Gas CTG employs a methane concentration threshold, Colorado's LDAR program uses a hydrocarbon concentration threshold. The Commission has also revised Section II. of the regulation to clarify that Section XII. includes the regulation of hydrocarbons (as opposed to just VOCs).

Consistent with the current LDAR program in Section XVII.F., the Commission adopted a requirement to make a first attempt to repair an identified leak within 5 working (*i.e.,* business) days of discovery. In both Section XII.L. and in Section XVII.F., the Commission has included a requirement that repairs be completed within 30 days unless one of the existing justifications for delay of repair exists. As with compressors and pneumatic pumps, owners or operators may delay subsequent repair attempts of equipment during the months of May – September, where, during a scheduled shutdown, the owner or operator unsuccessfully repaired the leak requiring repair if a subsequent shutdown will result in greater emissions than the emissions that will occur from leaving the equipment unrepaired. The Commission has also maintained the flexibility of the State-Only LDAR program in the SIP by giving owners or operators detecting leaks with a non-quantitative method (*e.g.,* IR camera) the ability to quantify the leaks within 5 working days. If the quantification shows that the leak must be repaired under Section XII.L.5., the deadline to repair runs from the date of discovery, not from the date of quantification.

The Commission has also memorialized its intent, in Section XII.L.5.c., that operators not be subject to enforcement for leaks so long as operators are complying with the LDAR program requirements. However, the Commission does not intend to relieve operators of the obligation to comply with the general requirements of Section XII.C., including the requirement to minimize leakage of VOCs to the maximum extent practicable.

Recordkeeping and reporting

The Commission has determined that the current requirements did not adequately incentivize owners or operators to make all reasonable good faith efforts to obtain parts necessary to complete repairs. As a result, some leaks continued on delay of repair lists for an unreasonable length of time. Therefore, the Commission has determined that certification by a responsible official is necessary for those occasions where unavailable parts have resulted in a delay of repair beyond 30 days.

The Commission also expanded the requirements for the annual LDAR report to ensure that the data submitted to the Division more accurately represents and summarizes the activities and effectiveness of the LDAR program. The Commission intends that the Ozone SIP LDAR report include the number of inspections, leaks requiring repair, leaking component type, and monitoring method by which the leaks were found – broken out by facility type (*i.e.,* well production facility or natural gas compressor station). In the State-Only LDAR program, these same records should be further reported out by well production facility or natural gas compressor station inspection frequency tier (*i.e.,* annual, quarterly, etc.). The Commission intends that both the SIP and State-Only LDAR reporting requirement can be satisfied by one report. The Commission expects that the first annual report containing the information required by these revisions will be submitted by May 31, 2019 (*i.e.,* no changes are expected to current requirements for the May 31, 2018, annual report).

Alternative approved instrument monitoring method ("AIMM")

The Commission has adopted a process for the review and approval of alternative instrument based monitoring methods. The CAA prohibits a state from modifying SIP requirements except through specified CAA processes. EPA interprets this CAA provision to allow EPA approval of SIP provisions that include

state authority to approve alternative requirements when the SIP provisions are sufficiently specific, provide for sufficient public process, and are adequately bounded such that EPA can determine, when approving the SIP provision, how the provision will actually be applied and whether there are adverse impacts. (State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction, 80 Fed. Reg. 33917-33918, 33927 (June 12, 2015)) Therefore, the Commission includes an application and review process in the SIP for the potential approval of instrument based monitoring methods as alternatives to an infra-red camera or EPA's Method 21. The approval may also include modified recordkeeping and reporting requirements based on the capabilities of the potential alternative monitoring method. This proposed process does not alter the stringency of Colorado's well production facility and natural gas compressor station LDAR program because an alternative AIMM must be capable of detecting leaks comparable to the leaks requiring thresholds specified in the SIP for an infra-red camera or EPA's Method 21 to be potentially approvable.

The Commission received comments from stakeholders requesting that the Commission explicitly provide for the ability to employ certain alternatives not equipped with the leak detection capabilities of infra-red cameras or Method 21. The Commission intends that the rule be flexible enough to allow the Division to consider alternatives, as long as the applicant can demonstrate that the proposed method is comparable to approved methods.

Clarifications

The Commission is also clarifying, both in Section XII.L. and Section XVII.F., that all detected emissions are leaks, but that only those leaks above specified thresholds require repair. The Commission did not intend that leaks falling below the specified thresholds would not be considered "leaks," only that those leaks did not require repair in accordance with the prescribed schedules. The Commission has further clarified that only records of leaks requiring repair need be maintained.

Regulation Number 7 already requires that owners or operators remonitor repaired leaks with an AIMM. AIMM includes EPA Method 21, which includes the soapy water method, and the Commission further clarifies that an owner or operator may use the soapy water method in EPA Method 21 to remonitor a repaired leak.

Some stakeholders asked the Commission to "clarify" that the LDAR repair, remonitoring, recordkeeping, and reporting requirements applied only to those leaks discovered by the owner or operator, and not those discovered by the Division. The Commission believes that would not be a clarification, but a change to the current program, and does not make that requested revision at this time. Therefore, the repair, remonitoring, recordkeeping, and reporting requirements continue to apply to leaks discovered by the Division.

Pneumatic controllers (Section XVIII.)

The Commission is adopting both Ozone SIP and State-Only revisions to Section XVIII.

The Commission added a definition of continuous bleed pneumatic controller, which corresponds to the Oil and Gas CTG. The Commission also added "continuous bleed" to several provisions throughout Sections XVIII.C.-E. to clarify that the earlier revisions from 2014 primarily applied to continuous bleed pneumatic controllers (which emit continuously) as opposed to intermittent pneumatic controllers (which emit only when actuating).

Pneumatic controllers at or upstream of natural gas processing plants

Section XVIII. already requires that owners or operators install low-bleed pneumatic controllers at or upstream of natural gas processing plants, unless a high-bleed pneumatic controller is required for safety

or process purposes. This requirement is consistent with the Oil and Gas CTG and the Commission intends that these provisions be included in Colorado's Ozone SIP.

The Commission adopts additional requirements, consistent with the Oil and Gas CTG, related to pneumatic controllers at natural gas processing plants. The Commission is requiring that all pneumatic controllers at a natural gas processing plant have a bleed rate of zero (*i.e.,* no VOC emissions), unless a pneumatic controller with a bleed rate greater than zero is necessary due to safety and process reasons. The requirements to submit a justification for a pneumatic controller exceeding the emission standard to the Division, as well as the requirements for maintenance, tagging, and records, duplicate and are intended to be consistent with existing requirements related to high-bleed pneumatic controllers. Additionally, the Commission is requiring owners or operators to maintain records demonstrating their continuous bleed, natural gas-driven pneumatic controllers meet the applicable low-bleed or bleed rate of zero standards.

Clarification

The Commission is also clarifying the intent behind provisions adopted in 2014 regarding the use of pneumatic controllers powered by instrument air (as opposed to natural gas) when grid power is being used. In 2014, the Commission intended that when a pneumatic controller was proposed for installation, owners or operators would power the pneumatic controller via electrical power instead of natural gas when electrical grid power was being used on-site. The Commission recognized that there may be situations where that was not technically or economically feasible, and excluded those situations from the requirements of the rule. The Commission provided that if powering the controller with electrical power was not feasible, owners or operators could install a pneumatic controller with VOC emissions equal to or less than a low-bleed pneumatic controller. The Commission has learned that owners or operators were not interpreting this rule consistently with the Commission's intentions. Recognizing that the rule could fairly be described as ambiguous, and even though the Commission believes its intent was clear, the Commission has clarified its intent that the first option is to install a no-bleed pneumatic controller in these revisions.

The Commission directs the Division to use discretion in determining whether to pursue enforcement against owners or operators who did not comply between 2014 and the current clarification. The Commission recognizes that the installation of an electrically-powered controller may have been feasible in 2014, but may not be feasible to retrofit at this time. The Commission nonetheless encourages owners or operators who, based on a mis-reading of the regulation, did not install a no-bleed pneumatic controller to evaluate whether retrofitting controllers at this time is technically and economically feasible.

The Commission intends that controllers that emit gas, but from which emissions are captured (because the controller is enclosed) and routed to a control device, be a permissible no-bleed option for owners or operators in complying with this provision.

Natural gas driven pneumatic controller inspection and maintenance (state-only)

Following the 2014 rulemaking, the Commission requested that the Division continue its investigation into potential regulations for intermittent pneumatic controllers. During the recent 2016 ozone rulemaking, stakeholders again asked the Commission to address intermittent controllers. In response, the Commission again directed the Division to evaluate potential emission reduction measures for intermittent pneumatic controllers.

The Commission is adopting an inspection and maintenance program for natural gas-driven pneumatic controllers. While the Oil and Gas CTG notes the value of pneumatic controller inspection and maintenance, the Oil and Gas CTG does not specify a pneumatic controller inspection and maintenance as presumptive RACT. Therefore the revisions are proposed as State-Only and are not made part of the Ozone SIP at this time. Natural gas-driven pneumatic controllers can be continuous bleed, intermittent vent, and self-contained (zero-bleed) pneumatic controllers. Recent studies of pneumatic controllers have found that malfunctioning devices contribute a significant amount of hydrocarbon emissions to the

atmosphere. The Oil and Gas CTG suggests that maintenance of pneumatic controllers, including cleaning and tuning, can eliminate excess emissions from the devices. While the Oil and Gas CTG's recommended RACT (low-bleed or zero emissions) applies to continuous bleed pneumatic controllers, the discussion concerning enhanced maintenance of pneumatic controllers builds on earlier EPA discussions, such as EPA's 2014 Pneumatic Controller White Paper, and is not limited to continuous bleed pneumatic controllers. The Commission recognizes that continuous bleed and intermittent pneumatic controllers are designed to have emissions, however these pneumatic controllers can also have excess emissions when not operating properly. As a result, the Commission believes that a pneumatic controller inspection and maintenance program will reduce the excess emissions from such pneumatic controllers.

The Commission intends to apply the same find and fix approach used in the LDAR requirements in Section XII.L. to all natural gas driven pneumatic controllers. The Commission is requiring that all natural gas-driven pneumatic controllers at well production facilities and natural gas compressor stations be inspected periodically to determine whether the pneumatic controller is operating properly, in contrast to quantitatively comparing pneumatic controller emissions to a regulatory threshold. The Commission is requiring that owners or operators inspect pneumatic controllers at well production facilities annually or semi-annually, depending on the well production facility VOC emissions, and at natural gas compressor stations quarterly. The Commission expects that owners or operators will inspect their pneumatic controllers during the same LDAR inspections, and using the same AIMM, conducted for compliance with Sections XII.L.

The pneumatic controller inspection and maintenance process is intended to be a multi-step process. First, the owner or operator must inspect all natural gas driven pneumatic controller using AIMM to screen for detectable emissions. This first step allows owners or operators to narrow potential maintenance or repair efforts to only those pneumatic controllers with detected emissions. Second, the owner or operator must determine whether the pneumatic controllers with detected emissions are operating properly. Use of an AIMM is not required during this second step; the Commission does not at this time intend to mandate to owners or operators how to determine if their pneumatic controllers are operating properly. During this second step, if an owner or operator determines that the pneumatic controller is operating properly, no further action is necessary. Third, where an owner or operator determines the pneumatic controller is not operating properly, the owner or operator must conduct enhanced maintenance to return an improperly operating pneumatic controller to proper operation. Fourth, general recordkeeping and reporting requirements apply broadly to the number of facilities inspected and number of inspections. More detailed recordkeeping and reporting is required for those pneumatic controllers that the owner or operator determined not to be operating properly. The Commission expects that owners or operators will include the pneumatic controller information as State-Only information in their LDAR annual reports.

In returning a pneumatic controller to proper operation, the Commission relies upon the previously defined term, enhanced maintenance, found in Section XVIII.B. related to maintaining high-bleed pneumatic controllers. The Commission has expanded this definition to guide the maintenance of all natural gas driven pneumatic controllers. Recognizing that the function and potential maintenance or repair of pneumatic controllers can be variable, owners or operators are not restricted to using an AIMM to determine proper operation or verify the return to proper operation.

The Commission has adopted a "reassessment" provision for this inspection and maintenance program because industry has proposed to study pneumatic controller emission reduction options, including the rate, type, application, and causes of pneumatic controllers found operating improperly; inspection and repair techniques and costs; available preventative maintenance methods; and other related information. The data collection effort will include data from a representative cross-section of well production facilities and natural gas compressor stations in the DMNFR. In accordance with industry's proposal, a task force will be convened by January 30, 2018, consisting of industry representatives, Division staff, and other interested parties. Data collection will begin no later than by May 1, 2018. The task force will brief the Commission annually and make any recommendations on its findings in a report to the Commission, due May 1, 2020. The Commission intends that this information be used to reassess the natural gas driven

pneumatic controller requirements of Section XVIII.F. Section XVIII.F. will remain in effect until rescinded, superseded, or revised.

The Commission recognizes that there is much to learn about the inspection and maintenance of natural gas driven pneumatic controllers, which highlights the need for the reassessment of Section XVIII.F. as well as enforcement discretion. The Commission intends that while the task force is actively working on data collection and the 2020 report to the Commission, the determination of whether a pneumatic controller is operating properly will be made by the owner or operator. Any information gathered through the task force on preventative, good engineering, and maintenance practices will be used to reassess Section XVIII.F. and will not be used for enforcement purpose through 2020.

Additional Considerations

Colorado must revise Colorado's ozone SIP to address the ozone Moderate nonattainment area requirements. The CAA does not expressly address all of the provisions adopted by the Commission. Rather, federal law establishes the 8-hour ozone NAAQS and requires Colorado to develop a SIP adequate to attain the NAAQS. The CAA requires that Colorado's Ozone SIP include RACT for all sources covered by a CTG. Therefore, the Commission adopted certain revisions to Regulation Number 7 to ensure attainment with the 2008 8-hour ozone NAAQS and satisfy Colorado's Moderate nonattainment area obligations, including those related to RACT. These revisions do not exceed or differ from the federal act due to state flexibility in developing nonattainment area SIPs; however, in accordance with C.R.S. § 25-7-110.5(5)(b), the Commission nonetheless determines:

(I) CAA Sections 172(c) and 182(b) require that Colorado submit a SIP that includes provisions requiring the implementation of RACT at sources covered by a CTG. The EPA issued the final Oil and Gas CTG in October 2016, leading to the revisions to the Ozone SIP adopted by the Commission. The revisions to Regulation Number 7 address RACT for compressors, pneumatic pumps, pneumatic controllers, natural gas processing plants, natural gas compressor stations and well production facilities. The revisions apply to equipment already regulated by Colorado on a state-only basis and apply to equipment not previously the subject of regulation. NSPS OOOO, NSPS OOOOa, NSPS Kb, NSPS KKK, NESHAP HH, and NESHAP HHH may also apply to the regulated equipment. The Commission determined that the adopted RACT SIP requirements are comparable to the Oil and Gas CTG's recommendations.

(II) The federal rules discussed in (I), are primarily technology-based in that they largely prescribe the use of specific technologies in order to comply. EPA has provided some flexibility in NSPS OOOO and NSPS OOOOa by allowing a storage vessel to avoid being subject to NSPS OOOO if the storage vessel is subject to any state, federal, or local requirement that brings the storage vessel's emissions below the NSPS OOOO threshold. EPA has also provided some flexibility in NSPS OOOOa to allow an owner or operator to request EPA approve compliance with an alternate emission limitation (e.g., state program) instead of related requirements in NSPS OOOOa.

(III) The CAA establishes the 8-hour ozone NAAQS and requires Colorado to develop SIP revisions that will ensure attainment of the NAAQS. The ozone NAAQS was not determined taking into account concerns unique to Colorado. In addition, Colorado cannot rely exclusively on a federally enforceable permit or federally enforceable NSPS or NESHAP to satisfy Colorado's Moderate nonattainment area RACT obligations. Instead, Colorado can adopt applicable provisions into its SIP directly, as the Commission has done here.

(IV) Unless federal law changes, Colorado will be required to comply with the more stringent 2015 ozone NAAQS in the near future and may be required to comply with the more stringent requirements for a Serious nonattainment area. These current revisions may improve the ability of the regulated community to comply with new, more stringent, future

requirements. In addition, these revisions build upon the existing regulatory programs being implemented by Colorado's oil and gas industry, which is more efficient and cost-effective than a wholesale adoption of EPA's recommended oil and gas RACT provisions.

(V) EPA has established October 27, 2018, deadline for this SIP submission. The Commission is not aware of a timing issue that might justify changing the time frame for implementation of federal requirements.

(VI) The revisions to Regulation Number 7 Sections XII. and XVIII. strengthen Colorado's SIP, which currently addresses emissions from the oil and gas sector in a cost-effective manner, allowing for continued growth of Colorado's oil and gas industry.

(VII) The revisions to Regulation Number 7 Sections XII. and XVIII. establish reasonable equity for oil and gas owners and operators subject to these rules by providing the same standards for similarly situated and sized sources.

(VIII) If Colorado does not attain the 2008 ozone NAAQS by July 20, 2018, EPA will likely reclassify Colorado as a Serious ozone nonattainment area, which automatically reduces the major source thresholds from 100 tons per year of VOC and NOx to 50 tons per year; thus subjecting more sources to major source requirements. If EPA does not approve Colorado's SIP, EPA may promulgate a Federal Implementation Plan; thus potentially determining RACT for Colorado's sources. Either of these outcomes may subject others to increased costs.

(IX) Where necessary, the revisions to Regulation Number 7 include minimal monitoring, recordkeeping, and reporting requirements that correlate, where possible, to similar federal or state requirements.

(X) Demonstrated technology is available to comply with the revisions to Regulation Number 7. Some of the revisions expand upon requirements already applicable, such as the requirements for compressors, pneumatic controllers, leak detection and repair at well production facilities and natural gas compressor stations, and equipment leaks at natural gas processing plants.

(XI) As set forth in the Economic Impact Analysis, the revisions to Regulation Number 7 contribute to the prevention of ozone in a cost-effective manner.

(XII) Alternative rules could also provide reductions in ozone and help to attain the NAAQS. The Commission determined that the Division's proposal was reasonable and cost-effective. However, a no action alternative would very likely result in an unapprovable SIP.

As part of adopting the revisions to Regulation Number 7, the Commission has taken into consideration each of the factors set forth in C.R.S. § 25-7-109(1)(b).

Colorado must revise Colorado's ozone SIP to address the Moderate nonattainment area requirements. However, 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:

(I) These rules are based upon reasonably available, validated, reviewed, and sound scientific methodologies, and the Commission has considered all information submitted by interested parties.

(II) Evidence in the record supports the finding that the rules shall result in a demonstrable reduction of the ozone precursors VOC.

(III) Evidence in the record supports the finding that the rules shall bring about reductions in risks to human health and the environment that justify the costs to implement and comply with the rules.

(IV) The rules are the most cost-effective to achieve the necessary and desired results, provide the regulated community flexibility, and achieve the necessary reduction in air pollution.

(V) The selected regulatory alternative will maximize the air quality benefits of regulation in the most cost-effective manner.

COLORADO
Air Quality Control Commission
Department of Public Health & Environment

NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 7

SUBJECT:

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 7 that address Reasonably Available Control Technology requirements for each category of sources covered by the United States Environmental Protection Agency's Oil and Gas Control Techniques Guidelines in Colorado's Ozone State Implementation Plan. These proposed revisions would incorporate existing State-Only requirements into Colorado's Ozone SIP, propose new requirements for inclusion in Colorado's Ozone SIP, and revise and/or clarify existing SIP and State-Only provisions.

The proposed revisions are offered to address the requirements of the federal Clean Air act for areas classified as moderate non-attainment. The proposed revisions would result in hydrocarbon emissions reductions in the Denver Metro Area/North Front Range Non-attainment area necessary to make progress toward attaining the 2008 8-hour ozone NAAQS. The Commission may also consider imposing similar requirements on facilities on a state-wide basis, not just in the Denver Metro Area/North Front Range. The Commission may also make clarifying revisions and typographical, grammatical, and formatting corrections throughout Regulation Number 7.

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

HEARING SCHEDULE:

DATE: October 19 & 20, 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 **October 2, 2017** so that Commissioners have the opportunity to review the information prior to the hearing.

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

Information should 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

Public testimony will be taken on October 19 & 20, 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 **August 17, 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
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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 September 14, 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 **August 28, 2017 at 9:00 a.m.,** at the Department of Public Health and Environment, Sabin 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 **September 22, 2017 at 9:00 a.m.** at the Department of Public Health and Environment, Sabin Conference Room. All parties must submit by electronic mail a prehearing statement to the Commission Office by close of business **September 14, 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 **September 14, 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 **September 14, 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 **September 29, 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.I.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.I.3.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

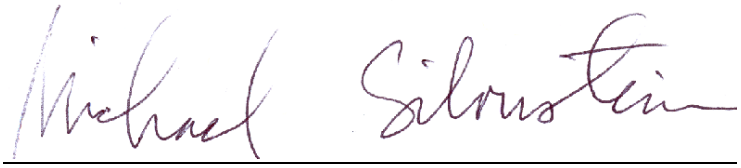
Section 25-7-105(1) of the Act directs the Commission to promulgate such rules and regulations as are consistent with the legislative declaration set forth in Section 25-7-102 and are necessary for the proper implementation and administration of the Act. The Act broadly defines air pollutant and provides the Commission broad authority to regulate air pollutants. Section 25-7-301 directs the Commission to develop a program providing for the attainment and maintenance of each national ambient air quality standard in each nonattainment area of the state.

Section 25-7-106 provides the Commission maximum flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106 also authorizes the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution. Sections 25-7-109(1)(a), (2), and (3) of the Act authorize the Commission to promulgate regulations requiring effective and practical air pollution controls for significant sources and categories of sources, emission control regulations pertaining to nitrogen oxides and hydrocarbons, and emissions control regulations pertaining to the storage and transfer of petroleum products and other VOCs. Section 25-7-109(2)(c), in particular, provides the Commission broad authority to regulate hydrocarbons.

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 20th day of July 2017 at Denver, Colorado

Colorado Air Quality Control Commission



Michael Silverstein, Administrator

Notice of Proposed Rulemaking

Tracking number

2017-00301

Department

1000 - Department of Public Health and Environment

Agency

1007 - Hazardous Materials and Waste Management Division

CCR number

6 CCR 1007-1 Part 01

Rule title

RADIATION CONTROL - GENERAL PROVISIONS

Rulemaking Hearing

Date

09/20/2017

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 changes being proposed for Parts 1 and 17 are to align Colorado regulations with those of the federal government and ultimately international regulations. The changes are needed for compatibility with the federal regulations and to maintain Colorados status as an agreement state, and allow Colorado to work within the global and national framework for regulation of transportation of radioactive materials.

Statutory authority

Sections 25 1.5 101(1)(k), 25-1.5-101(1)(l), 25-11-103, 25-11-104, and 25-1-108, C.R.S.

Contact information

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Title

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COLORADO
Department of Public Health & Environment

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

To: Members of the State Board of Health

From: Jennifer Opila, Program Manager
James Jarvis, Regulatory Lead
Hazardous Materials and Waste Management Division

Through: Gary Baughman, Division Director GWB

Date: July 19, 2017

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1007-1, Part 1, General Provisions, and Part 17, Transportation of Radioactive Material, with a request for a rulemaking hearing to be set for September of 2017

The Division is proposing to make technical amendments to the Part 17 radiation regulations, titled *Transportation of Radioactive Material* and an associated change to the Part 1 radiation regulations, titled *General Provisions*. The Part 1 rule contains formal definitions that are used throughout other regulatory parts. The Part 17 contains the basic requirements for transportation of radioactive materials and is used in conjunction with other federal regulations governing transportation of radioactive materials including those of the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Transportation (DOT).

In 2014 and 2015 the NRC and DOT made regulatory changes to better align and harmonize U.S. transportation regulations with those of the international community and the standards of the International Atomic Energy Agency (IAEA). The changes being proposed for Parts 1 and 17 are to align Colorado regulations with those of the federal government and ultimately international regulations. The changes are needed for compatibility with the federal regulations and to maintain Colorado's status as an agreement state, and allow Colorado to work within the global and national framework for regulation of transportation of radioactive materials.

Further details of the proposed rule are listed in a Statement of Basis and Purpose and Specific Statutory Authority for the proposed rule, which, along with a Regulatory Analysis and supporting information, is available at: https://www.colorado.gov/cdphe/radregs
During early stakeholder engagement outreach efforts in February 2017, approximately 600+ stakeholders were notified of the opportunity to provide comments on the rule changes under consideration. No comments were received during the comment period. Additionally, a stakeholder meeting was scheduled and offered during the comment period, but no stakeholders were in attendance.

For efficiency purposes, the Part 1 rulemaking effort is being amended concurrent with rulemaking activities for Part 17 since the changes are directly related.

At the July 2017 request for rulemaking, the Radiation Program requests that the Board of Health set a rulemaking hearing for September of 2017.

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STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1007-1, Part 1, General Provisions
6 CCR 1007-1, Part 17, Transportation of Radioactive Material

Basis and Purpose.

The proposed amendments make technical changes to the Part 1 and Part 17 rules.

The proposed changes to Part 1 and Part 17 will ensure Colorado regulations involving transportation of radioactive materials are consistent with the 2014 and 2015 changes to federal rules that are now in effect. The Colorado rule changes will also harmonize transportation requirements with the international rules of the International Atomic Energy Agency (IAEA).

Consistent with current federal and international rules, the proposed changes to Part 1 and Part 17 will: add or modify definitions for *criticality safety index*, *low specific activity*, and *uranium-natural, depleted, enriched,* and *special form* applicable to transportation; expand exemptions for transportation of certain low-level radioactive materials deemed to be of low risk; clarify that Colorado is responsible for review of certain package-related quality assurance programs for use of Type B packages under a general license; change the rule language to defer to federal rule requirements for package quality assurance rather than provide select requirements in Colorado rule; expand some recordkeeping requirements for irradiated fissile material shipments; add package and conveyance equations used for calculating limits for mixtures or unknown quantities of radioactive materials; adjust or add package limits for certain isotopes requiring updates or that were not previously identified; update contact and related information pertaining to notifications for shipments of nuclear waste due to NRC website and organizational changes; and various technical, editorial and typographical corrections of a minor nature.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes:
25-1.5-101(1)(k), 25-1.5-101(1)(l), 25-11-103, 25-11-104, and 25-1-108, C.R.S.

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____. Rules are ___ authorized ___ required.
___X__ No

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

__X__ Yes
_____ No

Does this rule incorporate materials by reference?

_____ Yes
__X___ No

If "Yes," the rule needs to provide the URL of where the material is available on the internet (CDPHE website recommended) or the Division needs to provide one print or electronic copy of the incorporated material to the State Publications Library. § 24-4-103(12.5)(c), C.R.S.

Does this rule create or modify fines or fees?

_____ Yes
__X___ No

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REGULATORY ANALYSIS
for Amendments to
6 CCR 1007-1, Part 1, General Provisions
6 CCR 1007-1, Part 17, Transportation of Radioactive Material

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

   The proposed rule changes in Part 1 and Part 17 are expected to impact only a limited number of licensees due to the nature of the proposed changes. Licensees impacted by the proposed changes include: entities who transport or offer for transport low level materials who are excepted by the provisions in 17.4.2; licensees who utilize type B packages for transport of materials but excluding industrial radiography licensees per the exception in section 17.10.2; and licensees shipping nuclear waste**. (Note, there are no Colorado licensees who ship nuclear waste).

   It is expected that all users of the rule will generally benefit from the proposed requirements as it will ensure that transportation requirements are consistent between states and across international boundaries.

   The proposed rule will not impact those entities using only radiation producing (x-ray) machines for any purpose.

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 proposed changes are expected to have a minimal quantitative and qualitative impact. The requirements for submission of quality assurance program documents under the general license of 17.7 will require the licensee to submit documents to the Department rather than NRC as currently written. This change is expected to have a minimal impact on affected persons (licensees).

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

   The proposed requirement for the Department (radiation program) to review the quality assurance program for entities operating under the general license described in section 17.7 of the proposed rule is the only provision expected to have a slight impact on the Department. The proposed requirement applies to the reviews of quality assurance programs for those using (NRC) approved packages. The most common types of packages requiring NRC approval (and an NRC certificate of compliance) used by Colorado licensees are known as “Type B” packages. Such Type B packages are typically used for shipment of higher risk radioactive materials. With the exception of industrial radiography licensees, the use of Type B packages by Colorado licensees occurs infrequently – typically every 2-4 years or so – at the time of source exchange. (Note that the Part 17 rule currently provides an exception from the quality assurance review process for industrial radiography licensees using Type B packages in 17.10 so there is no impact to these industrial radiography licensees or the Department as a result of the proposed update to the quality assurance program review provision).

   The use of Type B packages by Colorado licensees is secondary to the other activities of the licensee during such large activity shipments. Excluding industrial radiography shipments, most activities which involve the use of Type B packages will already involve

additional oversight by the Department so the review of any quality assurance documents or program elements are not expected to have a significant impact on the Department.

The rule requirements are enforced only by the Department. No other agency will encounter costs as a result of the proposed changes.

The costs to the Department, due to the review of additional program elements, is not expected to be significant.

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

The benefits of amending the Part 1 and Part 17 rules will be to ensure that Colorado regulations involving transportation of radioactive materials will be consistent with the national and international framework for regulating radioactive materials transport. Colorado licensees shipping or receiving radioactive materials to or through states under the jurisdiction of NRC or who ship internationally are currently required to follow federal transportation regulations.

The rule amendments will also help ensure that Colorado's status as an agreement state is maintained.

Inaction on the proposed rule will result in potential conflict with federal requirements and may jeopardize Colorado's agreement state status. Inaction would also limit Colorado's consistency within the national and international regulatory framework for radioactive materials regulation.

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

The proposed changes involve numerous technical changes. There are no less costly or less intrusive methods for achieving the purpose of the proposed rule changes.

The agency cost to review quality assurance programs is expected to be minimal and implemented as a part of routine program activities.

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

The proposed changes are technical changes necessary for compatibility with federal rule.

There are no alternate rules or alternatives available rulemaking to address the changes.

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

The proposed changes are technical in nature and are needed to harmonize Colorado rule with federal and international rules involving transportation of radioactive materials.

There are no easily quantifiable data associated with the proposed rule changes.

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STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1007-1, Part 1, General Provisions
6 CCR 1007-1, Part 17, Transportation of Radioactive Material

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:

The Governor-appointed members of the Colorado Radiation Advisory Committee who represent the healing arts, industry and higher education reviewed the proposed rule changes and had no comments on the proposed changes. The Part 17 rule (and associated Part 1 changes) apply the regulatory requirements for transportation of radioactive materials, and therefore all 300+ active radioactive material licensees were notified of the rule changes being considered for amendment and were given the opportunity to provide input. Additionally, another 300+ stakeholders representing a diverse group of entities, including non-licensees, public interest groups and individuals, federal agencies and others were notified of the rule change being considered and were invited to provide input and comments. No comments were received during this early stakeholder engagement period.

As part of the agreement state requirements, the U.S. Nuclear Regulatory Commission (NRC) reviewed the draft rule changes for consistency and compatibility with federal rule. The NRC provided several comments on the proposed rule changes specific to Part 17 which have been incorporated and are reflected in the most recent draft rule.

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.

There were no major factual or policy issues encountered during the stakeholder process. No stakeholders provided comments on the proposed rule change. No entities attended the scheduled stakeholder meeting.

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

The proposed rule change impacts Coloradoans equally. The proposed rule changes are technical changes that do not provide an opportunity to advance HEEJ. The content of the proposed rule change is driven by the need for consistency with federal rule and the national and international framework for regulating the transport of radioactive materials. All entities falling under these regulatory requirements are treated in an equal manner.

DRAFT C 02/27/17

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - GENERAL PROVISIONS

6 CCR 1007-1 Part 01

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

Adopted by the Board of Health on September 20, 2017, effective date November 14, 2017.

~~**Adopted by the Board of Health on December 16, 2015.**~~

PART 1: GENERAL PROVISIONS

1.1 Purpose and Scope.

[* * * = Indicates omission of unaffected rules/sections]

* * *

1.1.5.1 **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.**~~Published material incorporated in Part 1 by reference is available in accord with Section 1.4~~.

* * *

1.2 Definitions.

* * *

"Special form radioactive material" means radioactive material that satisfies the following conditions:

(1) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(2) The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

(3) **It satisfies the requirements of 10 CFR 71.75. A special form encapsulation designed in accordance with the requirements of:**

(a) 10 CFR 71.4 in effect on June 30, 1983 (see 10 CFR part 71, revised as of January 1, 1983), and constructed before July 1, 1985;

(b) A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and

Commented [jsj1]:
EDITORIAL NOTE 1: ALL COMMENTS (SUCH AS THIS ONE) SHOWN IN THE RIGHT SIDE MARGIN OF THIS DOCUMENT ARE FOR INFORMATION PURPOSES ONLY TO AID THE READER IN UNDERSTANDING THE PROPOSED RULE DURING THE DRAFT REVIEW PROCESS.

THESE COMMENTS ARE **NOT** PART OF THE RULE AND WILL BE DELETED PRIOR TO FINAL SUBMISSION FOR PUBLICATION.

EDITORIAL NOTE 2: COMPATIBILITY WITH FEDERAL U.S. NUCLEAR REGULATORY COMMISSION (NRC) REGULATIONS IS REQUIRED BY COLORADO STATUTE AND TO MAINTAIN AGREEMENT STATE STATUS WITH THE NUCLEAR REGULATORY COMMISSION (NRC). THE PROPOSED CHANGES TO PART 1 ARE BASED ON INFORMATION FROM THE NRC REGULATORY ACTION TRACKING SYSTEM (RATS) WHICH MAY BE FOUND AT: https://scp.nrc.gov/rss_regamendents.html

INFORMATION ON NRC COMPATIBILITY CATEGORIES MAY BE FOUND AT: https://scp.nrc.gov/regresources.html

EDITORIAL NOTE 3: THE CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS (CRCPD), INC., DEVELOPS SUGGESTED STATE REGULATIONS FOR CONTROL OF RADIATION (KNOWN AS SSRCR'S). CONSISTENT WITH STATE LAW AND UNLESS OTHERWISE DETERMINED BY THE BOARD OF HEALTH, COLORADO'S RULES ARE TO BE CONSISTENT WITH NRC REGULATIONS AND THE SSRCR REGULATIONS. THE SSRCRS MAY BE FOUND ONLINE AT: http://www.crcpd.org/ssrcrs/default.aspx

THE EQUIVALENT REGULATORY PART TO PART 1 IS SSRCR PART "A". PART A WAS LAST UPDATED IN 2003 AND IS NO LONGER CONSISTENT WITH CHANGES TO 10 CFR PART 71.

EDITORIAL NOTE 4: UNAFFECTED SECTIONS OF THE RULE HAVE BEEN OMITTED FROM THE DRAFT FOR BREVITY. SUCH SECTIONS ARE DELINIATED BY " * * * ".

Commented [jsj2]: These dates reflect the anticipated adoption by the Colorado Board of Health. The effective date is approximately 60 days beyond the adopted date, based upon the Colorado Secretary of State's publication calendar/schedule.

Commented [jsj3]: Definition is updated, consistent with the equivalent definition in 10 CFR 71.4.

NRC Compatibility "B"
NRC RATS 2015-3

(c) Special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

~~All test requirements specified by the NRC that are applicable and in effect at the time are met by the special form encapsulation design and/or construction.~~

* * *

1.4.3 The addresses of the Federal Agencies and Organizations originally issuing the referenced materials are available on the Division website at **https://www.colorado.gov/cdphe/radregs**~~http://www.cdphe.state.co.us/hm/index.htm~~.

* * *

Commented [jsj4]: Web site URL updated for consistency with other rule changes and web site updates.

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DRAFT F 06/26/17

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - TRANSPORTATION OF RADIOACTIVE MATERIALS

6 CCR 1007-1 Part 17

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

Adopted by the Board of Health September 20, effective date November 14, 2017.

PART 17: TRANSPORTATION OF RADIOACTIVE MATERIALS

GENERAL PROVISIONS

17.1 Purpose and Scope.

17.1.1 Authority.

Rules and regulations set forth herein are adopted pursuant to the provisions of sections 25-1-108, 25-1.5-101(1)(l), and 25-11-104, CRS.

17.1.2 Basis and Purpose.

A statement of basis and purpose accompanies this part and changes to this part. A copy may be obtained from the Department.

17.1.3 Scope.

This part establishes requirements for packaging, preparation for shipment, and transportation of radioactive material.

17.1.4 Applicability.

17.1.4.1 This part applies to any person who transports radioactive material or delivers radioactive material to a carrier for transport.

(1) This part applies in particular to any licensee authorized by specific or general license to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on a public highway.

(2) The transport of licensed material or delivery of licensed material to a carrier for transport is subject to the:

(a) General provisions of 17.1 through 17.5, including referenced DOT regulations;

(b) Quality assurance requirements of ~~17.10~~**10 CFR 71**; and

(c) Operating controls and procedures requirements of 17.11 through 17.17.

(3) No provision of this part authorizes possession of licensed material.

(4) Exemptions from the requirement in 17.3 for a license are specified in 17.4.

Commented [jsj5]:
EDITORIAL NOTE 1: ALL COMMENTS (SUCH AS THIS ONE) SHOWN IN THE RIGHT SIDE MARGIN OF THIS DOCUMENT ARE FOR INFORMATION PURPOSES ONLY TO PROVIDE ADDITIONAL INFORMATION AND TO AID THE READER IN UNDERSTANDING THE PROPOSED RULE DURING THE DRAFT REVIEW PROCESS.

THESE COMMENTS ARE **NOT** PART OF THE RULE AND ALL COMMENTS WILL BE DELETED PRIOR TO FINAL SUBMISSION FOR PUBLICATION BY THE COLORADO SECRETARY OF STATE'S OFFICE.
EDITORIAL NOTE 2: COMPATIBILITY WITH FEDERAL U.S. NUCLEAR REGULATORY COMMISSION (NRC) REGULATIONS IS REQUIRED BY COLORADO STATUTE AND TO MAINTAIN AGREEMENT STATE STATUS WITH NRC. THE PROPOSED CHANGES TO PART 17 ARE BASED ON CHANGES IN 10 CFR 71. INFORMATION ON NRC COMPATIBILITY CATEGORIES MAY BE FOUND AT: https://scp.nrc.gov/regresources.html
EDITORIAL NOTE 3: THE CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS (CRCPD), INC., DEVELOPS SUGGESTED STATE REGULATIONS FOR CONTROL OF RADIATION (KNOWN AS SSRCR'S). UNLESS OTHERWISE DETERMINED BY THE BOARD OF HEALTH, COLORADO'S RULES ARE TO BE CONSISTENT WITH NRC REGULATIONS AND THE SSRCR REGULATIONS. THE SSRCRS MAY BE FOUND ONLINE AT: http://www.crcpd.org/ssrcrs/default.aspx

THE EQUIVALENT REGULATORY PART TO PART 17 IS SSRCR PART "T". PART T WAS LAST UPDATED IN 2014 BUT IS NOT CONSISTENT WITH THE MOST RECENT (2015) CHANGES TO 10 CFR PART 71.
EDITORIAL NOTE 4: INFORMATION ON THE NRC REGULATORY ACTION TRACKING SYSTEM (RATS) MAY BE FOUND AT: https://scp.nrc.gov/rss_regamendents.html
EDITORIAL NOTE 5: THE PRIMARY PURPOSE OF THE PROPOSED CHANGES TO PART 17 IS TO MAKE THE RULE CONSISTENT WITH 10 CFR PART 71 (NRC) AND 49 CFR (U.S. DOT) BOTH OF WHICH WERE AMENDED TO BRING U.S. REQUIREMENTS IN ALIGNMENT WITH INTERNATIONAL TRANSPORTATION REQUIREMENTS OF THE IAEA.
EDITORIAL NOTE 6: WHERE APPLICABLE SOME UNAFFECTED SECTIONS OF THE RULE MAY HAVE BEEN OMITTED FROM THE DRAFT FOR BREVITY. SUCH SECTIONS ARE DELINIATED BY "* * *".

Commented [jsj6]: This reflects the date of anticipated adoption by the Colorado Board of Health (the Board). The effective date is approximately 60 days beyond the adopted date, based on the Colorado Secretary of State's publication calendar and pending final adoption by the Board.

Commented [JJ7]: Reference to Section 17.10 is removed as the rule will defer to the quality assurance requirements of 10 CFR Part 71 rather than duplicate limited portions of them in Section 17.10.

(5) The general license under 17.7 requires that a NRC ~~c~~Certificate of ~~c~~Compliance or other package approval be issued for the package to be used under the general license.

(6) General licenses for which no package approval is required are issued in 17.8 and 17.9.

(7) These rules apply to any person required to obtain a ~~c~~Certificate of ~~c~~Compliance or an approved compliance plan from the NRC pursuant to 10 CFR 71 if the person delivers radioactive material to a common or contract carrier for transport or transports the material outside the confines of the person's plant or other authorized place of use.

17.1.4.2 The packaging and transport of radioactive material are also subject to other parts of these regulations and to the regulations of other agencies (such as the DOT, the United States Postal Service and the NRC) having jurisdiction over means of transport.

17.1.4.3 The requirements of this part are in addition to, and not in substitution for, other requirements.

17.1.5 Published Material Incorporated by Reference.

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. ~~Published material incorporated in Part 17 by reference is available in accord with Part 1, Section 1.4.~~

17.2 Definitions.

17.2.1 Definitions of general applicability to these regulations are in Part 1, Section 1.2.2.

17.2.2 Terms used in Part 17 have the definitions set forth as follows.

“Carrier” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

"Certificate holder" means a person who has been issued a ~~c~~Certificate of ~~c~~Compliance or other package approval by the NRC.

"Certificate of Compliance" (COC) means the certificate issued by the NRC under subpart D of 10 CFR 71 ~~(January 1, 2014)~~ which approves the design of a package for the transportation of radioactive material

“Closed transport vehicle” means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be either temporary or permanent but shall limit access from top, sides, and ends. In the case of packaged materials, it may be of the “see-through” type.

“Consignment” means each shipment of a package or groups of packages or load of radioactive material offered by a shipper for transport.

“Containment system” means the assembly of components of the packaging intended to retain the radioactive material during transport.

Commented [jsj8]: Here, and throughout the rule, Certificate of Compliance is capitalized for consistency with the formal definition in 17.2.2.

Commented [jsj9]: New language is added to provide an online resource for documents referenced in the rule.

Commented [jsj10]: The original date is eliminated. Retaining the original date (or incorporating an updated date) may negate or cause confusion for those certificates that have been issued in the past and/or prior to a specified date.

The NRC certificates - are issued under the regulations in place at the time of issuance and have their own expiration date.

"Contamination" means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm^2 (1x10^{-5} µCi/cm^2) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm^2 (1x10^{-6} µCi/cm^2) for all other alpha emitters.

(1) *Fixed contamination* means contamination that cannot be removed from a surface during normal conditions of transport.

(2) *Non-fixed contamination* means contamination that can be removed from a surface during normal conditions of transport.

"Conveyance" means:

(1) For transport by public highway or rail any transport vehicle or large freight container;

(2) For transport by water any vessel, or any hold, compartment, or defined deck area of a vessel including any transport vehicle on board the vessel; and

(3) For transport by any aircraft.

"Criticality Safety Index (CSI)" means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages**, overpacks, or freight containers** containing fissile material during transportation. Determination of the criticality safety index is described in 10 CFR 71.22, 71.23, and 71.59. **The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.**

"Deuterium" means, for the purposes of Part 17, deuterium and any deuterium compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

"Exclusive use" means the sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

"Fissile material package" means a fissile material packaging together with its fissile material contents.

"Graphite" means, for the purposes of Part 17, graphite with a boron equivalent content less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

"Indian ~~t~~**T**ribe" means an Indian or Alaska native ~~t~~**T**ribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian ~~t~~**T**ribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

"Low specific activity material" (LSA material) means radioactive material with limited specific activity which is nonfissile or **is** except**ed** under Part 17 and which satisfies the descriptions and limits set forth ~~below~~**in the following section**. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. **The** LSA material must be in one of three groups:

(1) LSA-I.

(a) Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides **that**~~which~~ are ~~not~~ intended to be processed for the use of these radionuclides; ~~or~~

Commented [jsj11]: Definitions added, consistent with the definition added to 10 CFR 71.4.

This definition is based on the definition in International Atomic Energy Agency (IAEA) TS-R-1 regulations for international transportation of radioactive materials. The definition addresses those solid objects which are not themselves radioactive, but rather, are contaminated on their surfaces.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [JJ12]: Language amended and updated consistent with the existing and updated definition in 10 CFR 71.4.

The current definition in federal rules is amended based on a similar definition in IAEA TS-R-1 regulations for international transportation of radioactive materials.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)
NRC Letter April 6, 2017

Commented [jsj13]: Consistent with federal rule in 10 CFR Part 71.4, "tribe" is modified to "Tribe" here and elsewhere throughout rule as applicable.

NRC Compatibility "B"
NRC RATS 2015-5
80 FR 74974 (December 1, 2015)

Commented [jsj14]: Language added, consistent with an equivalent definition in 10 CFR 71.4.

This definition is modified based on a similar definition in IAEA TS-R-1 regulations for international transportation of radioactive materials.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj15]: In a prior amendment to 10 CFR 71, NRC incorrectly incorporated the modifier "not" (as in "…not intended to be processed…"). This was later determined to be in conflict with U.S. DOT requirements in effect at the time. Therefore, NRC has corrected the definition for LSA-I in 10 CFR 71. The proposed change similarly corrects this same error in Part 17.

(b) ~~Solid unirradiated n~~**N**atural uranium, ~~or~~ depleted uranium, ~~or~~ natural thorium or their ~~solid or liquid~~ compounds or mixtures**, provided they are unirradiated and in solid or liquid form;**~~.~~

(c) Radioactive material, other than fissile material, for which the A_2 value in Appendix 17A is unlimited; or

(d) Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with Appendix 17A.

(2) LSA-II.

(a) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

(b) Other radioactive material in which the activity is distributed throughout, and the **estimated** average specific activity does not exceed 10^{-4} x A_2/g for solids and gases, and 10^{-5} x A_2/g for liquids.

(3) LSA-III. Solids **(e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77,** in ~~and for~~ which:

(a) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ~~or~~ ceramic**, etc.**); ~~and~~

(b) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days, **will**~~would~~ not exceed 0.1 x A_2; **and**

(c) The estimated average specific activity of the solid**, excluding any shielding material,** does not exceed 2 x 10^{-3} A_2/g; and

~~(d) A specimen of the material has passed a leaching test, provided also that any differences between the specimen tested and the material to be transported were taken into account in determining whether the test requirements have been met.~~

~~(i) The specimen, representing no less than the entire contents of the package, must be immersed for 7 days in water at ambient temperature;~~

~~(ii) The volume of water to be used in the test must be sufficient to ensure that at the end of the test period the free volume of the unabsorbed and unreacted water remaining will be at least 10% of the volume of the specimen itself;~~

~~(iii) The water must have an initial pH of 6-8 and a maximum conductivity 10 micromho/cm at 20°C (68°F); and~~

~~(iv) The total activity of the free volume of water must be measured following the 7-day immersion test and must not exceed 0.1x A_2.~~

Commented [jsj16]: The requirements pertaining to testing (for LSA-III materials) have not been eliminated but rather, are removed from Part 17 since they are addressed in 10 CFR 71.77 which is referenced as part of the LSA-III definition above.

"Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

"Nuclear waste" means, for the purposes of Part 17, a quantity of source, byproduct or special nuclear material required to be in NRC-approved specification packaging while transported to, through or across a state boundary to a disposal site, or to a collection point for transport to a disposal site.

"Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 10 CFR 71. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

"Quality assurance", for the purposes of Part 17, comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service.

"Quality control", for the purposes of Part 17, comprises those quality assurance actions that relate to control of the physical characteristics and quality of the material or component to predetermined requirements.

"Regulations of the DOT" means the regulations in 49 CFR Parts 100-189 and Parts 390-397 (October 1, ~~2006~~**2016**).

"Regulations of the NRC" means the regulations in 10 CFR 71 (January 1, ~~2014~~**2016**) for purposes of Part 17.

"Surface contaminated object" (SCO) means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. The SCO must be in one of two groups with surface activity not exceeding the following limits:

(1) SCO-I: a solid object on which:

(a) The non-fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4 Bq/cm^2 (10^{-4} microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or 0.4 Bq/cm^2 (10^{-5} microcurie/cm^2) for all other alpha emitters;

(b) The fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4 x 10^4 Bq/cm^2 (1.0 microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or 4 x 10^3 Bq/cm^2 (0.1 microcurie/cm^2) for all other alpha emitters; and

(c) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4 x 10^4 Bq/cm^2 (1 microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or 4 x 10^3 Bq/cm^2 (0.1 microcurie/cm^2) for all other alpha emitters.

(2) SCO-II: a solid object on which the limits for SCO-I are exceeded and on which:

(a) The non-fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 400 Bq/cm^2 (10^{-2} microcurie/cm^2) for beta, gamma and low toxicity alpha emitters or 40 Bq/cm^2 (10^{-3} microcurie/cm^2) for all other alpha emitters;

(b) The fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 8 x 10^5 Bq/cm^2 (20 microcuries/cm^2) for beta, gamma and low toxicity alpha emitters, or 8 x 10^4 Bq/cm^2 (2 microcuries/cm^2) for all other alpha emitters; and

(c) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 8 x 10^5 Bq/cm^2 (20 microcuries/cm^2) for beta, gamma and low toxicity alpha emitters, or 8 x 10^4 Bq/cm^2 (2 microcuries/cm^2) for all other alpha emitters.

"Transport index" (TI) means the dimensionless number, rounded up the next tenth, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter).

"Tribal official" means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.

"Type A package" means a Type A packaging that, together with its radioactive contents limited to A1 or A2 as appropriate, meets the requirements of 49 CFR 173.410 and 173.412 and is designed to retain the integrity of containment and shielding required by Part 17 under normal conditions of transport as demonstrated by the tests set forth in 49 CFR 173.465 or 173.466, as appropriate.

"Type A packaging" means a packaging designed for a Type A package.

"Type AF package", "Type BF package", "Type B(U)F package", and "Type B(M)F package" each means a fissile material packaging together with its fissile material contents.

"Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A1 for special form radioactive material or A2 for normal form radioactive material, where A1 and A2 are given in Appendix 17A or may be determined by procedures described in Appendix 17A.

"Type B package" means a Type B packaging together with its radioactive contents.~~2~~[1]

~~2~~[1] A Type B package design is designated as B(U) or B(M). On approval, a Type B package design is designated by NRC as B(U) unless the package has a maximum normal operating pressure of more than 700kPa (100 lb/in2) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in 10 CFR 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. No distinction is made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to 49 CFR Part 173. A Type B package approved prior to September 6, 1983 was designated only as Type B; limitations on its use are specified in 17.8.

"Type B packaging" means a packaging designed to retain the integrity of containment and shielding when subjected to the normal conditions of transport and hypothetical accident test conditions set forth 10 CFR Part 71.

"Type B quantity" means a quantity of radioactive material greater than a Type A quantity.

"Uranium – natural, depleted, enriched".

(1) "Natural uranium" means, for the purposes of Part 17, uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235 and the remainder by weight essentially uranium-238).

(2) "Depleted uranium" means, for the purposes of Part 17, uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(3) "Enriched uranium" means, for the purposes of Part 17, uranium containing more uranium 235 than the naturally occurring distribution of uranium isotopes.

Commented [jsj17]: Definitions specific to transportation of radioactive materials are added, consistent with 10 CFR Part 71.4 definitions and so as to not conflict with other similar definitions for non-transportation purposes.

NRC Compatibility "B"
NRC RATS 2015-3

LICENSE-RELATED REGULATORY REQUIREMENTS

17.3 Requirement for License.

No person shall transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the Department, an Agreement State, a Licensing State, or NRC, or as exempted in 17.4

17.4 Exemptions.

17.4.1 Common and contract carriers, freight forwarders, and warehouse workers which are subject to the requirements of the DOT in 49 CFR 170 through 189, or the U.S. Postal Service in the Postal Service Manual (Domestic Mail Manual), are exempt from the requirements of Part 17 to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the DOT or U.S. Postal Service are subject to 17.3 and other applicable requirements of these regulations.

17.4.2 A~~ny~~ licensee is exempt from the requirements of Part 17 with respect to shipment or carriage of the following low-level materials:

17.4.2.1 Natural material and ores containing naturally occurring radionuclides that are **either in their natural state,** ~~not intended to be~~**or have only been** processed for **purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the** use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the **applicable radionuclide activity concentration** values specified in Appendix 17A, Table 17A2**, or Table 17A3 of this part**.

17.4.2.2 Materials for which the activity concentration is not greater than the activity concentration values specified in Appendix 17A, Table 17A2, or **Table 17A3 of this part, or** for which the consignment activity is not greater than the limit for an exempt consignment found in Appendix 17A, Table 17A2 **or Table 17A3 of this part**.

17.4.2.3 Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in 17.2.

17.4.3 Fissile materials meeting the requirements of one of the paragraphs (a) through (f) in 10 CFR 71.15 are exempt from classification as fissile material, and from the fissile material package standards of 10 CFR 71.55 and 10 CFR 71.59, but are subject to all other requirements of 10 CFR 71, except as noted in paragraphs (a) through (f) in 10 CFR 71.15.

17.4.4 Any physician licensed by a state to dispense drugs in the practice of medicine is exempt from 17.5 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under Part 7 or equivalent requirements of another Agreement State or NRC.

17.5 Transportation of Licensed Material.

17.5.1 Each licensee who transports licensed material outside the site of usage, as specified in the Department license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall:

17.5.1.1 Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the DOT, particularly the regulations of the DOT in the following areas:

(1) Packaging - 49 CFR Part 173: Subparts A and B and I.

Commented [jsj18]: Language is updated, consistent with changes to 10 CFR 71.14(a)(1), 49 CFR, and IAEA transportation requirements (TS-R-1).

Consistent with federal rule, the added language clarifies the concept that processing ores and other naturally occurring materials - and the associated transport of such materials - may be needed for purposes other than for the materials radioactivity content.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)
49 CFR 173.401(b)

Commented [jsj19]: Language is updated, consistent with changes to 10 CFR 71.14(a)(2) and IAEA transportation requirements in TS-R-1.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj20]: A new provision is added, consistent with changes to 10 CFR 71.14(a)(3).

Consistent with U.S. DOT requirements and for transportation purposes only, some solid items may be exempt from (radioactive material) transportation requirements even if they have contamination on their surfaces, provided levels are below those specified in the newly added definition of "contamination" as found in Section 17.2.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

(2) Marking and labeling - 49 CFR Part 172: Subpart D, § § 172.400 through 172.407, § § 172.436 through 172.441, and Subpart E.

(3) Placarding - 49 CFR Part 172: Subpart F, especially § § 172.500 through 172.519, 172.556, and Appendices B and C.

(4) Accident reporting - 49 CFR Part 171: § § 171.15 and 171.16.

(5) Shipping papers and emergency information - 49 CFR Part 172: Subparts C and G.

(6) Hazardous material employee training - 49 CFR Part 172: Subpart H.

(7) Security plans - 49 CFR Part 172: Subpart I.

(8) Hazardous material shipper/carrier registration - 49 CFR Part 107: Subpart G.

17.5.1.2 The licensee shall also comply with applicable regulations of the DOT pertaining to the following modes of transportation:

(1) Rail - 49 CFR Part 174: Subparts A through D, and K.

(2) Air - 49 CFR Part 175.

(3) Vessel - 49 CFR Part 176: Subparts A through F, and M.

(4) Public highway - 49 CFR Part 177 and Parts 390 through 397.

17.5.1.3 Assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee in accordance with 4.32.5.2.

17.5.2 If, for any reason, the regulations of the DOT are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 CFR Parts 170 through 189 appropriate to the mode of transport to the same extent as if the shipment was subject to these regulations.

GENERAL LICENSES

17.6 General Licenses for Carriers.

17.6.1 A general license is hereby issued to any common or contract carrier not exempt under 17.4 to receive, possess, transport, and store radioactive material in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the DOT insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.[~~3~~2]

[~~3~~2] Notification of an incident shall be filed with, or made to, the Department as prescribed in 49 CFR, regardless of and in addition to the notification made to the DOT or other agencies.

17.6.2 A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the DOT insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.[3]

17.6.3 Persons who transport radioactive material pursuant to the general licenses in 17.6.1 and 17.6.2 are exempt from the requirements of Parts 4 and 10 of these regulations to the extent that they transport radioactive material.

17.7 General License: NRC-Approved Packages.

17.7.1 A general license is hereby issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, **NRC issued** ~~c~~**C**ertificate of ~~c~~**C**ompliance, or other approval has been issued by the ~~NRC~~**Department**.

17.7.2 This general license applies only to a licensee who~~:~~

~~17.7.2.1 H~~ **has a quality assurance program approved by** ~~NRC~~**the Department as satisfying the provisions of Subpart H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of** 10 CFR 71 ~~Subpart H~~.

~~17.7.2.2 Has a copy of the specific license, certificate of compliance, or other approval by the NRC of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the action(s) to be taken prior to shipment;~~

17.7.3 Each licensee issued a general license under Section 17.7.1 shall:

17.7.3.1 Maintain a copy of the NRC issued Certificate of Compliance, or other approval of the package, and the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

17.7.~~2.3~~**3.2 Comply** ~~Complies~~ with the terms and conditions of the license, **NRC issued** ~~c~~**C**ertificate **of Compliance**, or other approval by the ~~NRC~~**Department**, as applicable, and the applicable requirements of **Subparts A (excluding 71.11), G (excluding 71.85(a)-(c), and 71.91(b)), and H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of 10 CFR 71** ~~Part 17~~;

17.7.~~2.4~~**3.3** Prior to the licensee's first use of the package, ~~has submitted~~**submit** to the **Department** ~~NRC~~ in writing ~~in accordance with 10 CFR 71.1~~**71.17(c)(3)**:

(1) The licensee's name and license number; and

(2) The package identification number specified in the package approval.~~; and~~

17.7.~~3~~**4** The general license in 17.7.1 applies only when the package approval authorizes use of the package under this general license.

17.7.~~4~~**5** For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license in 17.7.1 is subject to additional restrictions of 10 CFR 71.19.

17.8 General Licenses: Use of Foreign-Approved and Other Approved Packages

17.8.1 A general license is issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate**,** ~~and~~**that has been** revalidated by the DOT as meeting the applicable requirements of 49 CFR ~~171.12~~**171.23**.

17.8.2 Except as otherwise provided in this section, the general license applies only to a licensee who has a quality assurance program approved by the Department ~~NRC~~ **as satisfying the applicable provisions of 10 CFR 71.101 through 71.137, excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125.**

17.8.3 This general license applies only to **shipments made to or from locations outside the United States**~~:~~**.**

~~17.8.1.1 Shipments made to or from locations outside the United States; and~~

~~17.8.1.2 A licensee who:~~

Commented [JJ21]: Language updated based on a request from NRC.
Agreement States such as Colorado do not have jurisdiction for issuing a Certificate of Compliance, so the language is clarified here.

NRC Compatibility "B"
NRC Letter April 6, 2017

Commented [JJ22]: As requested by NRC in correspondence dated April 6, 2017, the responsibility for review of a licensee quality assurance program within Colorado is the Colorado radiation program.

NRC Compatibility "B"
NRC Letter April 6, 2017

Commented [jsj23]: Language updated to exclude those provisions which are limited to NRC jurisdiction in subpart H of 10 CFR 71.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj24]: Provision 17.7.2.2 is deleted and replaced by the provisions of 17.7.3 for consistency with the language and formatting of 10 CFR 71.17.

Commented [jsj25]:
Language is updated, consistent with 10 CFR 71.17(c)(1).

The revised language is similar to that in prior section 17.7.2.2 and conveys similar requirements, with the exception that a copy of the specific license is not explicitly required.

NRC Compatibility "B"

Commented [jsj26]: Section renumbered and language is updated, consistent with formatting and language of 10 CFR 71.17(c)(2).

Due to differences in the format between Part 17 and 10 CFR 71, "has submitted"(past) is replaced with "submit" (active).
NRC Compatibility "B"

Commented [JJ27]:
To avoid confusion and partial duplication of regulatory requirements, the reference to Part 17 is deleted, thereby deferring to 10 CFR Part 71.

Commented [jsj28]: Language is updated, consistent with 10 CFR 71.21(a).

A prior USDOT rulemaking relocated the requirements in 49 CFR 171.12 to 171.23, so the cross-reference is updated here.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj29]: Language is added, consistent with 10 CFR 71.21(b).

Commented [jsj30]: Language is updated, consistent with 10 CFR 71.21(c).

NRC Compatibility "B"
NRC RATS 2015-3

Commented [jsj31]: Language of 17.8.1.1 merged into 17.8.3, consistent with phrasing and format of 10 CFR 71.21(c).

Commented [jsj32]: Replaced by new 17.8.4., consistent with phrasing and format of 10 CFR 71.21(d).

17.8.4 Each licensee issued a general license under Section 17.8.1 shall:

~~(1) Has a quality assurance program approved by NRC;~~

~~(2)~~**(1)** ~~Has~~**Maintain** a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken ~~prior to~~**before** shipment; **and**

~~(3) Complies with the terms and conditions of the certificate and revalidation; and~~

~~(4)~~**(2) Comply with the terms and conditions of the certificate and revalidation, and**~~Complies~~ with the applicable requirements of Part 17, sections 17.1 through 17.5, 17.10 through 17.17, and **Subparts A (excluding 71.11), G (excluding 71.85(a)-(c), and 71.91(b)), and H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of 10 CFR 71**~~10 CFR 71 Subparts A, G, and H. With respect to the quality assurance provisions of 10 CFR 71 Subpart H, the licensee is exempt from design, construction, and fabrication considerations~~.

17.9 General Licenses: Fissile Material Transport

17.9.1 A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the licensee meets the requirements of 10 CFR 71.22 and the material is shipped in accordance with 10 CFR 71.22 and each applicable requirement of Part 17.

17.9.2 A general license is hereby issued to any licensee to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources to a carrier for transport, if the licensee meets the requirements of 10 CFR 71.23 and the material is shipped in accordance with 10 CFR 71.23 and each applicable requirement of Part 17.

QUALITY ASSURANCE

17.10 Quality Assurance Requirements.

17.10.1 Subpart H of 10 CFR 71 describes quality assurance requirements applying to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety. As used in Subpart H of 10 CFR 71, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component to predetermined requirements.

Each licensee is responsible for satisfying the quality assurance requirements that apply to its use of a packaging for the shipment of licensed material subject to the applicable requirements of Subpart H of 10 CFR 71 (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125).

17.10.2 Radiography containers.

A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices and meeting the requirements of Part 5, sections 5.12(4) through 5.12(6) or equivalent Agreement State or NRC requirement, is deemed to satisfy the requirements of 17.7.2 and 10 CFR 71.101(b).

~~17.10.1 Quality assurance requirements apply to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety.~~

Commented [jsj33]: Replaced by new 17.8.2., consistent with phrasing and format of 10 CFR 71.21.

Commented [jsj34]: Deleted due to replacement by 17.8.4(2), consistent with phrasing and format of 10 CFR 71.21.

Commented [jsj35]: Last sentence deleted, consistent with changes to 10 CFR 71.21(d)(2), which also removed this provision.

Exceptions to the references in Subparts A, G, and H of 10 CFR Part 21 are added since some provisions of Subpart H are under NRC only jurisdiction.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [JJ36]: Due to the potential overlap in provisions of Part 17 and 10 CFR Part 71 as discussed in correspondence from NRC to Colorado, most original provisions in this section are removed in order to defer to the 10 CFR Part 71 requirements that are within Colorado's jurisdiction.

NRC Compatibility "B"
NRC Letter April 6, 2017
Subpart H – Quality Assurance 71.101 through 71.137
NRC RATS 2015-3

17.10.1.1 The licensee, certificate holder, and applicant for a COC are responsible for complying with the quality assurance requirements which apply to design, fabrication, testing, and modification of packaging.

17.10.1.2 Each licensee is responsible for complying with each quality assurance provision which applies to the licensee's use of a packaging for the shipment of licensed material subject to the requirements of 10 CFR 71 and Part 17.

17.10.2 Each licensee, certificate holder, and applicant for a COC shall:

17.10.2.1 Be responsible to establish, maintain, and execute a quality assurance program that, using a graded approach to an extent that is commensurate with each quality assurance requirement's importance to safety, satisfies

(1) Each applicable criterion of 10 CFR 71.101 through 71.137; and

(2) Any specific provision that is applicable to the licensee's activities including procurement of packaging.

17.10.2.2 Be subject to each requirement that is applicable, whether the term "licensee" is or is not used in the requirement, for whatever design, fabrication, assembly, and testing of the package is accomplished with respect to a package before the time a package approval is issued.

17.10.3 Before the use of any package for the shipment of licensed material subject Part 17, each licensee shall obtain NRC approval of its quality assurance program.

17.10.4 A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices and meeting the requirements of 10 CFR 34.31(b), or equivalent Agreement State requirements, is deemed to satisfy the requirements of 17.7 and 17.10.2.

Commented [JJ37]: The requirements of 17.10.4 have been updated and incorporated into 17.10.2 (above).

17.10.5 The licensee, certificate holder, and applicant for a COC shall be responsible for the establishment and execution of the quality assurance program.

17.10.5.1 The licensee, certificate holder, and applicant for a COC may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, or any part of the quality assurance program, but shall retain responsibility for the program.

17.10.5.2 The licensee shall clearly establish and delineate, in writing, the authority and duties of persons and organizations performing activities affecting the safety-related functions of structures, systems, and components, including performing the functions associated with attaining quality objectives and the quality assurance functions.

17.10.6 The quality assurance functions are:

17.10.6.1 Assuring that an appropriate quality assurance program is established and effectively executed; and

17.10.6.2 Verifying, by procedures such as checking, auditing, and inspection, that activities affecting the safety-related functions have been performed correctly.

17.10.7 The persons and organizations performing quality assurance functions must have sufficient authority and organizational freedom to:

17.10.7.1 Identify quality problems;

17.10.7.2 Initiate, recommend, or provide solutions; and

~~17.10.7.3 Verify implementation of solutions.~~

17.11 Advance Notification of Shipment of Nuclear Waste.

17.11.1 As specified in 17.11.3, 17.11.4, and 17.11.5, each licensee shall provide advance notification to the governor of a state, or the governor's designee, of the shipment of licensed material (nuclear waste), within or across the boundary of the state, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

17.11.2 As specified in 17.11.3, 17.11.4, and 17.11.5 of this section, after June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in 17.11.4.3(3), or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

17.11.3 Advance notification is also required under this section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:

17.11.3.1 The licensed material is required by this part to be in Type B packaging for transportation;

17.11.3.2 The licensed material is being transported to or across a state boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and

17.11.3.3 The quantity of licensed material in a single package exceeds the least of the following:

(1) 3000 times the A_1 value of the radionuclides as specified in Appendix 17A, Table A1 for special form radioactive material; or

(2) 3000 times the A_2 value of the radionuclides as specified in Appendix 17A, Table A1 for normal form radioactive material; or

(3) 1000 TBq (27,000 Ci).

17.11.4 Procedures for submitting advance notification

17.11.4.1 The notification must be made in writing to:

(1) The office of each appropriate governor or governor's designee;

(2) The office of each appropriate Tribal official or Tribal official's designee;

(3) The Department.

17.11.4.2 A notification delivered by mail must be postmarked at least 7 days before the beginning of the 7 day period during which departure of the shipment is estimated to occur.

17.11.4.3 A notification delivered by any other means than mail must reach the office of the governor or of the governor's designee or the Tribal official, or Tribal official's designee at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur.

(1) A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the Federal Register on June 30, 1995 (60 FR 34306)

(2) ~~The list of governor's designees and Tribal official's designees of participating Tribes will be published annually in the Federal Register on or about June 30th to reflect any changes in information.~~**Contact information for each State, including telephone and mailing addresses of governors and governors' designees, and participating Tribes, including telephone and mailing addresses of Tribal officials and Tribal official's designees, is available on the NRC Web site at: https://scp.nrc.gov/special/designee.pdf.**

(3) A list of the names and mailing addresses of the governor's designees and Tribal official's designees of participating Tribes is available on request from the Director, Division of **Material Safety, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards,**~~Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs,~~ U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

17.11.4.4 The licensee shall retain a copy of the notification as a record for 3 years.

17.11.5 Information to be furnished in advance notification of shipment.

17.11.5.1 Each advance notification of nuclear waste shall contain the following information:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the nuclear waste shipment;

(2) A description of the nuclear waste contained in the shipment, as required by 49 CFR 172.202 and 172.203(d);

(3) The point of origin of the shipment and the 7-day period during which departure of the shipment is estimated to occur;

(4) The 7-day period during which arrival of the shipment at state boundaries or Tribal reservation boundaries is estimated to occur;

(5) The destination of the shipment, and the 7-day period during which arrival of the shipment is estimated to occur; and

(6) A point of contact with a telephone number for current shipment information.

17.11.6 Revision notice

17.11.6.1 A licensee who finds that schedule information previously furnished to a governor or governor's designee or a Tribal official or Tribal official's designee, in accordance with this section, will not be met, shall:

(1) Telephone a responsible individual in the office of the governor of the state or of the governor's designee or the Tribal official or Tribal official's designee an inform that individual of the extent of the delay beyond the schedule originally reported; and

(2) Maintain a record of the name of the individual contacted for 3 years.

17.11.7 Cancellation notice

17.11.7.1 Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall:

Commented [jsj38]: Language is updated, consistent with NRC regulations in 10 CFR 71.97(c) (3)(ii) which was amended in 2015.

Rather than publishing in the federal register annually, the contact list will be maintained by NRC on NRC's web site.

NRC RATS 2015-5
NRC Compatibility "B"

Commented [jsj39]: Address corrected, consistent with NRC regulations in 10 CFR 71.97(c)(3)(ii).

The change is necessary due to a reorganization at NRC.

(1) Send a cancellation notice to the governor of each state, or governor's designee previously notified, each Tribal official or Tribal official's designee previously notified and to the Department;

(2) State in the notice that it is a cancellation and identify the advance notification that is being cancelled; and

(3) Retain a copy of the notice for 3 years.

17.12 Air Transport of Plutonium.

Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this part or included indirectly by citation of the regulations of the DOT, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air, or delivered to a carrier for air transport, unless:

17.12.1 The plutonium is contained in a medical device designed for individual human application; or

17.12.2 The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for plutonium specified in Appendix 17A, Table 17A-1, and in which the radioactivity is essentially uniformly distributed; or

17.12.3 The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form and is shipped in accordance with 17.5; or

17.12.4 The plutonium is shipped in a package specifically authorized (in the ~~c~~**C**ertificate of ~~c~~**C**ompliance issued by the NRC for that package) for the shipment of plutonium by air and the licensee requires, through special arrangement with the carrier, compliance with 49 CFR 175.704, the regulations of the DOT applicable to the air transport of plutonium.

OPERATING CONTROLS AND PROCEDURES

17.13 Fissile Material: Assumptions as to Unknown Properties of Fissile Material.

When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties had credible values that would cause the maximum neutron multiplication.

17.14 Preliminary Determinations.

~~Prior to~~**Before** the first use of any packaging for the shipment of radioactive material **the licensee shall ascertain that the determinations in paragraphs (a) through (c) of 10 CFR 71.85 have been made by the certificate holder.**~~:~~

~~17.14.1 The licensee shall ascertain that there are no defects which could significantly reduce the effectiveness of the packaging;~~

~~17.14.2 Where the maximum normal operating pressure will exceed 35 kilopascal (5 pounds per square inch) gauge, the licensee shall test the containment systems at an internal pressure at least 50 percent higher than the maximum normal operating pressure to verify the capability of that system to maintain its structural integrity at that pressure;~~

~~17.14.3 The licensee shall determine that the packaging has been fabricated in accordance with the design approved by the NRC; and~~

~~17.14.4 The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number as assigned by the NRC.~~

17.15 Routine Determinations.

Commented [jsj40]: Language added consistent with 10 CFR 71.85(d).

The intent of the revised provision is to ensure that the (shipping package) certificate holders are responsible for certain actions and have made the required preliminary determinations.

NOTE: The phrase "by the certificate holder" is not included in 10 CFR 71, but is added for clarity.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj41]: The provisions in 17.14.1 through 17.14.4 are deleted, due to a 2015 change in NRC compatibility level "B" to compatibility "NRC" for these specific regulations. Due to this change in compatibility, the requirements are no longer under state jurisdiction. (The equivalent items remain in federal rule and can be found in 10 CFR 71.85(a) through 71.85(c)).

Provisions that are designated as "NRC" compatibility are elements that cannot be relinquished to Agreement States such as Colorado and therefore states should not adopt (or must remove) these regulatory provisions.

NRC Compatibility "NRC"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Prior to each shipment of licensed material, the licensee shall determine that:

17.15.1 The package is proper for the contents to be shipped;

17.15.2 The package is in unimpaired physical condition except for superficial defects such as marks or dents;

17.15.3 Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

17.15.4 Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

17.15.5 Any pressure relief device is operable and set in accordance with written procedures;

17.15.6 The package has been loaded and closed in accordance with written procedures;

17.15.7 Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for the purpose unless it satisfies design requirements specified in 10 CFR 71.45;

17.15.8 The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable and within the limits specified in 49 CFR 173.443.

17.15.8.1 Determination of the level of non-fixed (removable) contamination shall be based upon wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material.

(1) The number and location of measurements shall be sufficient to yield a representative assessment of the removable contamination levels.

(2) Other methods of assessment of equal or greater detection efficiency may be used.

17.15.8.2 In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed (removable) radioactive contamination:

(1) At the beginning of transport shall not exceed the levels specified in 49 CFR 173.443; and

(2) At any time during transport shall not exceed 10 times the levels specified in 49 CFR 173.443.

17.15.9 External radiation levels around the package and around the vehicle, if applicable, shall not exceed:

17.15.9.1 2 mSv/h (200 millirem per hour) at any point on the external surface of the package at any time during transportation;

17.15.9.2 A transport index of 10.0.

17.15.10 For a package transported in exclusive use by rail, highway or water, radiation levels external to the package may exceed the limits specified in 17.15.9 but shall not exceed any of the following:

17.15.10.1 2 mSv/h (200 millirem per hour) on the accessible external surface of the package unless the following conditions are met, in which case the limit is 10 mSv/h (1000 millirem per hour);

(1) The shipment is made in a closed transport vehicle,

(2) Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation, and

(3) No loading or unloading operation occurs between the beginning and end of the transportation.

17.15.10.2 2 mSv/h (200 millirem per hour) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load (or enclosure, if used), and on the lower external surface of the vehicle;

(1) A flat bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes.

(2) If no personnel barrier is in place, the package cannot exceed 2 mSv/h (200 millirem per hour) at any accessible surface.

17.15.10.3 0.1 mSv/h (10 millirem per hour) at any point 2 meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point 2 meters from the vertical planes projected from the outer edges of the vehicle; and

17.15.10.4 0.02 mSv/h (2 millirem per hour) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with 10.3; and

17.15.11 For shipments made under the provisions of Section 17.15.10, the shipper shall provide specific written instructions to the carrier for maintenance of the exclusive use shipment controls. The instructions must be included with the shipping paper information.

17.15.12 The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will:

17.15.12.1 Unnecessarily delay delivery; or

17.15.12.2 Unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public.

17.15.13 A package must be prepared for transport so that in still air at 100 degrees Fahrenheit (38 degrees Celsius) and in the shade, no accessible surface of a package would have a temperature exceeding 50 degrees Celsius (122 degrees Fahrenheit) in a nonexclusive use shipment or 82 degrees Celsius (185 degrees Fahrenheit) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

17.15.14 A package may not incorporate a feature intended to allow continuous venting during transport.

17.15.15 Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to the consignee, or otherwise made available to the consignee, for the consignee's use in accordance with 4.32.5.2.

REPORTS AND RECORDS

17.16 Reports.

The licensee shall report to the Department within 30 days:

17.16.1 Any instance in which there is significant reduction in the effectiveness of any packaging during use; and

17.16.2 Details of any defects with safety significance in the packaging after first use, with the means employed to repair the defects and prevent their recurrence; and

17.16.3 Instances in which the conditions of approval in the ~~c~~**C**ertificate of ~~c~~**C**ompliance were not observed in making a shipment.

17.17 Shipment Records.

17.17.1 Each licensee shall maintain, for a period of 3 years after shipment, a record of each shipment of licensed material not exempt under 17.4 showing, where applicable:

17.17.1.**1** Identification of the packaging by model number and serial number;

17.17.**1**.2 Verification that the packaging, as shipped, had no significant defect;

17.17.**1**.3 Volume and identification of coolant;

17.17.**1**.4 Type and quantity of licensed material in each package, and the total quantity of each shipment;

17.17.1.5 **For each item of irradiated fissile material:**

(1) Identification by model number and serial number;

(2) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and

(3) Any abnormal or unusual condition relevant to radiation safety;

17.17.1.6 Date of the shipment;

17.17.1.~~6~~7 **For fissile packages and for Tybe B packages, any special controls exercised;**

17.17.1.8 Name and address of the transferee;

17.17.1.~~7~~**9** Address to which the shipment was made; and

17.17.1.~~8~~**10** Results of the determinations required by 17.15 and by the conditions of the package approval.

17.17.2 The licensee~~, certificate holder, and an applicant for a COC~~, shall make available to the Department for inspection, upon reasonable notice, all records required by this part. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.

17.17.3 The licensee~~, certificate holder, and an applicant for a COC~~ shall maintain sufficient written records to furnish evidence of the quality of packaging.

17.17.3.1 The records to be maintained shall include:

(1) Results of the determinations required by ~~17.14~~10 CFR 71.85(a) through (c);

(2) Design, fabrication, and assembly records;

Commented [jsj42]: Provision added, consistent with 10 CFR 71.91(a)(5).

NRC RATS 2015-3 changed the compatibility level for this provision from a lower level "D" (not required for compatibility) to a compatibility category "C", which is now required for compatibility. Therefore, a number of items previously excluded from the rule are now added into the draft rule.

NRC Compatibility "C"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj43]: Provision added, consistent with 10 CFR 71.91(a)(7).

NRC RATS 2015-3 changed the compatibility level for this provision from a lower level "D" (not required for compatibility) to a compatibility category "C", which is now required for compatibility.

NRC Compatibility "C"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj44]: Provision added, consistent with 10 CFR 71.91(c).

NRC RATS 2015-3 changed the compatibility level for this provision from a lower level "D" (not required for compatibility) to a compatibility category "C", which is now required for compatibility.

NRC Compatibility "C"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj45]: Provision added, consistent with 10 CFR 71.91(d).

NRC RATS 2015-3 changed the compatibility level for this provision from a lower level "D" (not required for compatibility) to a compatibility category "C", which is now required for compatibility.

NRC Compatibility "C"
NRC RATS 2015-3 80 FR 33987 (June 12, 2015)

Commented [JJ46]: As a result of the change in compatibility category of 17.14 to "NRC" (only) jurisdiction and the subsequent removal of most provisions in 17.14, the reference for recordkeeping is modified to refer to 10 CFR 71.

NRC Compatibility "C"
RATS 2015-3
10 CFR 71.91(c)-(d)

(3) Results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and

(4) Results of maintenance, modification, and repair activities.

17.17.3.2 Inspection, test, and audit records must identify:

(1) The inspector or data records,

(2) The type of observation,

(3) The results,

(4) The acceptability, and

(5) The action taken in connection with any deficiencies noted.

17.17.3.3 The records required by 17.17.3. must be retained for 3 years after the life of the packaging to which they apply.

Appendix 17A - Determination of A_1 and A_2

17A1 Values of A_1 and A_2 for individual radionuclides, which are the bases for many activity limits elsewhere in these regulations are given in Table 17A1. The curie (Ci) values specified are obtained by converting from the Terabecquerel (TBq) **value**~~figure~~. The Terabecquerel values are the regulatory standard. The curie values are for information only and are not intended to be the regulatory standard. ~~The curie values are expressed to three significant figures to assure that the difference in the TBq and Ci quantities is one tenth of one percent or less.~~ Where values of A_1 or A_2 are unlimited, it is for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.

17A2 For individual radionuclides whose identities are known, but which are:

17A2.1 Not listed in Table 17A1:

(1) The A_1 and A_2 values Table 17A3 may be used.

(2) Otherwise, the licensee shall obtain prior NRC approval of the A_1 and A_2 values for radionuclides not listed in Table 17A1, before shipping the material. The licensee shall submit such request for prior approval to NRC in accordance with 10 CFR 71.1.

17A2.2 Not listed in Table 17A2:

(1) The exempt material activity concentration and exempt consignment activity values contained in Table 17A3 may be used.

(2) Otherwise, the licensee shall obtain prior NRC approval of the exempt material activity concentration and exempt consignment activity values for radionuclides not listed in Table 17A2, before shipping the material. The licensee shall submit such request for prior approval to NRC in accordance with 10 CFR 71.1.

17A3 In the calculations of A_1 and A_2 for a radionuclide not in Table 17A1, a single radioactive decay chain, in which radionuclides are present in their naturally occurring proportions, and in which no radioactive decay product nuclide has a half-life either longer than 10 days, or longer than that of the parent nuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A_1 or A_2 value to be applied shall be those corresponding to the parent nuclide of that chain. In the case of radioactive decay chains in which any radioactive decay product nuclide has a half-life either longer than 10 days, or greater than that of the parent nuclide, the parent and those radioactive decay product nuclides shall be considered as mixtures of different nuclides.

17A4 For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply:

17A4.1 For special form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_1(i)} \leq 1$$

where B(i) is the activity of radionuclide i **in special form**, and A_1 (i) is the A_1 value for radionuclide i.

17A4.2 For normal form radioactive material, the maximum quantity transported in a Type A package is as follows:

Commented [jsj47]: Page break inserted to ensure the appendix begins on a new page at time of final publication.

Commented [jsj48]: Language is updated, consistent with parallel provision in 10 CFR 71, Appendix A.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj49]: There is no change to the calculation formula in 17A4.2 – only the formula file type has changed.

The purpose of the change is to incorporate a graphics file format that allows for future editing.

~~$\Sigma_i \frac{B(i)}{A_2(i)} \leq 1$~~

$$\Sigma_i \frac{B(i)}{A_2(i)} \leq 1$$

where B(i) is the activity of radionuclide i **in normal form**, and A_2(i) is the A_2 value for radionuclide i.

17A4.3 If the package contains both special and normal form radioactive materials, the activity that may be transported in a Type A package is as follows:

$$\Sigma_i \frac{B(i)}{A_1(i)} + \Sigma_j \frac{C(j)}{A_2(j)} \leq 1$$

Where B(i) is the activity of radionuclide i as special form radioactive material, A_1(i) is the A_1 value for radionuclide i, C(j) is the activity of radionuclide j as normal form radioactive material, and A_2(j) is the A_2 value for radionuclide j.

17A4.~~3~~4 Alternatively, ~~an~~**the** A_1 value for mixtures of special form material may be determined as follows:

~~$A_1 \text{ for mixture} = \frac{1}{\Sigma_i \frac{f(i)}{A_1(i)}}$~~

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

where f(i) is the fraction of activity of nuclide i in the mixture and A_1(i) is the appropriate A_1 value for nuclide i.

17A4.~~4~~5 Alternatively, the A_2 value for mixtures of normal form material may be determined as follows:

~~$A_2 \text{ for mixture} = \frac{1}{\Sigma_i \frac{f(i)}{A_2(i)}}$~~

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where f(i) is the fraction of activity of nuclide ~~i~~**i** in the mixture and A_2(i) is the appropriate A_2 value for nuclide ~~i~~**i**.

17A4.~~5~~6 The exempt activity concentration for mixtures of nuclides may be determined as follows:

Commented [jsj50]: This is a new provision and equation, added for consistency with 10 CFR 71, Appendix A, paragraph IV.c.

Commented [jsj51]: There is no change to the calculation formula in (renumbered) 17A4.4 – only the formula file type has changed.

The purpose of the change is to incorporate a graphics file format that allows for future editing.

Commented [jsj52]: There is no change to the calculation formula in (renumbered) 17A4.5 – only the formula file type has changed.

The purpose of the change is to incorporate a graphics file format that allows for future editing.

Commented [jsj53]: Effectively, there is no change to the calculation formula in (renumbered) 17A4.6 – only the formula file type has changed as well as clarifying wording being added, consistent with 10 CFR 71, Appendix A.

The purpose of the change is to incorporate a graphics file format that allows for future editing.

$$[A] = \frac{1}{\sum_i \frac{f(i)}{[A](i)}}$$

Exempt activity concentration for mixture = $\frac{1}{\sum_i \frac{f(i)}{[A](i)}}$

where f(i) is the fraction of activity concentration of radionuclide i in the mixture, and [A](i) is the activity concentration for exempt material containing radionuclide i.

17A4.67 The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows:

$$A = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

Exempt consignment activity limit for mixture = $\frac{1}{\sum_i \frac{f(i)}{A(i)}}$

where f(i) is the fraction of activity of radionuclide i in the mixture, and A(i) is the activity limit for exempt consignments for radionuclide i.

17A5 When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest A_1 or A_2 value, as appropriate, for the radionuclides in each group may be used in applying the formulas in 17A4. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A_1 or A_2 values for the alpha emitters and beta/gamma emitters.

17A6 When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest [A] (activity concentration for exempt materials) or A (activity limit for exempt consignment) value, as appropriate, for the radionuclides in each group may be used in applying the formulas in 17A4. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest [A] or A values for the alpha emitters and beta/gamma emitters, respectively.

Commented [jsj54]: Similar to other equation editing, the graphics file format in this equation is updated to allow for future editing.

Commented [jsj55]: This is a new provision added for consistency with a similar provision in Appendix A of 10 CFR 71.V.b.

The added provision incorporates language when shipments involve concentrations of exempt materials that are not addressed by 17A5.

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TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Ac-225 (a)	Actinium (89)	$8.0X10^{-1}$	$2.2X10^{1}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$2.1X10^{3}$	$5.8X10^{4}$
Ac-227 (a)	.	$9.0X10^{-1}$	$2.4X10^{1}$	$9.0X10^{-5}$	$2.4X10^{-3}$	2.7	$7.2X10^{1}$
Ac-228	.	$6.0X10^{-1}$	$1.6X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$8.4X10^{4}$	$2.2X10^{6}$
Ag-105	Silver (47)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$1.1X10^{3}$	$3.0X10^{4}$
Ag-108m (a)	.	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.7X10^{-1}$	$2.6X10^{1}$
Ag-110m (a)	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.8X10^{2}$	$4.7X10^{3}$
Ag-111	.	2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$5.8X10^{3}$	$1.6X10^{5}$
Al-26	Aluminum (13)	$1.0X10^{-1}$	2.7	$1.0X10^{-1}$	2.7	$7.0X10^{-4}$	$1.9X10^{-2}$
Am-241	Americium (95)	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$1.3X10^{-1}$	3.4
Am-242m (a)	.	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$3.6X10^{-1}$	$1.0X10^{1}$
Am-243 (a)	.	5.0	$1.4X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$7.4X10^{-3}$	$2.0X10^{-1}$
Ar-37	Argon (18)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.7X10^{3}$	$9.9X10^{4}$
Ar-39	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{1}$	$5.4X10^{2}$	1.3	$3.4X10^{1}$
Ar-41	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.5X10^{6}$	$4.2X10^{7}$
As-72	Arsenic (33)	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$6.2X10^{4}$	$1.7X10^{6}$
As-73	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$8.2X10^{2}$	$2.2X10^{4}$
As-74	.	1.0	$2.7X10^{1}$	$9.0X10^{-1}$	$2.4X10^{1}$	$3.7X10^{3}$	$9.9X10^{4}$
As-76	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$5.8X10^{4}$	$1.6X10^{6}$
As-77	.	$2.0X10^{1}$	$5.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$3.9X10^{4}$	$1.0X10^{6}$
At-211 (a)	Astatine (85)	$2.0X10^{1}$	$5.4X10^{2}$	$5.0X10^{-1}$	$1.4X10^{1}$	$7.6X10^{4}$	$2.1X10^{6}$
Au-193	Gold (79)	7.0	$1.9X10^{2}$	2.0	$5.4X10^{1}$	$3.4X10^{4}$	$9.2X10^{5}$
Au-194	.	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.5X10^{4}$	$4.1X10^{5}$
Au-195	.	$1.0X10^{1}$	$2.7X10^{2}$	6.0	$1.6X10^{2}$	$1.4X10^{2}$	$3.7X10^{3}$
Au-198	.	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.0X10^{3}$	$2.4X10^{5}$
Au-199	.	$1.0X10^{1}$	$2.7X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$7.7X10^{3}$	$2.1X10^{5}$
Ba-131 (a)	Barium (56)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$3.1X10^{3}$	$8.4X10^{4}$
Ba-133	.	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	9.4	$2.6X10^{2}$
Ba-133m	.	$2.0X10^{1}$	$5.4X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.2X10^{4}$	$6.1X10^{5}$
Ba-140 (a)	.	$5.0X10^{-1}$	$1.4X10^{1}$	$3.0X10^{-1}$	8.1	$2.7X10^{3}$	$7.3X10^{4}$
Be-7	Beryllium (4)	$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{1}$	$5.4X10^{2}$	$1.3X10^{4}$	$3.5X10^{5}$
Be-10	.	$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-1}$	$1.6X10^{1}$	$8.3X10^{-4}$	$2.2X10^{-2}$
Bi-205	Bismuth (83)	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$1.5X10^{3}$	$4.2X10^{4}$
Bi-206	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$3.8X10^{3}$	$1.0X10^{5}$
Bi-207	.	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	1.9	$5.2X10^{1}$
Bi-210	.	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.6X10^{3}$	$1.2X10^{5}$
Bi-210m (a)	.	$6.0X10^{-1}$	$1.6X10^{1}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.1X10^{-5}$	$5.7X10^{-4}$
Bi-212 (a)	.	$7.0X10^{-1}$	$1.9X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$5.4X10^{5}$	$1.5X10^{7}$
Bk-247	Berkelium (97)	8.0	$2.2X10^{2}$	$8.0X10^{-4}$	$2.2X10^{-2}$	$3.8X10^{-2}$	1.0
Bk-249 (a)	.	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{-1}$	8.1	$6.1X10^{1}$	$1.6X10^{3}$
Br-76	Bromine (35)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$9.4X10^{4}$	$2.5X10^{6}$
Br-77	.	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$2.6X10^{4}$	$7.1X10^{5}$
Br-82	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{4}$	$1.1X10^{6}$
C-11	Carbon (6)	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.1X10^{7}$	$8.4X10^{8}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
C-14	.	4.0X10 ^{1}	1.1X10 ^{3}	3.0	8.1X10 ^{1}	1.6X10 $^{-1}$	4.5
Ca-41	Calcium (20)	Unlimited	Unlimited	Unlimited	Unlimited	3.1X10 $^{-3}$	8.5X10 $^{-2}$
Ca-45	.	4.0X10 ^{1}	1.1X10 ^{3}	1.0	2.7X10 ^{1}	6.6X10 ^{2}	1.8X10 ^{4}
Ca-47 (a)	.	3.0	8.1X10 ^{1}	3.0X10 $^{-1}$	8.1	2.3X10 ^{4}	6.1X10 ^{5}
Cd-109	Cadmium (48)	3.0X10 ^{1}	8.1X10 ^{2}	2.0	5.4X10 ^{1}	9.6X10 ^{1}	2.6X10 ^{3}
Cd-113m	.	4.0X10 1	1.1X10 3	5.0X10 -1	1.4X10 1	8.3	2.2X10 ^{2}
Cd-115 (a)	.	3.0	8.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	1.9X10 ^{4}	5.1X10 ^{5}
Cd-115m	.	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	9.4X10 ^{2}	2.5X10 ^{4}
Ce-139	Cerium (58)	7.0	1.9X10 ^{2}	2.0	5.4X10 ^{1}	2.5X10 ^{2}	6.8X10 ^{3}
Ce-141	.	2.0X10 ^{1}	5.4X10 ^{2}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.1X10 ^{3}	2.8X10 ^{4}
Ce-143	.	9.0X10 $^{-1}$	2.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	2.5X10 ^{4}	6.6X10 ^{5}
Ce-144 (a)	.	2.0X10 $^{-1}$	5.4	2.0X10 $^{-1}$	5.4	1.2X10 ^{2}	3.2X10 ^{3}
Cf-248	Californium (98)	4.0X10 ^{1}	1.1X10 ^{3}	6.0X10 $^{-3}$	1.6X10 $^{-1}$	5.8X10 ^{1}	1.6X10 ^{3}
Cf-249	.	3.0	8.1X10 ^{1}	8.0X10 $^{-4}$	2.2X10 $^{-2}$	1.5X10 $^{-1}$	4.1
Cf-250	.	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 $^{-3}$	5.4X10 $^{-2}$	4.0	1.1X10 ^{2}
Cf-251	.	7.0	1.9X10 ^{2}	7.0X10 $^{-4}$	1.9X10 $^{-2}$	5.9X10 $^{-2}$	1.6
Cf-252 ~~(h)~~	.	~~5~~1.0X10 $^{-2}$~~1~~	~~1.4~~2.7	3.0X10 $^{-3}$	8.1X10 $^{-2}$	2.0X10 ^{1}	5.4X10 ^{2}
Cf-253 (a)	.	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 $^{-2}$	1.1	1.1X10 ^{3}	2.9X10 ^{4}
Cf-254	.	1.0X10 $^{-3}$	2.7X10 $^{-2}$	1.0X10 $^{-3}$	2.7X10 $^{-2}$	3.1X10 ^{2}	8.5X10 ^{3}
Cl-36	Chlorine (17)	1.0X10 ^{1}	2.7X10 ^{2}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.2X10 $^{-3}$	3.3X10 $^{-2}$
Cl-38	.	2.0X10 $^{-1}$	5.4	2.0X10 $^{-1}$	5.4	4.9X10 ^{6}	1.3X10 ^{8}
Cm-240	Curium (96)	4.0X10 ^{1}	1.1X10 ^{3}	2.0X10 $^{-2}$	5.4X10 $^{-1}$	7.5X10 ^{2}	2.0X10 ^{4}
Cm-241	.	2.0	5.4X10 ^{1}	1.0	2.7X10 ^{1}	6.1X10 ^{2}	1.7X10 ^{4}
Cm-242	.	4.0X10 ^{1}	1.1X10 ^{3}	1.0X10 $^{-2}$	2.7X10 $^{-1}$	1.2X10 ^{2}	3.3X10 ^{3}
Cm-243	.	9.0	2.4X10 ^{2}	1.0X10 $^{-3}$	2.7X10 $^{-2}$	1.9X10 $^{-3}$	5.2X10 ^{1}
Cm-244	.	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 $^{-3}$	5.4X10 $^{-2}$	3.0	8.1X10 ^{1}
Cm-245	.	9.0	2.4X10 ^{2}	9.0X10 $^{-4}$	2.4X10 $^{-2}$	6.4X10 $^{-3}$	1.7X10 $^{-1}$
Cm-246	.	9.0	2.4X10 ^{2}	9.0X10 $^{-4}$	2.4X10 $^{-2}$	1.1X10 $^{-2}$	3.1X10 $^{-1}$
Cm-247 (a)	.	3.0	8.1X10 ^{1}	1.0X10 $^{-3}$	2.7X10 $^{-2}$	3.4X10 $^{-6}$	9.3X10 $^{-5}$
Cm-248	.	2.0X10 $^{-2}$	5.4X10 $^{-1}$	3.0X10 $^{-4}$	8.1X10 $^{-3}$	1.6X10 $^{-4}$	4.2X10 $^{-3}$
Co-55	Cobalt (27)	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	1.1X10 ^{5}	3.1X10 ^{6}
Co-56	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	1.1X10 ^{3}	3.0X10 ^{4}
Co-57	.	1.0X10 ^{1}	2.7X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	3.1X10 ^{2}	8.4X10 ^{3}
Co-58	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	1.2X10 ^{3}	3.2X10 ^{4}
Co-58m	.	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 ^{1}	1.1X10 ^{3}	2.2X10 ^{5}	5.9X10 ^{6}
Co-60	.	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	4.2X10 ^{1}	1.1X10 ^{3}
Cr-51	Chromium (24)	3.0X10 ^{1}	8.1X10 ^{2}	3.0X10 ^{1}	8.1X10 ^{2}	3.4X10 ^{3}	9.2X10 ^{4}
Cs-129	Cesium (55)	4.0	1.1X10 ^{2}	4.0	1.1X10 ^{2}	2.8X10 ^{4}	7.6X10 ^{5}
Cs-131	.	3.0X10 ^{1}	8.1X10 ^{2}	3.0X10 ^{1}	8.1X10 ^{2}	3.8X10 ^{3}	1.0X10 ^{5}
Cs-132	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	5.7X10 ^{3}	1.5X10 ^{5}
Cs-134	.	7.0X10 $^{-1}$	1.9X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	4.8X10 ^{1}	1.3X10 ^{3}
Cs-134m	.	4.0X10 ^{1}	1.1X10 ^{3}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.0X10 ^{5}	8.0X10 ^{6}
Cs-135	.	4.0X10 ^{1}	1.1X10 ^{3}	1.0	2.7X10 ^{1}	4.3X10 $^{-5}$	1.2X10 $^{-3}$
Cs-136	.	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	2.7X10 ^{3}	7.3X10 ^{4}

Commented [jsj56]: A1 values are increased (made less restrictive) for Cf252, consistent with 2015 changes to 10 CFR 71, Table A-1.

Amended values are consistent with U.S. Department of Transportation (DOT) requirements, and International Atomic Energy Agency (IAEA) transportation regulations in TS-R-1 (2009).

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NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Cs-137 (a)	.	2.0	5.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.2	8.7X10 ^{1}
Cu-64	Copper (29)	6.0	1.6X10 ^{2}	1.0	2.7X10 ^{1}	1.4X10 ^{5}	3.9X10 ^{6}
Cu-67	.	1.0X10 ^{1}	2.7X10 ^{2}	7.0X10 $^{-1}$	1.9X10 ^{1}	2.8X10 ^{4}	7.6X10 ^{5}
Dy-159	Dysprosium (66)	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 ^{1}	5.4X10 ^{2}	2.1X10 ^{2}	5.7X10 ^{3}
Dy-165	.	9.0X10 $^{-1}$	2.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.0X10 ^{5}	8.2X10 ^{6}
Dy-166 (a)	.	9.0X10 -1	2.4X10 1	3.0X10 -1	8.1	8.6X10 3	2.3X10 ^{5}
Er-169	Erbium (68)	4.0X10 ^{1}	1.1X10 ^{3}	1.0	2.7X10 ^{1}	3.1X10 ^{3}	8.3X10 ^{4}
Er-171	.	8.0X10 $^{-1}$	2.2X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	9.0X10 ^{4}	2.4X10 ^{6}
Eu-147	Europium (63)	2.0	5.4X10 ^{1}	2.0	5.4X10 ^{1}	1.4X10 ^{3}	3.7X10 ^{4}
Eu-148	.	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	6.0X10 ^{2}	1.6X10 ^{4}
Eu-149	.	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 ^{1}	5.4X10 ^{2}	3.5X10 ^{2}	9.4X10 ^{3}
Eu-150. (short.lived)	.	2.0	5.4X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	6.1X10 ^{4}	1.6X10 ^{6}
Eu-150. (long.lived)	.	7.0X10 $^{-1}$	1.9X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	6.1X10 ^{4}	1.6X10 ^{6}
Eu-152	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	6.5	1.8X10 ^{2}
Eu-152m	.	8.0X10 $^{-1}$	2.2X10 ^{1}	8.0X10 $^{-1}$	2.2X10 ^{1}	8.2X10 ^{4}	2.2X10 ^{6}
Eu-154	.	9.0X10 $^{-1}$	2.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	9.8	2.6X10 ^{2}
Eu-155	.	2.0X10 ^{1}	5.4X10 ^{2}	3.0	8.1X10 ^{1}	1.8X10 ^{1}	4.9X10 ^{2}
Eu-156	.	7.0X10 $^{-1}$	1.9X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	2.0X10 ^{3}	5.5X10 ^{4}
F-18	Fluorine.(9)	1.0	2.7X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.5X10 ^{6}	9.5X10 ^{7}
Fe-52.(a)	Iron.(26)	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	2.7X10 ^{5}	7.3X10 ^{6}
Fe-55	.	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 ^{1}	1.1X10 ^{3}	8.8X10 ^{1}	2.4X10 ^{3}
Fe-59	.	9.0X10 $^{-1}$	2.4X10 ^{1}	9.0X10 $^{-1}$	2.4X10 ^{1}	1.8X10 ^{3}	5.0X10 ^{4}
Fe-60 (a)	.	4.0X10 ^{1}	1.1X10 ^{3}	2.0X10 $^{-1}$	5.4	7.4X10 $^{-4}$	2.0X10 $^{-2}$
Ga-67	Gallium (31)	7.0	1.9X10 ^{2}	3.0	8.1X10 ^{1}	2.2X10 ^{4}	6.0X10 ^{5}
Ga-68	.	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	1.5X10 ^{6}	4.1X10 ^{7}
Ga-72	.	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	1.1X10 ^{5}	3.1X10 ^{6}
Gd-146.(a)	Gadolinium(64)	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	6.9X10 ^{2}	1.9X10 ^{4}
Gd-148	.	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 $^{-3}$	5.4X10 $^{-2}$	1.2	3.2X10 ^{1}
Gd-153	.	1.0X10 ^{1}	2.7X10 ^{2}	9.0	2.4X10 ^{2}	1.3X10 ^{2}	3.5X10 ^{3}
Gd-159	.	3.0	8.1X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.9X10 ^{4}	1.1X10 ^{6}
Ge-68.(a)	Germanium(32)	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	2.6X10 ^{2}	7.1X10 ^{3}
Ge-71	.	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 ^{1}	1.1X10 ^{3}	5.8X10 ^{3}	1.6X10 ^{5}
Ge-77	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	1.3X10 ^{5}	3.6X10 ^{6}
Hf-172 (a)	Hafnium (72)	6.0X10 $^{-1}$	1.6X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	4.1X10 ^{1}	1.1X10 ^{3}
Hf-175	.	3.0	8.1X10 ^{1}	3.0	8.1X10 ^{1}	3.9X10 ^{2}	1.1X10 ^{4}
Hf-181	.	2.0	5.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	6.3X10 ^{2}	1.7X10 ^{4}
Hf-182	.	Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 $^{-6}$	2.2X10 $^{-4}$
Hg-194 (a)	Mercury (80)	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	1.3X10 $^{-1}$	3.5
Hg-195m (a)	.	3.0	8.1X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	1.5X10 ^{4}	4.0X10 ^{5}
Hg-197	.	2.0X10 ^{1}	5.4X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	9.2X10 ^{3}	2.5X10 ^{5}
Hg-197m	.	1.0X10 ^{1}	2.7X10 ^{2}	4.0X10 $^{-1}$	1.1X10 ^{1}	2.5X10 ^{4}	6.7X10 ^{5}
Hg-203	.	5.0	1.4X10 ^{2}	1.0	2.7X10 ^{1}	5.1X10 ^{2}	1.4X10 ^{4}

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Ho-166	Holmium (67)	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	2.6X10 ^{4}	7.0X10 ^{5}
Ho-166m	.	6.0X10 $^{-1}$	1.6X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	6.6X10 $^{-2}$	1.8
I-123	Iodine (53)	6.0	1.6X10 ^{2}	3.0	8.1X10 ^{1}	7.1X10 ^{4}	1.9X10 ^{6}
I-124	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	9.3X10 ^{3}	2.5X10 ^{5}
I-125	.	2.0X10 ^{1}	5.4X10 ^{2}	3.0	8.1X10 ^{1}	6.4X10 ^{2}	1.7X10 ^{4}
I-126	.	2.0	5.4X10 1	1.0	2.7X10 1	2.9X10 3	8.0X10 ^{4}
I-129	.	Unlimited	Unlimited	Unlimited	Unlimited	6.5X10 $^{-6}$	1.8X10 $^{-4}$
I-131	.	3.0	8.1X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	4.6X10 ^{3}	1.2X10 ^{5}
I-132	.	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	3.8X10 ^{5}	1.0X10 ^{7}
I-133	.	7.0X10 $^{-1}$	1.9X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	4.2X10 ^{4}	1.1X10 ^{6}
I-134	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	9.9X10 ^{5}	2.7X10 ^{7}
I-135.(a)	.	6.0X10 $^{-1}$	1.6X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.3X10 ^{5}	3.5X10 ^{6}
In-111	Indium (49)	3.0	8.1X10 ^{1}	3.0	8.1X10 ^{1}	1.5X10 ^{4}	4.2X10 ^{5}
In-113m	.	4.0	1.1X10 ^{2}	2.0	5.4X10 ^{1}	6.2X10 ^{5}	1.7X10 ^{7}
In-114m.(a)	.	1.0X10 1	2.7X10 ^{2}	5.0X10 $^{-1}$	1.4X10 ^{1}	8.6X10 ^{2}	2.3X10 ^{4}
In-115m	.	7.0	1.9X10 ^{2}	1.0	2.7X10 ^{1}	2.2X10 ^{5}	6.1X10 ^{6}
Ir-189.(a)	Iridium (77)	1.0X10 ^{1}	2.7X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	1.9X10 ^{3}	5.2X10 ^{4}
Ir-190	.	7.0X10 $^{-1}$	1.9X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	2.3X10 ^{3}	6.2X10 ^{4}
Ir-192 ~~(c)~~	.	[c] 1.0	[c] 2.7X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.4X10 ^{2}	9.2X10 ^{3}
Ir-194	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	3.1X10 ^{4}	8.4X10 ^{5}
K-40	Potassium (19)	9.0X10 $^{-1}$	2.4X10 ^{1}	9.0X10 $^{-1}$	2.4X10 ^{1}	2.4X10 $^{-7}$	6.4X10 $^{-6}$
K-42	.	2.0X10 $^{-1}$	5.4	2.0X10 $^{-1}$	5.4	2.2X10 ^{5}	6.0X10 ^{6}
K-43	.	7.0X10 $^{-1}$	1.9X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.2X10 ^{5}	3.3X10 ^{6}
Kr-79	**Krypton (36)**	**4.0**	**1.1X10 ^{2}**	**2.0**	**5.4X10 ^{1}**	**4.2X10 ^{4}**	**1.1X10 ^{6}**
Kr-81	~~Krypton (36)~~	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 ^{1}	1.1X10 ^{3}	7.8X10 $^{-4}$	2.1X10 $^{-2}$
Kr-85	.	1.0X10 ^{1}	2.7X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	1.5X10 ^{1}	3.9X10 ^{2}
Kr-85m	.	8.0	2.2X10 ^{2}	3.0	8.1X10 ^{1}	3.0X10 ^{5}	8.2X10 ^{6}
Kr-87	.	2.0X10 $^{-1}$	5.4	2.0X10 $^{-1}$	5.4	1.0X10 ^{6}	2.8X10 ^{7}
La-137	Lanthanum(57)	3.0X10 ^{1}	8.1X10 ^{2}	6.0	1.6X10 ^{2}	1.6X10 $^{-3}$	4.4X10 $^{-2}$
La-140	.	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	2.1X10 ^{4}	5.6X10 ^{5}
Lu-172	Lutetium (71)	6.0X10 $^{-1}$	1.6X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	4.2X10 ^{3}	1.1X10 ^{5}
Lu-173	.	8.0	2.2X10 ^{2}	8.0	2.2X10 ^{2}	5.6X10 ^{1}	1.5X10 ^{3}
Lu-174	.	9.0	2.4X10 ^{2}	9.0	2.4X10 ^{2}	2.3X10 ^{1}	6.2X10 ^{2}
Lu-174m	.	2.0X10 ^{1}	5.4X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	2.0X10 ^{2}	5.3X10 ^{3}
Lu-177	.	3.0X10 ^{1}	8.1X10 ^{2}	7.0X10 $^{-1}$	1.9X10 ^{1}	4.1X10 ^{3}	1.1X10 ^{5}
Mg-28.(a)	Magnesium(12)	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	2.0X10 ^{5}	5.4X10 ^{6}
Mn-52	Manganese(25)	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	1.6X10 ^{4}	4.4X10 ^{5}
Mn-53	.	Unlimited	Unlimited	Unlimited	Unlimited	6.8X10 $^{-5}$	1.8X10 $^{-3}$
Mn-54	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	2.9X10 ^{2}	7.7X10 ^{3}
Mn-56	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	8.0X10 ^{5}	2.2X10 ^{7}
Mo-93	Molybdenum (42)	4.0X10 ^{1}	1.1X10 ^{3}	2.0X10 ^{1}	5.4X10 ^{2}	4.1X10 $^{-2}$	1.1
Mo-99 (a) ~~(i~~h)	.	1.0	2.7X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.8X10 ^{4}	4.8X10 ^{5}
N-13	Nitrogen (7)	9.0X10 $^{-1}$	2.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	5.4X10 ^{7}	1.5X10 ^{9}

Commented [jsj57]: Footnote for Ir192 updated, consistent with 2015 changes to 10 CFR 71, Table A-1.

Footnote "c" is relocated to clarify that it only applies to the A1 value and only to the special form (~sealed sources) of the isotope.

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Commented [jsj58]: Values for Kr-79 added, consistent with 2015 changes to 10 CFR 71, Table A-1.

Previously, the more generic values of Table 17A3 were used since there was no value specific to Kr-79. The IAEA added values for Kr-79 to better reflect the radiological hazard of this radionuclide. In turn, the NRC adopted the same values in 10 CFR 71.

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Commented [jsj59]: Footnote for Mo99 updated, consistent with 2015 changes to 10 CFR 71, Table A-1.

With reference to (new) footnote "h", the change restores the A_2 value (20 Ci) for Mo99 for domestic shipments. The original footnote "i" was inadvertently removed from the rule sometime in the past. This original footnote "i" indicated that the domestic value for Mo99 was 20 Ci, so there is no change to the A_2 value.

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TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Na-22	Sodium (11)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$2.3X10^{2}$	$6.3X10^{3}$
Na-24	.	$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$3.2X10^{5}$	$8.7X10^{6}$
Nb-93m	Niobium (41)	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	8.8	$2.4X10^{2}$
Nb-94	.	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$6.9X10^{-3}$	$1.9X10^{-1}$
Nb-95	.	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.5X10^{3}$	$3.9X10^{4}$
Nb-97	.	$9.0X10^{-1}$	$2.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.9X10^{5}$	$2.7X10^{7}$
Nd-147	Neodymium (60)	6.0	$1.6X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.0X10^{3}$	$8.1X10^{4}$
Nd-149	.	$6.0X10^{-1}$	$1.6X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$4.5X10^{5}$	$1.2X10^{7}$
Ni-59	Nickel (28)	Unlimited	Unlimited	Unlimited	Unlimited	$3.0X10^{-3}$	$8.0X10^{-2}$
Ni-63	.	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	2.1	$5.7X10^{1}$
Ni-65	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$7.1X10^{5}$	$1.9X10^{7}$
Np-235	Neptunium (93)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$5.2X10^{1}$	$1.4X10^{3}$
Np-236 (short-lived)	.	$2.0X10^{1}$	$5.4X10^{2}$	2.0	$5.4X10^{1}$	$4.7X10^{-4}$	$1.3X10^{-2}$
Np-236 (long-lived)	.	$9.0X10^{0}$	$2.4X10^{2}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$4.7X10^{-4}$	$1.3X10^{-2}$
Np-237	.	$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{-3}$	$5.4X10^{-2}$	$2.6X10^{-5}$	$7.1X10^{-4}$
Np-239	.	7.0	$1.9X10^{2}$	$4.0X10^{-1}$	$1.1X10^{1}$	$8.6X10^{3}$	$2.3X10^{5}$
Os-185	Osmium (76)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$2.8X10^{2}$	$7.5X10^{3}$
Os-191	.	$1.0X10^{1}$	$2.7X10^{2}$	2.0	$5.4X10^{1}$	$1.6X10^{3}$	$4.4X10^{4}$
Os-191m	.	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	$4.6X10^{4}$	$1.3X10^{6}$
Os-193	.	2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.0X10^{4}$	$5.3X10^{5}$
Os-194 (a)	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.1X10^{1}$	$3.1X10^{2}$
P-32	Phosphorus. (15)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$1.1X10^{4}$	$2.9X10^{5}$
P-33	.	$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$5.8X10^{3}$	$1.6X10^{5}$
Pa-230. (a)	Protactinium. (91)	2.0	$5.4X10^{1}$	$7.0X10^{-2}$	1.9	$1.2X10^{3}$	$3.3X10^{4}$
Pa-231	.	4.0	$1.1X10^{2}$	$4.0X10^{-4}$	$1.1X10^{-2}$	$1.7X10^{-3}$	$4.7X10^{-2}$
Pa-233	.	5.0	$1.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$7.7X10^{2}$	$2.1X10^{4}$
Pb-201	Lead. (82)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$6.2X10^{4}$	$1.7X10^{6}$
Pb-202	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{1}$	$5.4X10^{2}$	$1.2X10^{-4}$	$3.4X10^{-3}$
Pb-203	.	4.0	$1.1X10^{2}$	3.0	$8.1X10^{1}$	$1.1X10^{4}$	$3.0X10^{5}$
Pb-205	.	Unlimited	Unlimited	Unlimited	Unlimited	$4.5X10^{-6}$	$1.2X10^{-4}$
Pb-210. (a)	.	1.0	$2.7X10^{1}$	$5.0X10^{-2}$	1.4	2.8	$7.6X10^{1}$
Pb-212. (a)	.	$7.0X10^{-1}$	$1.9X10^{1}$	$2.0X10^{-1}$	5.4	$5.1X10^{4}$	$1.4X10^{6}$
Pd-103. (a)	Palladium. (46)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$2.8X10^{3}$	$7.5X10^{4}$
Pd-107	.	Unlimited	Unlimited	Unlimited	Unlimited	$1.9X10^{-5}$	$5.1X10^{-4}$
Pd-109	.	2.0	$5.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$7.9X10^{4}$	$2.1X10^{6}$
Pm-143	Promethium. (61)	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$1.3X10^{2}$	$3.4X10^{3}$
Pm-144	.	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.2X10^{1}$	$2.5X10^{3}$
Pm-145	.	$3.0X10^{1}$	$8.1X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	5.2	$1.4X10^{2}$
Pm-147	.	$4.0X10^{1}$	$1.1X10^{3}$	2.0	$5.4X10^{1}$	$3.4X10^{1}$	$9.3X10^{2}$
Pm-148m. (a)	.	$8.0X10^{-1}$	$2.2X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$7.9X10^{2}$	$2.1X10^{4}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Pm-149	.	2.0	5.4X10 1	6.0X10 -1	1.6X10 1	1.5X10 4	4.0X10 5
Pm-151	.	2.0	5.4X10 1	6.0X10 -1	1.6X10 1	2.7X10 4	7.3X10 5
Po-210	Polonium. (84)	4.0X10 1	1.1X10 3	2.0X10 -2	5.4X10 -1	1.7X10 2	4.5X10 3
Pr-142	Praseodymium. (59)	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	4.3X10 4	1.2X10 6
Pr-143	.	3.0	8.1X10 1	6.0X10 -1	1.6X10 1	2.5X10 3	6.7X10 4
Pt-188. (a)	Platinum. (78)	1.0	2.7X10 1	8.0X10 -1	2.2X10 1	2.5X10 3	6.8X10 4
Pt-191	.	4.0	1.1X10 2	3.0	8.1X10 1	8.7X10 3	2.4X10 5
Pt-193	.	4.0X10 1	1.1X10 3	4.0X10 1	1.1X10 3	1.4	3.7X10 1
Pt-193m	.	4.0X10 1	1.1X10 3	5.0X10 -1	1.4X10 1	5.8X10 3	1.6X10 5
Pt-195m	.	1.0X10 1	2.7X10 2	5.0X10 -1	1.4X10 1	6.2X10 3	1.7X10 5
Pt-197	.	2.0X10 1	5.4X10 2	6.0X10 -1	1.6X10 1	3.2X10 4	8.7X10 5
Pt-197m	.	1.0X10 1	2.7X10 2	6.0X10 -1	1.6X10 1	3.7X10 5	1.0X10 7
Pu-236	Plutonium. (94)	3.0X10 1	8.1X10 2	3.0X10 -3	8.1X10 -2	2.0X10 1	5.3X10 2
Pu-237	.	2.0X10 1	5.4X10 2	2.0X10 1	5.4X10 2	4.5X10 2	1.2X10 4
Pu-238	.	1.0X10 1	2.7X10 2	1.0X10 -3	2.7X10 -2	6.3X10 -1	1.7X10 1
Pu-239	.	1.0X10 1	2.7X10 2	1.0X10 -3	2.7X10 -2	2.3X10 -3	6.2X10 -2
Pu-240	.	1.0X10 1	2.7X10 2	1.0X10 -3	2.7X10 -2	8.4X10 -3	2.3X10 -1
Pu-241. (a)	.	4.0X10 1	1.1X10 3	6.0X10 -2	1.6	3.8	1.0X10 2
Pu-242	.	1.0X10 1	2.7X10 2	1.0X10 -3	2.7X10 -2	1.5X10 -4	3.9X10 -3
Pu-244. (a)	.	4.0X10 -1	1.1X10 1	1.0X10 -3	2.7X10 -2	6.7X10 -7	1.8X10 -5
Ra-223. (a)	Radium. (88)	4.0X10 -1	1.1X10 1	7.0X10 -3	1.9X10 -1	1.9X10 3	5.1X10 4
Ra-224. (a)	.	4.0X10 -1	1.1X10 1	2.0X10 -2	5.4X10 -1	5.9X10 3	1.6X10 5
Ra-225 (a)	.	2.0X10 -1	5.4	4.0X10 -3	1.1X10 -1	1.5X10 3	3.9X10 4
Ra-226. (a)	.	2.0X10 -1	5.4	3.0X10 -3	8.1X10 -2	3.7X10 -2	1.0
Ra-228. (a)	.	6.0X10 -1	1.6X10 1	2.0X10 -2	5.4X10 -1	1.0X10 1	2.7X10 2
Rb-81	Rubidium (37)	2.0	5.4X10 1	8.0X10 -1	2.2X10 1	3.1X10 5	8.4X10 6
Rb-83. (a)	.	2.0	5.4X10 1	2.0	5.4X10 1	6.8X10 2	1.8X10 4
Rb-84	.	1.0	2.7X10 1	1.0	2.7X10 1	1.8X10 3	4.7X10 4
Rb-86	.	5.0X10 -1	1.4X10 1	5.0X10 -1	1.4X10 1	3.0X10 3	8.1X10 4
Rb-87	.	Unlimited	Unlimited	Unlimited	Unlimited	3.2X10 -9	8.6X10 -8
Rb(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	6.7X10 6	1.8X10 8
Re-184	Rhenium (75)	1.0	2.7X10 1	1.0	2.7X10 1	6.9X10 2	1.9X10 4
Re-184m	.	3.0	8.1X10 1	1.0	2.7X10 1	1.6X10 2	4.3X10 3
Re-186	.	2.0	5.4X10 1	6.0X10 -1	1.6X10 1	6.9X10 3	1.9X10 5
Re-187	.	Unlimited	Unlimited	Unlimited	Unlimited	1.4X10 -9	3.8X10 -8
Re-188	.	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	3.6X10 4	9.8X10 5
Re-189. (a)	.	3.0	8.1X10 1	6.0X10 -1	1.6X10 1	2.5X10 4	6.8X10 5
Re(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	0.0	2.4X10 -8
Rh-99	Rhodium (45)	2.0	5.4X10 1	2.0	5.4X10 1	3.0X10 3	8.2X10 4
Rh-101	.	4.0	1.1X10 2	3.0	8.1X10 1	4.1X10 1	1.1X10 3
Rh-102	.	5.0X10 -1	1.4X10 1	5.0X10 -1	1.4X10 1	4.5X10 1	1.2X10 3
Rh-102m	.	2.0	5.4X10 1	2.0	5.4X10 1	2.3X10 2	6.2X10 3
Rh-103m	.	4.0X10 1	1.1X10 3	4.0X10 1	1.1X10 3	1.2X10 6	3.3X10 7

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Rh-105	.	1.0X10 1	2.7X10 2	8.0X10 -1	2.2X10 1	3.1X10 4	8.4X10 5
Rn-222. (a)	Radon (86)	3.0X10 -1	8.1	4.0X10 -3	1.1X10 -1	5.7X10 3	1.5X10 5
Ru-97	Ruthenium (44)	5.0	1.4X10 2	5.0	1.4X10 2	1.7X10 4	4.6X10 5
Ru-103. (a)	.	2.0	5.4X10 1	2.0	5.4X10 1	1.2X10 3	3.2X10 4
Ru-105	.	1.0	2.7X10 1	6.0X10 -1	1.6X10 1	2.5X10 5	6.7X10 6
Ru-106. (a)	.	2.0X10 -1	5.4	2.0X10 -1	5.4	1.2X10 2	3.3X10 3
S-35	Sulphur (16)	4.0X10 1	1.1X10 3	3.0	8.1X10 1	1.6X10 3	4.3X10 4
Sb-122	Antimony (51)	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	1.5X10 4	4.0X10 5
Sb-124	.	6.0X10 -1	1.6X10 1	6.0X10 -1	1.6X10 1	6.5X10 2	1.7X10 4
Sb-125	.	2.0	5.4X10 1	1.0	2.7X10 1	3.9X10 1	1.0X10 3
Sb-126	.	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	3.1X10 3	8.4X10 4
Sc-44	Scandium (21)	5.0X10 -1	1.4X10 1	5.0X10 -1	1.4X10 1	6.7X10 5	1.8X10 7
Sc-46	.	5.0X10 -1	1.4X10 1	5.0X10 -1	1.4X10 1	1.3X10 3	3.4X10 4
Sc-47	.	1.0X10 1	2.7X10 2	7.0X10 -1	1.9X10 1	3.1X10 4	8.3X10 5
Sc-48	.	3.0X10 -1	8.1	3.0X10 -1	8.1	5.5X10 4	1.5X10 6
Se-75	Selenium (34)	3.0	8.1X10 1	3.0	8.1X10 1	5.4X10 2	1.5X10 4
Se-79	.	4.0X10 1	1.1X10 3	2.0	5.4X10 1	2.6X10 -3	7.0X10 -2
Si-31	Silicon (14)	6.0X10 -1	1.6X10 1	6.0X10 -1	1.6X10 1	1.4X10 6	3.9X10 7
Si-32	.	4.0X10 1	1.1X10 3	5.0X10 -1	1.4X10 1	3.9	1.1X10 2
Sm-145	Samarium (62)	1.0X10 1	2.7X10 2	1.0X10 1	2.7X10 2	9.8X10 1	2.6X10 3
Sm-147	.	Unlimited	Unlimited	Unlimited	Unlimited	8.5X10 -1	2.3X10 -8
Sm-151	.	4.0X10 1	1.1X10 3	1.0X10 1	2.7X10 2	9.7X10 -1	2.6X10 1
Sm-153	.	9.0	2.4X10 2	6.0X10 -1	1.6X10 1	1.6X10 4	4.4X10 5
Sn-113. (a)	Tin (50)	4.0	1.1X10 2	2.0	5.4X10 1	3.7X10 2	1.0X10 4
Sn-117m	.	7.0	1.9X10 2	4.0X10 -1	1.1X10 1	3.0X10 3	8.2X10 4
Sn-119m	.	4.0X10 1	1.1X10 3	3.0X10 1	8.1X10 2	1.4X10 2	3.7X10 3
Sn-121m. (a)	.	4.0X10 1	1.1X10 3	9.0X10 -1	2.4X10 1	2.0	5.4X10 1
Sn-123	.	8.0X10 -1	2.2X10 1	6.0X10 -1	1.6X10 1	3.0X10 2	8.2X10 3
Sn-125	.	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	4.0X10 3	1.1X10 5
Sn-126. (a)	.	6.0X10 -1	1.6X10 1	4.0X10 -1	1.1X10 1	1.0X10 -3	2.8X10 -2
Sr-82 . (a)	Strontium (38)	2.0X10 -1	5.4	2.0X10 -1	5.4	2.3X10 3	6.2X10 4
Sr-85	.	2.0	5.4X10 1	2.0	5.4X10 1	8.8X10 2	2.4X10 4
Sr-85m	.	5.0	1.4X10 2	5.0	1.4X10 2	1.2X10 6	3.3X10 7
Sr-87m	.	3.0	8.1X10 1	3.0	8.1X10 1	4.8X10 5	1.3X10 7
Sr-89	.	6.0X10 -1	1.6X10 1	6.0X10 -1	1.6X10 1	1.1X10 3	2.9X10 4
Sr-90. (a)	.	3.0X10 -1	8.1	3.0X10 -1	8.1	5.1	1.4X10 2
Sr-91. (a)	.	3.0X10 -1	8.1	3.0X10 -1	8.1	1.3X10 5	3.6X10 6
Sr-92. (a)	.	1.0	2.7X10 1	3.0X10 -1	8.1	4.7X10 5	1.3X10 7
T(H-3)	Tritium. (1)	4.0X10 1	1.1X10 3	4.0X10 1	1.1X10 3	3.6X10 2	9.7X10 3
Ta-178. (long	Tantalum. (73)	1.0	2.7X10 1	8.0X10 -1	2.2X10 1	4.2X10 6	1.1X10 8
Ta-179	.	3.0X10 1	8.1X10 2	3.0X10 1	8.1X10 2	4.1X10 1	1.1X10 3
Ta-182	.	9.0X10 -1	2.4X10 1	5.0X10 -1	1.4X10 1	2.3X10 2	6.2X10 3

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Tb-157	Terbium. (65)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$5.6X10^{-1}$	$1.5X10^{1}$
Tb-158	.	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$5.6X10^{-1}$	$1.5X10^{1}$
Tb-160	.	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.2X10^{2}$	$1.1X10^{4}$
Tc-95m (a)	Technetium (43)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$8.3X10^{2}$	$2.2X10^{4}$
Tc-96	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.2X10^{4}$	$3.2X10^{5}$
Tc-96m. (a)	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.4X10^{6}$	$3.8X10^{7}$
Tc-97	.	Unlimited	Unlimited	Unlimited	Unlimited	$5.2X10^{-5}$	$1.4X10^{-3}$
Tc-97m	.	$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$5.6X10^{2}$	$1.5X10^{4}$
Tc-98	.	$8.0X10^{-1}$	$2.2X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$3.2X10^{-5}$	$8.7X10^{-4}$
Tc-99	.	$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.3X10^{-4}$	$1.7X10^{-2}$
Tc-99m	.	$1.0X10^{1}$	$2.7X10^{2}$	4.0	$1.1X10^{2}$	$1.9X10^{5}$	$5.3X10^{6}$
Te-121	Tellurium. (52)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$2.4X10^{3}$	$6.4X10^{4}$
Te-121m	.	5.0	$1.4X10^{2}$	3.0	$8.1X10^{1}$	$2.6X10^{2}$	$7.0X10^{3}$
Te-123m	.	8.0	$2.2X10^{2}$	1.0	$2.7X10^{1}$	$3.3X10^{2}$	$8.9X10^{3}$
Te-125m	.	$2.0X10^{1}$	$5.4X10^{2}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.7X10^{2}$	$1.8X10^{4}$
Te-127	.	$2.0X10^{1}$	$5.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.8X10^{4}$	$2.6X10^{6}$
Te-127m. (a)	.	$2.0X10^{1}$	$5.4X10^{2}$	$5.0X10^{-1}$	$1.4X10^{1}$	$3.5X10^{2}$	$9.4X10^{3}$
Te-129	.	$7.0X10^{-1}$	$1.9X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$7.7X10^{5}$	$2.1X10^{7}$
Te-129m. (a)	.	$8.0X10^{-1}$	$2.2X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.1X10^{3}$	$3.0X10^{4}$
Te-131m. (a)	.	$7.0X10^{-1}$	$1.9X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$3.0X10^{4}$	$8.0X10^{5}$
Te-132. (a)	.	$5.0X10^{-1}$	$1.4X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.1X10^{4}$	$3.0X10^{5}$
Th-227	Thorium. (90)	$1.0X10^{1}$	$2.7X10^{2}$	$5.0X10^{-3}$	$1.4X10^{-1}$	$1.1X10^{3}$	$3.1X10^{4}$
Th-228. (a)	.	$5.0X10^{-1}$	$1.4X10^{1}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$3.0X10^{1}$	$8.2X10^{2}$
Th-229	.	5.0	$1.4X10^{2}$	$5.0X10^{-4}$	$1.4X10^{-2}$	$7.9X10^{-3}$	$2.1X10^{-1}$
Th-230	.	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$7.6X10^{-4}$	$2.1X10^{-2}$
Th-231	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.0X10^{4}$	$5.3X10^{5}$
Th-232	.	Unlimited	Unlimited	Unlimited	Unlimited	$4.0X10^{-9}$	$1.1X10^{-7}$
Th-234. (a)	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$8.6X10^{2}$	$2.3X10^{4}$
Th(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	$8.1X10^{-9}$	$2.2X10^{-7}$
Ti-44. (a)	Titanium. (22)	$5.0X10^{-1}$	$1.4X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	6.4	$1.7X10^{2}$
Tl-200	Thallium. (81)	$9.0X10^{-1}$	$2.4X10^{1}$	$9.0X10^{-1}$	$2.4X10^{1}$	$2.2X10^{4}$	$6.0X10^{5}$
Tl-201	.	$1.0X10^{1}$	$2.7X10^{2}$	4.0	$1.1X10^{2}$	$7.9X10^{3}$	$2.1X10^{5}$
Tl-202	.	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$2.0X10^{3}$	$5.3X10^{4}$
Tl-204	.	$1.0X10^{1}$	$2.7X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$1.7X10^{1}$	$4.6X10^{2}$
Tm-167	Thulium. (69)	7.0	$1.9X10^{2}$	$8.0X10^{-1}$	$2.2X10^{1}$	$3.1X10^{3}$	$8.5X10^{4}$
Tm-170	.	3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.2X10^{2}$	$6.0X10^{3}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Tm-171	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$
U-230. (fast. lung. absorption). (a)(d)	Uranium. (92)	$4.0X10^{1}$	$1.1X10^{3}$	$1.0X10^{-1}$	2.7	$1.0X10^{3}$	$2.7X10^{4}$
U-230. (medium. lung. absorption). (a)(e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{-3}$	$1.1X10^{-1}$	$1.0X10^{3}$	$2.7X10^{4}$
U-230 (slow lung absorption) (a)(f)	.	$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{-3}$	$8.1X10^{-2}$	$1.0X10^{3}$	$2.7X10^{4}$
U-232. (fast. lung. absorption). (d)	.	$4.0X10^{1}$	$1.1X10^{3}$	$1.0X10^{-2}$	$2.7X10^{-1}$	$8.3X10^{-1}$	$2.2X10^{1}$
U-232. (medium. lung. absorption). (e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$7.0X10^{-3}$	$1.9X10^{-1}$	$8.3X10^{-1}$	$2.2X10^{1}$
U-232. (slow. lung. absorption). (f)	.	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$8.3X10^{-1}$	$2.2X10^{1}$
U-233. (fast. lung. absorption). (d)	.	$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-2}$	2.4	$3.6X10^{-4}$	$9.7X10^{-3}$
U-233. (medium. lung. absorption). (e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$3.6X10^{-4}$	$9.7X10^{-3}$
U-233. (slow. lung. absorption). (f)	.	$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$3.6X10^{-4}$	$9.7X10^{-3}$
U-234. (fast. lung. absorption)(d)	.	$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-2}$	2.4	$2.3X10^{-4}$	$6.2X10^{-3}$
U-234 (medium lung absorption) (e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.3X10^{-4}$	$6.2X10^{-3}$
U-234 (slow lung absorption) (f)	.	$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$2.3X10^{-4}$	$6.2X10^{-3}$
U-235. (all. lung. absorption. types). (a),(d),(e),(f)	.	Unlimited	Unlimited	Unlimited	Unlimited	$8.0X10^{-8}$	$2.2X10^{-6}$
U-236. (fast.	.	Unlimited	Unlimited	Unlimited	Unlimited	$2.4X10^{-6}$	$6.5X10^{-5}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
lung. absorption). (d)							
U-236. (medium. lung . absorption). (e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.4X10^{-6}$	$6.5X10^{-5}$
U-236 (slow lung absorption) (f)	.	4.0X10 1	1.1X10 3	6.0X10 -3	1.6X10 -1	2.4X10 -6	6.5X10 -5
U-238 . (all lung absorption types) (d),(e),(f)	.	Unlimited	Unlimited	Unlimited	Unlimited	1.2X10 -8	3.4X10 -7
U. (nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	$2.6X10^{-8}$	$7.1X10^{-7}$
U. (enriched. to. 20%. or. less). (g)	.	Unlimited	Unlimited	Unlimited	Unlimited	See. Table. 17A4	See. Table. 17A4
U. (dep)	.	Unlimited	Unlimited	Unlimited	Unlimited	See. Table. 17A4	(See. Table. 17A3)
V-48	Vanadium. (23)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$6.3X10^{3}$	$1.7X10^{5}$
V-49	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{2}$	$8.1X10^{3}$
W-178. (a)	Tungsten. (74)	9.0	$2.4X10^{2}$	5.0	$1.4X10^{2}$	$1.3X10^{3}$	$3.4X10^{4}$
W-181	.	$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{1}$	$8.1X10^{2}$	$2.2X10^{2}$	$6.0X10^{3}$
W-185	.	$4.0X10^{1}$	$1.1X10^{3}$	$8.0X10^{-1}$	$2.2X10^{1}$	$3.5X10^{2}$	$9.4X10^{3}$
W-187	.	2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.6X10^{4}$	$7.0X10^{5}$
W-188. (a)	.	$4.0X10^{-1}$	$1.1X10^{1}$	$3.0X10^{-1}$	8.1	$3.7X10^{2}$	$1.0X10^{4}$
Xe-122. (a)	Xenon. (54)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.8X10^{4}$	$1.3X10^{6}$
Xe-123	.	2.0	$5.4X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$4.4X10^{5}$	$1.2X10^{7}$
Xe-127	.	4.0	$1.1X10^{2}$	2.0	$5.4X10^{1}$	$1.0X10^{3}$	$2.8X10^{4}$
Xe-131m	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.1X10^{3}$	$8.4X10^{4}$
Xe-133	.	$2.0X10^{1}$	$5.4X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$6.9X10^{3}$	$1.9X10^{5}$
Xe-135	.	3.0	$8.1X10^{1}$	2.0	$5.4X10^{1}$	$9.5X10^{4}$	$2.6X10^{6}$
Y-87. (a)	Yttrium. (39)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.7X10^{4}$	$4.5X10^{5}$
Y-88	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$5.2X10^{2}$	$1.4X10^{4}$
Y-90	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$2.0X10^{4}$	$5.4X10^{5}$
Y-91	.	$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.1X10^{2}$	$2.5X10^{4}$
Y-91m	.	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$1.5X10^{6}$	$4.2X10^{7}$
Y-92	.	$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$3.6X10^{5}$	$9.6X10^{6}$
Y-93	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.2X10^{5}$	$3.3X10^{6}$
Yb-169	Ytterbium. (70)	4.0	$1.1X10^{2}$	1.0	$2.7X10^{1}$	$8.9X10^{2}$	$2.4X10^{4}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Yb-175	.	$3.0X10^{1}$	$8.1X10^{2}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.6X10^{3}$	$1.8X10^{5}$
Zn-65	Zinc. (30)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$3.0X10^{2}$	$8.2X10^{3}$
Zn-69	.	3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.8X10^{6}$	$4.9X10^{7}$
Zn-69m. (a)	.	3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.2X10^{5}$	$3.3X10^{6}$
Zr-88	Zirconium. (40)	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$6.6X10^{2}$	$1.8X10^{4}$
Zr-93	.	Unlimited	Unlimited	Unlimited	Unlimited	$9.3X10^{-5}$	$2.5X10^{-3}$
Zr-95. (a)	.	2.0	$5.4X10^{1}$	$8.0X10^{-1}$	$2.2X10^{1}$	$7.9X10^{2}$	$2.1X10^{4}$
Zr-97. (a)	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$7.1X10^{4}$	$1.9X10^{6}$

Notes:

a A1 and/or A2 values include contributions from daughter nuclides with half-lives less than 10 days, **as listed in the following:**

Mg-28	**Al-28**
Ca-47	**Sc-47**
Ti-44	**Sc-44**
Fe-52	**Mn-52m**
Fe-60	**Co-60m**
Zn-69m	**Zn-69**
Ge-68	**Ga-68**
Rb-83	**Kr-83m**
Sr-82	**Rb-82**
Sr-90	**Y-90**
Sr-91	**Y-91m**
Sr-92	**Y-92**
Y-87	**Sr-87m**
Zr-95	**Nb-95m**
Zr-97	**Nb-97m, Nb-97**
Mo-99	**Tc-99m**
Tc-95m	**Tc-95**
Tc-96m	**Tc-96**
Ru-103	**Rh-103m**
Ru-106	**Rh-106**
Pd-103	**Rh-103m**
Ag-108m	**Ag-108**
Ag-110m	**Ag-110**
Cd-115	**In-115m**
In-114m	**In-114**
Sn-113	**In-113m**
Sn-121m	**Sn-121**
Sn-126	**Sb-126m**
Te-127m	**Te-127**
Te-129m	**Te-129**
Te-131m	**Te-131**
Te-132	**I-132**
I-135	**Xe-135m**
Xe-122	**I-122**
Cs-137	**Ba-137m**
Ba-131	**Cs-131**
Ba-140	**La-140**
Ce-144	**Pr-144m, Pr-144**
Pm-148m	**Pm-148**
Gd-146	**Eu-146**
Dy-166	**Ho-166**
Hf-172	**Lu-172**
W-178	**Ta-178**
W-188	**Re-188**
Re-189	**Os-189m**
Os-194	**Ir-194**
Ir-189	**Os-189m**
Pt-188	**Ir-188**
Hg-194	**Au-194**
Hg-195m	**Hg-195**
Pb-210	**Bi-210**

Commented [jsj60]: Footnote updated, consistent with 2015 changes to 10 CFR 71, Table A1.

Pb-212	**Bi-212, Tl-208, Po-212**
Bi-210m	**Tl-206**
Bi-212	**Tl-208, Po-212**
At-211	**Po-211**
Rn-222	**Po-218, Pb-214, At-218, Bi-214, Po-214**
Ra-223	**Rn-219, Po-215, Pb-211, Bi-211, Po-211, Tl-207**
Ra-224	**Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212**
Ra-225	**Ac-225, Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209**
Ra-226	**Rn-222, Po-218, Pb-214, At-218, Bi-214, Po-214**
Ra-228	**Ac-228**
Ac-225	**Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209**
Ac-227	**Fr-223**
Th-228	**Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212**
Th-234	**Pa-234m, Pa-234**
Pa-230	**Ac-226, Th-226, Fr-222, Ra-222, Rn-218, Po-214**
U-230	**Th-226, Ra-222, Rn-218, Po-214**
U-235	**Th-231**
Pu-241	**U-237**
Pu-244	**U-240, Np-240m**
Am-242m	**Am-242, Np-238**
Am-243	**Np-239**
Cm-247	**Pu-243**
Bk-249	**Am-245**
Cf-253	**Cm-249**

b The values of A_1 and A_2 in Curies (Ci) are approximate and for information only; the regulatory standard units are Terabecquerels (TBq) (see Appendix 17A – Determination of A_1 and A_2, Section 17A1)

c The ~~quantity~~**activity of Ir-192 in special form** may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source.

d These values apply only to compounds of uranium that take the chemical form of UF6, UO2F2 and UO2(NO3)2 in both normal and accident conditions of transport.

e These values apply only to compounds of uranium that take the chemical form of UO3, UF4, UCl4, and hexavalent compounds in both normal and accident conditions of transport.

f These values apply to all compounds of uranium other than those specified in d and e, above.

g These values apply to unirradiated uranium only.

h **A_2 = 0.74 TBq (20 Ci) for Mo-99 for domestic use.**~~These values apply to domestic transport only. For international transport, use the values in the table below.~~

~~**TABLE 17A1 (SUPPLEMENT): A1 AND A2 VALUES FOR RADIONUCLIDES FOR INTERNATIONAL SHIPMENTS**~~

~~Symbol of radionuclide~~	~~Element and atomic number~~	~~A_1 (TBq)~~	~~A_1 (Ci)~~	~~A_2 (TBq)~~	~~A_2 (Ci)~~	~~Specific activity (TBq/g)~~	~~Specific activity (Ci/g)~~
~~Cf-252~~	~~Californium (98)~~	~~$5.0x10^{-2}$~~	~~1.4~~	~~$3.0x10^{-3}$~~	~~$8.1x10^{-2}$~~	~~$2.0x10^{+1}$~~	~~$5.4x10^{+2}$~~
~~Mo-99 [c]~~	~~Molybdenum (42)~~	~~1.0~~	~~$2.7x10^{+1}$~~	~~$6.0x10^{-1}$~~	~~$1.6x10^{+1}$~~	~~$1.8x10^{+4}$~~	~~$4.8x10^{+5}$~~

Commented [jsj61]: Footnote updated, consistent with 2015 changes to 10 CFR 71, Table A1.

As discussed in an earlier note, footnote "c" applies only to the special form of Ir-192.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj62]: Footnote revised, consistent with changes to 10 CFR 71, Table A1.

A domestic value limit for Mo-99 shipment is retained and updated, while the A1 values are harmonized into a single set of values.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj63]: Supplemental table 17A1 is deleted as the values for international shipments of Cf-252 and Mo-99 have been harmonized and now appear in the main Table 17A1 (above).

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TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Ac-225 ~~(a)~~	Actinium (89)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Ac-227 ~~(a)~~	.	1.0×10^{-1}	2.7×10^{-12}	1.0×10^{3}	2.7×10^{-8}
Ac-228	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ag-105	Silver (47)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ag-108m (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ag-110m ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ag-111	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Al-26	Aluminum (13)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Am-241	Americium (95)	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Am-242m (a)	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Am-243 (a)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Ar-37	Argon (18)	1.0×10^{6}	2.7×10^{-5}	1.0×10^{8}	2.7×10^{-3}
Ar-39	.	1.0×10^{7}	2.7×10^{-4}	1.0×10^{4}	2.7×10^{-7}
Ar-41	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
As-72	Arsenic (33)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
As-73	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
As-74	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
As-76	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
As-77	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
At-211 ~~(a)~~	Astatine (85)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Au-193	Gold (79)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Au-194	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Au-195	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Au-198	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Au-199	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ba-131 ~~(a)~~	Barium (56)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ba-133	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ba-133m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ba-140 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Be-7	Beryllium (4)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Be-10	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Bi-205	Bismuth (83)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Bi-206	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Bi-207	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Bi-210	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Bi-210m ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Bi-212 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Bk-247	Berkelium (97)	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Bk-249 [5]	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Br-76	Bromine (35)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}

Commented [JJ64]: Page break inserted at first page of table to ensure the table begins on a new page at time of final publication.

Commented [jsj65]: Here and subsequently in Table 17A2, references to footnote "(a)", are removed or added for consistency with equivalent footnote of Table A-2 of 10 CFR 71.

The equivalent footnotes in 10 CFR 71 did not change, but rather, the changes are to address differences between the Table 17A2 and the Part 71 table for certain radionuclides.

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Br-77	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Br-82	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
C-11	Carbon (6)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
C-14	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Ca-41	Calcium (20)	1.0×10^{5}	2.7×10^{-6}	1.0×10^{7}	2.7×10^{-4}
Ca-45	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Ca-47 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Cd-109	Cadmium (48)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Cd-113m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Cd-115 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Cd-115m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Ce-139	Cerium (58)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ce-141	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Ce-143	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ce-144 (a)	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Cf-248	Californium (98)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cf-249	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cf-250	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cf-251	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cf-252	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cf-253 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Cf-254	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cl-36	Chlorine (17)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Cl-38	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Cm-240	Curium (96)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Cm-241	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Cm-242	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Cm-243	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Cm-244	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cm-245	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cm-246	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cm-247 ~~(a)~~	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Cm-248	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Co-55	Cobalt (27)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Co-56	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Co-57	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Co-58	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Co-58m	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Co-60	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Cr-51	Chromium (24)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Cs-129	Cesium (55)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Cs-131	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Cs-132	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Cs-134	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cs-134m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Cs-135	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Cs-136	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Cs-137 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cu-64	Copper (29)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Cu-67	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Dy-159	Dysprosium (66)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Dy-165	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Dy-166 ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Er-169	Erbium (68)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Er-171	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Eu-147	Europium (63)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Eu-148	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Eu-149	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Eu-150 (short-lived)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Eu-150 (long-lived)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Eu-152	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Eu-152 m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Eu-154	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Eu-155	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Eu-156	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
F-18	Fluorine (9)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Fe-52 ~~(a)~~	Iron (26)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Fe-55	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Fe-59	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Fe-60 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Ga-67	Gallium (31)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ga-68	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Ga-72	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Gd-146 ~~(a)~~	Gadolinium (64)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Gd-148	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Gd-153	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Gd-159	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Ge-68 ~~(a)~~	Germanium (32)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Ge-71	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
Ge-77	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Hf-172 ~~(a)~~	Hafnium (72)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Hf-175	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Hf-181	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Hf-182	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Hg-194 ~~(a)~~	Mercury (80)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Hg-195m ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Hg-197	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Hg-197m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Hg-203	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Ho-166	Holmium (67)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Ho-166m	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
I-123	Iodine (53)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
I-124	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
I-125	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
I-126	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
I-129	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
I-131	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
I-132	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
I-133	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
I-134	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
I-135 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
In-111	Indium (49)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
In-113m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
In-114m ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
In-115m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ir-189 ~~(a)~~	Iridium (77)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Ir-190	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ir-192	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Ir-194	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
K-40	Potassium (19)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
K-42	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
K-43	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Kr-79	**Krypton (36)**	**1.0×10^{3}**	**2.7×10^{-8}**	**1.0×10^{5}**	**2.7×10^{-6}**
Kr-81	~~Krypton (36)~~	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Kr-85	.	1.0×10^{5}	2.7×10^{-6}	1.0×10^{4}	2.7×10^{-7}
Kr-85m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{10}	2.7×10^{-1}
Kr-87	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
La-137	Lanthanum (57)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
La-140	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Lu-172	Lutetium (71)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Lu-173	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}

Commented [jsj66]: Values for Kr-79 added, consistent with 2015 changes to 10 CFR 71, Table A-2.

Previously, specific values for Kr-79 were not available and the generic values of Table 17A3 were applicable. The IAEA derived values for Kr-79 and are now included in this table.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Lu-174	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Lu-174m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Lu-177	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Mg-28 ~~(a)~~	Magnesium (12)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Mn-52	Manganese (25)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Mn-53	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{9}	2.7×10^{-2}
Mn-54	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Mn-56	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Mo-93	Molybdenum (42)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{8}	2.7×10^{-3}
Mo-99 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
N-13	Nitrogen (7)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
Na-22	Sodium (11)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Na-24	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Nb-93m	Niobium (41)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Nb-94	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Nb-95	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Nb-97	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Nd-147	Neodymium (60)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Nd-149	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ni-59	Nickel (28)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
Ni-63	.	1.0×10^{5}	2.7×10^{-6}	1.0×10^{8}	2.7×10^{-3}
Ni-65	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Np-235	Neptunium (93)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Np-236 (short-lived)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Np-236 (long-lived)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Np-237 **(a)**	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Np-239	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Os-185	Osmium (76)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Os-191	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Os-191m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Os-193	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Os-194 ~~(a)~~	Osmium (76)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
P-32	Phosphorus (15)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
P-33	.	1.0×10^{5}	2.7×10^{-6}	1.0×10^{8}	2.7×10^{-3}
Pa-230(a)	Protactinium (91)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pa-231	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES					
Symbol of radionuclide	**Element and atomic number**	**Activity concentration for exempt material (Bq/g)**	**Activity concentration for exempt material (Ci/g)**	**Activity limit for exempt consignment (Bq)**	**Activity limit for exempt consignment (Ci)**
Pa-233	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Pb-201	Lead (82)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pb-202	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Pb-203	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pb-205	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Pb-210 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Pb-212 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Pd-103 ~~(a)~~	Palladium (46)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{8}	2.7×10^{-3}
Pd-107	.	1.0×10^{5}	2.7×10^{-6}	1.0×10^{8}	2.7×10^{-3}
Pd-109	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Pm-143	Promethium (61)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pm-144	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pm-145	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Pm-147	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Pm-148m ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pm-149	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Pm-151	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Po-210	Polonium (84)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Pr-142	Praseodymium (59)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Pr-143	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Pt-188 ~~(a)~~	Platinum (78)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pt-191	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pt-193	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Pt-193m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Pt-195m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pt-197	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Pt-197m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pu-236	Plutonium (94)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Pu-237	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Pu-238	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Pu-239	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Pu-240	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Pu-241 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Pu-242	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Pu-244 ~~(a)~~	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Ra-223 (a)	Radium (88)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Ra-224 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Ra-225 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Ra-226 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Ra-228 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Rb-81	Rubidium (37)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Rb-83 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Rb-84	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Rb-86	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Rb-87	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Rb (natural)	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Re-184	Rhenium (75)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Re-184m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Re-186	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Re-187	.	1.0×10^{6}	2.7×10^{-5}	1.0×10^{9}	2.7×10^{-2}
Re-188	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Re-189 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Re (natural)	.	1.0×10^{6}	2.7×10^{-5}	1.0×10^{9}	2.7×10^{-2}
Rh-99	Rhodium (45)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Rh-101	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Rh-102	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Rh-102m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Rh-103m	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
Rh-105	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Rn-222 (a)	Radon (86)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{8}	2.7×10^{-3}
Ru-97	Ruthenium (44)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Ru-103 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ru-105	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ru-106 (a)	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
S-35	Sulphur (16)	1.0×10^{5}	2.7×10^{-6}	1.0×10^{8}	2.7×10^{-3}
Sb-122	Antimony (51)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{4}	2.7×10^{-7}
Sb-124	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Sb-125	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sb-126	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sc-44	Scandium (21)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sc-46	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Sc-47	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sc-48	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Se-75	Selenium (34)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Se-79	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Si-31	Silicon (14)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Si-32	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Sm-145	Samarium (62)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Sm-147	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Sm-151	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
Sm-153	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Sn-113 ~~(a)~~	Tin (50)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Sn-117m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sn-119m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Sn-121m ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Sn-123	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Sn-125	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Sn-126 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sr-82 ~~(a)~~	Strontium (38)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sr-85	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sr-85m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Sr-87m	Strontium (38)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sr-89	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Sr-90 (a)	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{4}	2.7×10^{-7}
Sr-91 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sr-92 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
T(H-3)	Tritium (1)	1.0×10^{6}	2.7×10^{-5}	1.0×10^{9}	2.7×10^{-2}
Ta-178 (long-lived)	Tantalum (73)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ta-179	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Ta-182	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Tb-157	Terbium (65)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Tb-158	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tb-160	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tc-95m ~~(a)~~	Technetium (43)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tc-96	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tc-96m ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Tc-97	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{8}	2.7×10^{-3}
Tc-97m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Tc-98	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tc-99	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Tc-99m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Te-121	Tellurium (52)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Te-121m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Te-123m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Te-125m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Te-127	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Te-127m ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Te-129	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Te-129m ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Te-131m ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Te-132 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Th-227	Thorium (90)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}

Commented [jsj67]: Select values for Te-121m are revised, consistent with 10 CFR 71, Table A-2.

The IAEA revised its values for Te-121m based on new analyses and information.

This is a relatively uncommon isotope. As such, the proposed change is not expected to have an impact on licensees.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES					
Symbol of radionuclide	**Element and atomic number**	**Activity concentration for exempt material (Bq/g)**	**Activity concentration for exempt material (Ci/g)**	**Activity limit for exempt consignment (Bq)**	**Activity limit for exempt consignment (Ci)**
Th-228 (a)	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Th-229 **(a)**	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Th-230	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Th-231	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Th-232	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Th-234 (a)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Th (natural) **(a)**	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Ti-44 ~~(a)~~	Titanium (22)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Tl-200	Thallium (81)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tl-201	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Tl-202	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Tl-204	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{4}	2.7×10^{-7}
Tm-167	Thulium (69)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Tm-170	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Tm-171	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
U-230 (fast lung absorption) (a),(b)	Uranium (92)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
U-230 (medium lung absorption) ~~(a),~~(c)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
U-230 (slow lung absorption) ~~(a),~~(d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
U-232 (fast lung absorption) **(a),**(b)	Uranium (92)	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U-232 (medium lung absorption) (c)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U-232 (slow lung absorption) (d)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U-233 (fast lung absorption) (b)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-233 (medium lung absorption) (c)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-233 (slow lung absorption) (d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-234 (fast lung absorption) (b)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-234 (medium lung absorption) (c)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-234 (slow lung absorption) (d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES					
Symbol of radionuclide	**Element and atomic number**	**Activity concentration for exempt material (Bq/g)**	**Activity concentration for exempt material (Ci/g)**	**Activity limit for exempt consignment (Bq)**	**Activity limit for exempt consignment (Ci)**
U-235 (all lung absorption types) (a),(b),(c),(d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-236 (fast lung absorption) (b)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-236 (medium lung absorption) (c)	Uranium (92)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-236 (slow lung absorption) (d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-238 (all lung absorption types) **(a),**(b),(c),(d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U (natural) **(a)**	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U (enriched to 20% or less) (e)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U (depleted)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
V-48	Vanadium (23)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
V-49	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
W-178 ~~(a)~~	Tungsten (74)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
W-181	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
W-185	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
W-187	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
W-188 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Xe-122 ~~(a)~~	Xenon (54)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
Xe-123	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
Xe-127	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Xe-131m	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{4}	2.7×10^{-7}
Xe-133	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{4}	2.7×10^{-7}
Xe-135	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{10}	2.7×10^{-1}
Y-87 ~~(a)~~	Yttrium (39)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Y-88	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Y-90	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Y-91	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Y-91m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Y-92	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Y-93	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Yb-169	Ytterbium (79)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Yb-175	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Zn-65	Zinc (30)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Zn-69	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Zn-69m ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Zr-88	Zirconium (40)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Zr-93 **(a)**	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Zr-95 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Zr-97 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}

a Parent nuclides and their progeny included in secular equilibrium are listed in the following:

Sr-90	Y-90
Zr-93	Nb-93m
Zr-97	Nb-97
Ru-106	Rh-106
Ag-108m	**Ag-108**
Cs-137	Ba-137m
~~Ce-134~~	~~La-134~~
Ce-144	Pr-144
Ba-140	La-140
Bi-212	Tl-208 (0.36), Po-212 (0.64)
Pb-210	Bi-210, Po-210
Pb-212	Bi-212, Tl-208 (0.36), Po-212 (0.64)
~~Rn-220~~	~~Po-216~~
Rn-222	Po-218, Pb-214, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226	Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228	Ac-228
~~Th-226~~	~~Ra-222, Rn-218, Po-214~~
Th-228	Ra-224, Rn-220, Po-216, Pb212, Bi-212, Tl208 (0.36), Po-212 (0.64)
Th-229	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-nat	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-12 (0.64)
Th-234	Pa-234m
U-230	Th-226, Ra-222, Rn-218, Po-214
U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235	Th-231
U-238	Th-234, Pa-234m
U-nat	Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, **Pb-210, Bi-210, Po-210**
~~U-240~~	~~Np-240m~~
Np-237	Pa-233
Am-242m	Am-242
Am-243	Np-239

b These values apply only to compounds of uranium that take the chemical form of UF6, UO2F2 and UO2(NO3)2 in both normal and accident conditions of transport.

c These values apply only to compounds of uranium that take the chemical form of UO3, UF4, UCl4, and hexavalent compounds in both normal and accident conditions of transport.

Commented [jsj68]: Tab spacing is added for formatting purposes only.

Consistent with 10 CFR 71 (and IAEA regulation), Ag-108m is added, and certain parent and progeny values are removed from this footnote.

974 d These values apply to all compounds of uranium other than those specified in ~~d and e~~**b and c**, above.

975 e These values apply to unirradiated uranium only.

976

TABLE 17A3: GENERAL VALUES FOR A1 AND A2

Contents	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Activity concen-tration for exempt material(Bq/g)	Activity concen-tration for exempt material(Ci/g)	Activity limits for exempt consign-ments (Bq)	Acti limit exe consign-ments (Ci)
Only beta or gamma emitting radionuclides are known to be present	1×10^{-1}	2.7×10^{0}	2×10^{-2}	5.4×10^{-1}	1×10^{1}	2.7×10^{-10}	1×10^{4}	2.7×10^{-7}
~~Only a~~Alpha emitting radionuclides, **but no neutron emitters,** are known to be present **(a)**	2×10^{-1}	5.4×10^{0}	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^{3}	2.7×10^{-8}
Neutron emitting nuclides are known to be present or ~~No~~**no** relevant data are available	1×10^{-3}	2.7×10^{-2}	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^{3}	2.7×10^{-8}

a If beta or gamma emitting nuclides are known to be present, the A1 value of 0.1 TBq (2.7 Ci) should be used.

Commented [jsj69]: Page break inserted at first page of table to ensure the table begins on a new page at time of final publication.

ALSO - SEE NEXT COMMENT.

Commented [jsj70]: Changes are made to Table 17A3 and footnote, consistent with existing provisions and recent updates to 10 CFR 71, Table A-3.

Due to the original wording, some users may have incorrectly applied the (original) third criteria of the table when they encountered an alpha emitter that also emitted beta particles or gamma rays when it was intended that they be assigned to the second row of the table. The updated language is intended to clarify the requirements and avoid such errors.

For neutron emitters that also emit alpha particles (including Cf-252, Cf-254, Cm-248), the third row of the table would apply.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

TABLE 17A4: ACTIVITY-MASS RELATIONSHIPS FOR URANIUM

Uranium Enrichment (i) weight % U-235 present	Specific Activity	Specific Activity
.	TBq/g	Ci/g
0.45	1.8×10^{-8}	5.0×10^{-7}
0.72	2.6×10^{-8}	7.1×10^{-7}
1.0	2.8×10^{-8}	7.6×10^{-7}
1.5	3.7×10^{-8}	1.0×10^{-6}
5.0	1.0×10^{-7}	2.7×10^{-6}
10.0	1.8×10^{-7}	4.8×10^{-6}
20.0	3.7×10^{-7}	1.0×10^{-5}
35.0	7.4×10^{-7}	2.0×10^{-5}
50.0	9.3×10^{-7}	2.5×10^{-5}
90.0	2.2×10^{-6}	5.8×10^{-5}
93.0	2.6×10^{-6}	7.0×10^{-5}
95.0	3.4×10^{-6}	9.1×10^{-5}

(i) The figures for uranium include representative values for the activity of the uranium-235 that is concentrated during the enrichment process.

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COLORADO
Board of Health
Department of Public Health & Environment

Notice of Public Rule-Making Hearing

September 20, 2017

ID #: 104

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: September 20, 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 1007-1, Part 1, Radiation Control - General Provisions
6 CCR 1007-1, Part 17, Radiation Control - Transportation of Radioactive Materials

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

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

Statute(s)
§25-1.5-101(1)(k) and (1)(l),C.R.S.
§25-11-103, C.R.S.
§25-11-104, C.R.S.
§25-1-108, 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:
Radiation Control Program, Hazardous Materials and Waste Management Division, HMWM-RM-B2, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-3454.

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, September 14, 2017.

Deborah Nelson, Board of Health Administrator
Date: 2017-07-13T11:36:37

Notice of Proposed Rulemaking

Tracking number

2017-00302

Department

1000 - Department of Public Health and Environment

Agency

1007 - Hazardous Materials and Waste Management Division

CCR number

6 CCR 1007-1 Part 17

Rule title

RADIATION CONTROL - TRANSPORTATION OF RADIOACTIVE MATERIALS

Rulemaking Hearing

Date

09/20/2017

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 changes being proposed for Parts 1 and 17 are to align Colorado regulations with those of the federal government and ultimately international regulations. The changes are needed for compatibility with the federal regulations and to maintain Colorados status as an agreement state, and allow Colorado to work within the global and national framework for regulation of transportation of radioactive materials.

Statutory authority

Section 25-1.5-101(1)(k), 25-1.5-101(1)(l), 25-11-103, 25-11-104, and 25-1-108, C.R.S.

Contact information

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Title

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COLORADO
Department of Public Health & Environment

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

To: Members of the State Board of Health

From: Jennifer Opila, Program Manager
James Jarvis, Regulatory Lead
Hazardous Materials and Waste Management Division

Through: Gary Baughman, Division Director GWB

Date: July 19, 2017

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1007-1, Part 1, General Provisions, and Part 17, Transportation of Radioactive Material, with a request for a rulemaking hearing to be set for September of 2017

The Division is proposing to make technical amendments to the Part 17 radiation regulations, titled *Transportation of Radioactive Material* and an associated change to the Part 1 radiation regulations, titled *General Provisions*. The Part 1 rule contains formal definitions that are used throughout other regulatory parts. The Part 17 contains the basic requirements for transportation of radioactive materials and is used in conjunction with other federal regulations governing transportation of radioactive materials including those of the U.S. Nuclear Regulatory Commission (NRC) and the U.S. Department of Transportation (DOT).

In 2014 and 2015 the NRC and DOT made regulatory changes to better align and harmonize U.S. transportation regulations with those of the international community and the standards of the International Atomic Energy Agency (IAEA). The changes being proposed for Parts 1 and 17 are to align Colorado regulations with those of the federal government and ultimately international regulations. The changes are needed for compatibility with the federal regulations and to maintain Colorado's status as an agreement state, and allow Colorado to work within the global and national framework for regulation of transportation of radioactive materials.

Further details of the proposed rule are listed in a Statement of Basis and Purpose and Specific Statutory Authority for the proposed rule, which, along with a Regulatory Analysis and supporting information, is available at: https://www.colorado.gov/cdphe/radregs
During early stakeholder engagement outreach efforts in February 2017, approximately 600+ stakeholders were notified of the opportunity to provide comments on the rule changes under consideration. No comments were received during the comment period. Additionally, a stakeholder meeting was scheduled and offered during the comment period, but no stakeholders were in attendance.

For efficiency purposes, the Part 1 rulemaking effort is being amended concurrent with rulemaking activities for Part 17 since the changes are directly related.

At the July 2017 request for rulemaking, the Radiation Program requests that the Board of Health set a rulemaking hearing for September of 2017.

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STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1007-1, Part 1, General Provisions
6 CCR 1007-1, Part 17, Transportation of Radioactive Material

Basis and Purpose.

The proposed amendments make technical changes to the Part 1 and Part 17 rules.

The proposed changes to Part 1 and Part 17 will ensure Colorado regulations involving transportation of radioactive materials are consistent with the 2014 and 2015 changes to federal rules that are now in effect. The Colorado rule changes will also harmonize transportation requirements with the international rules of the International Atomic Energy Agency (IAEA).

Consistent with current federal and international rules, the proposed changes to Part 1 and Part 17 will: add or modify definitions for *criticality safety index*, *low specific activity*, and *uranium-natural, depleted, enriched,* and *special form* applicable to transportation; expand exemptions for transportation of certain low-level radioactive materials deemed to be of low risk; clarify that Colorado is responsible for review of certain package-related quality assurance programs for use of Type B packages under a general license; change the rule language to defer to federal rule requirements for package quality assurance rather than provide select requirements in Colorado rule; expand some recordkeeping requirements for irradiated fissile material shipments; add package and conveyance equations used for calculating limits for mixtures or unknown quantities of radioactive materials; adjust or add package limits for certain isotopes requiring updates or that were not previously identified; update contact and related information pertaining to notifications for shipments of nuclear waste due to NRC website and organizational changes; and various technical, editorial and typographical corrections of a minor nature.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes:
25-1.5-101(1)(k), 25-1.5-101(1)(l), 25-11-103, 25-11-104, and 25-1-108, C.R.S.

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____. Rules are ___ authorized ___ required.
___X__ No

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

__X__ Yes
_____ No

Does this rule incorporate materials by reference?

_____ Yes
__X___ No

If "Yes," the rule needs to provide the URL of where the material is available on the internet (CDPHE website recommended) or the Division needs to provide one print or electronic copy of the incorporated material to the State Publications Library. § 24-4-103(12.5)(c), C.R.S.

Does this rule create or modify fines or fees?

_____ Yes
__X___ No

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REGULATORY ANALYSIS
for Amendments to
6 CCR 1007-1, Part 1, General Provisions
6 CCR 1007-1, Part 17, Transportation of Radioactive Material

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

   The proposed rule changes in Part 1 and Part 17 are expected to impact only a limited number of licensees due to the nature of the proposed changes. Licensees impacted by the proposed changes include: entities who transport or offer for transport low level materials who are excepted by the provisions in 17.4.2; licensees who utilize type B packages for transport of materials but excluding industrial radiography licensees per the exception in section 17.10.2; and licensees shipping nuclear waste**. (Note, there are no Colorado licensees who ship nuclear waste).

   It is expected that all users of the rule will generally benefit from the proposed requirements as it will ensure that transportation requirements are consistent between states and across international boundaries.

   The proposed rule will not impact those entities using only radiation producing (x-ray) machines for any purpose.

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 proposed changes are expected to have a minimal quantitative and qualitative impact. The requirements for submission of quality assurance program documents under the general license of 17.7 will require the licensee to submit documents to the Department rather than NRC as currently written. This change is expected to have a minimal impact on affected persons (licensees).

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

   The proposed requirement for the Department (radiation program) to review the quality assurance program for entities operating under the general license described in section 17.7 of the proposed rule is the only provision expected to have a slight impact on the Department. The proposed requirement applies to the reviews of quality assurance programs for those using (NRC) approved packages. The most common types of packages requiring NRC approval (and an NRC certificate of compliance) used by Colorado licensees are known as “Type B” packages. Such Type B packages are typically used for shipment of higher risk radioactive materials. With the exception of industrial radiography licensees, the use of Type B packages by Colorado licensees occurs infrequently – typically every 2-4 years or so – at the time of source exchange. (Note that the Part 17 rule currently provides an exception from the quality assurance review process for industrial radiography licensees using Type B packages in 17.10 so there is no impact to these industrial radiography licensees or the Department as a result of the proposed update to the quality assurance program review provision).

   The use of Type B packages by Colorado licensees is secondary to the other activities of the licensee during such large activity shipments. Excluding industrial radiography shipments, most activities which involve the use of Type B packages will already involve

additional oversight by the Department so the review of any quality assurance documents or program elements are not expected to have a significant impact on the Department.

The rule requirements are enforced only by the Department. No other agency will encounter costs as a result of the proposed changes.

The costs to the Department, due to the review of additional program elements, is not expected to be significant.

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

The benefits of amending the Part 1 and Part 17 rules will be to ensure that Colorado regulations involving transportation of radioactive materials will be consistent with the national and international framework for regulating radioactive materials transport. Colorado licensees shipping or receiving radioactive materials to or through states under the jurisdiction of NRC or who ship internationally are currently required to follow federal transportation regulations.

The rule amendments will also help ensure that Colorado's status as an agreement state is maintained.

Inaction on the proposed rule will result in potential conflict with federal requirements and may jeopardize Colorado's agreement state status. Inaction would also limit Colorado's consistency within the national and international regulatory framework for radioactive materials regulation.

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

The proposed changes involve numerous technical changes. There are no less costly or less intrusive methods for achieving the purpose of the proposed rule changes.

The agency cost to review quality assurance programs is expected to be minimal and implemented as a part of routine program activities.

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

The proposed changes are technical changes necessary for compatibility with federal rule.

There are no alternate rules or alternatives available rulemaking to address the changes.

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

The proposed changes are technical in nature and are needed to harmonize Colorado rule with federal and international rules involving transportation of radioactive materials.

There are no easily quantifiable data associated with the proposed rule changes.

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STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1007-1, Part 1, General Provisions
6 CCR 1007-1, Part 17, Transportation of Radioactive Material

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:

The Governor-appointed members of the Colorado Radiation Advisory Committee who represent the healing arts, industry and higher education reviewed the proposed rule changes and had no comments on the proposed changes. The Part 17 rule (and associated Part 1 changes) apply the regulatory requirements for transportation of radioactive materials, and therefore all 300+ active radioactive material licensees were notified of the rule changes being considered for amendment and were given the opportunity to provide input. Additionally, another 300+ stakeholders representing a diverse group of entities, including non-licensees, public interest groups and individuals, federal agencies and others were notified of the rule change being considered and were invited to provide input and comments. No comments were received during this early stakeholder engagement period.

As part of the agreement state requirements, the U.S. Nuclear Regulatory Commission (NRC) reviewed the draft rule changes for consistency and compatibility with federal rule. The NRC provided several comments on the proposed rule changes specific to Part 17 which have been incorporated and are reflected in the most recent draft rule.

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.

There were no major factual or policy issues encountered during the stakeholder process. No stakeholders provided comments on the proposed rule change. No entities attended the scheduled stakeholder meeting.

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

The proposed rule change impacts Coloradoans equally. The proposed rule changes are technical changes that do not provide an opportunity to advance HEEJ. The content of the proposed rule change is driven by the need for consistency with federal rule and the national and international framework for regulating the transport of radioactive materials. All entities falling under these regulatory requirements are treated in an equal manner.

DRAFT C 02/27/17

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - GENERAL PROVISIONS

6 CCR 1007-1 Part 01

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

Adopted by the Board of Health on September 20, 2017, effective date November 14, 2017.

~~**Adopted by the Board of Health on December 16, 2015.**~~

PART 1: GENERAL PROVISIONS

1.1 Purpose and Scope.

[* * * = Indicates omission of unaffected rules/sections]

* * *

1.1.5.1 **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.**~~Published material incorporated in Part 1 by reference is available in accord with Section 1.4~~.

* * *

1.2 Definitions.

* * *

"Special form radioactive material" means radioactive material that satisfies the following conditions:

(1) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(2) The piece or capsule has at least one dimension not less than 5 millimeters (0.2 inch); and

(3) **It satisfies the requirements of 10 CFR 71.75. A special form encapsulation designed in accordance with the requirements of:**

(a) 10 CFR 71.4 in effect on June 30, 1983 (see 10 CFR part 71, revised as of January 1, 1983), and constructed before July 1, 1985;

(b) A special form encapsulation designed in accordance with the requirements of 10 CFR 71.4 in effect on March 31, 1996 (see 10 CFR part 71, revised as of January 1, 1996), and constructed before April 1, 1998; and

Commented [jsj1]:
EDITORIAL NOTE 1: ALL COMMENTS (SUCH AS THIS ONE) SHOWN IN THE RIGHT SIDE MARGIN OF THIS DOCUMENT ARE FOR INFORMATION PURPOSES ONLY TO AID THE READER IN UNDERSTANDING THE PROPOSED RULE DURING THE DRAFT REVIEW PROCESS.

THESE COMMENTS ARE **NOT** PART OF THE RULE AND WILL BE DELETED PRIOR TO FINAL SUBMISSION FOR PUBLICATION.

EDITORIAL NOTE 2: COMPATIBILITY WITH FEDERAL U.S. NUCLEAR REGULATORY COMMISSION (NRC) REGULATIONS IS REQUIRED BY COLORADO STATUTE AND TO MAINTAIN AGREEMENT STATE STATUS WITH THE NUCLEAR REGULATORY COMMISSION (NRC). THE PROPOSED CHANGES TO PART 1 ARE BASED ON INFORMATION FROM THE NRC REGULATORY ACTION TRACKING SYSTEM (RATS) WHICH MAY BE FOUND AT: https://scp.nrc.gov/rss_regamendents.html

INFORMATION ON NRC COMPATIBILITY CATEGORIES MAY BE FOUND AT: https://scp.nrc.gov/regresources.html

EDITORIAL NOTE 3: THE CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS (CRCPD), INC., DEVELOPS SUGGESTED STATE REGULATIONS FOR CONTROL OF RADIATION (KNOWN AS SSRCR'S). CONSISTENT WITH STATE LAW AND UNLESS OTHERWISE DETERMINED BY THE BOARD OF HEALTH, COLORADO'S RULES ARE TO BE CONSISTENT WITH NRC REGULATIONS AND THE SSRCR REGULATIONS. THE SSRCRS MAY BE FOUND ONLINE AT: http://www.crcpd.org/ssrcrs/default.aspx

THE EQUIVALENT REGULATORY PART TO PART 1 IS SSRCR PART "A". PART A WAS LAST UPDATED IN 2003 AND IS NO LONGER CONSISTENT WITH CHANGES TO 10 CFR PART 71.

EDITORIAL NOTE 4: UNAFFECTED SECTIONS OF THE RULE HAVE BEEN OMITTED FROM THE DRAFT FOR BREVITY. SUCH SECTIONS ARE DELINIATED BY " * * * ".

Commented [jsj2]: These dates reflect the anticipated adoption by the Colorado Board of Health. The effective date is approximately 60 days beyond the adopted date, based upon the Colorado Secretary of State's publication calendar/schedule.

Commented [jsj3]: Definition is updated, consistent with the equivalent definition in 10 CFR 71.4.

NRC Compatibility "B"
NRC RATS 2015-3

(c) Special form material that was successfully tested before September 10, 2015 in accordance with the requirements of 10 CFR 71.75(d) in effect before September 10, 2015 may continue to be used. Any other special form encapsulation must meet the specifications of this definition.

~~All test requirements specified by the NRC that are applicable and in effect at the time are met by the special form encapsulation design and/or construction.~~

* * *

1.4.3 The addresses of the Federal Agencies and Organizations originally issuing the referenced materials are available on the Division website at **https://www.colorado.gov/cdphe/radregs**~~http://www.cdphe.state.co.us/hm/index.htm~~.

* * *

Commented [jsj4]: Web site URL updated for consistency with other rule changes and web site updates.

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DRAFT F 06/26/17

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Hazardous Materials and Waste Management Division

RADIATION CONTROL - TRANSPORTATION OF RADIOACTIVE MATERIALS

6 CCR 1007-1 Part 17

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

Adopted by the Board of Health September 20, effective date November 14, 2017.

PART 17: TRANSPORTATION OF RADIOACTIVE MATERIALS

GENERAL PROVISIONS

17.1 Purpose and Scope.

17.1.1 Authority.

Rules and regulations set forth herein are adopted pursuant to the provisions of sections 25-1-108, 25-1.5-101(1)(l), and 25-11-104, CRS.

17.1.2 Basis and Purpose.

A statement of basis and purpose accompanies this part and changes to this part. A copy may be obtained from the Department.

17.1.3 Scope.

This part establishes requirements for packaging, preparation for shipment, and transportation of radioactive material.

17.1.4 Applicability.

17.1.4.1 This part applies to any person who transports radioactive material or delivers radioactive material to a carrier for transport.

(1) This part applies in particular to any licensee authorized by specific or general license to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on a public highway.

(2) The transport of licensed material or delivery of licensed material to a carrier for transport is subject to the:

(a) General provisions of 17.1 through 17.5, including referenced DOT regulations;

(b) Quality assurance requirements of ~~17.10~~**10 CFR 71**; and

(c) Operating controls and procedures requirements of 17.11 through 17.17.

(3) No provision of this part authorizes possession of licensed material.

(4) Exemptions from the requirement in 17.3 for a license are specified in 17.4.

Commented [jsj5]:
EDITORIAL NOTE 1: ALL COMMENTS (SUCH AS THIS ONE) SHOWN IN THE RIGHT SIDE MARGIN OF THIS DOCUMENT ARE FOR INFORMATION PURPOSES ONLY TO PROVIDE ADDITIONAL INFORMATION AND TO AID THE READER IN UNDERSTANDING THE PROPOSED RULE DURING THE DRAFT REVIEW PROCESS.

THESE COMMENTS ARE **NOT** PART OF THE RULE AND ALL COMMENTS WILL BE DELETED PRIOR TO FINAL SUBMISSION FOR PUBLICATION BY THE COLORADO SECRETARY OF STATE'S OFFICE.
EDITORIAL NOTE 2: COMPATIBILITY WITH FEDERAL U.S. NUCLEAR REGULATORY COMMISSION (NRC) REGULATIONS IS REQUIRED BY COLORADO STATUTE AND TO MAINTAIN AGREEMENT STATE STATUS WITH NRC. THE PROPOSED CHANGES TO PART 17 ARE BASED ON CHANGES IN 10 CFR 71. INFORMATION ON NRC COMPATIBILITY CATEGORIES MAY BE FOUND AT: https://scp.nrc.gov/regresources.html
EDITORIAL NOTE 3: THE CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS (CRCPD), INC., DEVELOPS SUGGESTED STATE REGULATIONS FOR CONTROL OF RADIATION (KNOWN AS SSRCR'S). UNLESS OTHERWISE DETERMINED BY THE BOARD OF HEALTH, COLORADO'S RULES ARE TO BE CONSISTENT WITH NRC REGULATIONS AND THE SSRCR REGULATIONS. THE SSRCRS MAY BE FOUND ONLINE AT: http://www.crcpd.org/ssrcrs/default.aspx

THE EQUIVALENT REGULATORY PART TO PART 17 IS SSRCR PART "T". PART T WAS LAST UPDATED IN 2014 BUT IS NOT CONSISTENT WITH THE MOST RECENT (2015) CHANGES TO 10 CFR PART 71.
EDITORIAL NOTE 4: INFORMATION ON THE NRC REGULATORY ACTION TRACKING SYSTEM (RATS) MAY BE FOUND AT: https://scp.nrc.gov/rss_regamendents.html
EDITORIAL NOTE 5: THE PRIMARY PURPOSE OF THE PROPOSED CHANGES TO PART 17 IS TO MAKE THE RULE CONSISTENT WITH 10 CFR PART 71 (NRC) AND 49 CFR (U.S. DOT) BOTH OF WHICH WERE AMENDED TO BRING U.S. REQUIREMENTS IN ALIGNMENT WITH INTERNATIONAL TRANSPORTATION REQUIREMENTS OF THE IAEA.
EDITORIAL NOTE 6: WHERE APPLICABLE SOME UNAFFECTED SECTIONS OF THE RULE MAY HAVE BEEN OMITTED FROM THE DRAFT FOR BREVITY. SUCH SECTIONS ARE DELINIATED BY "* * *".

Commented [jsj6]: This reflects the date of anticipated adoption by the Colorado Board of Health (the Board). The effective date is approximately 60 days beyond the adopted date, based on the Colorado Secretary of State's publication calendar and pending final adoption by the Board.

Commented [JJ7]: Reference to Section 17.10 is removed as the rule will defer to the quality assurance requirements of 10 CFR Part 71 rather than duplicate limited portions of them in Section 17.10.

(5) The general license under 17.7 requires that a NRC ~~c~~Certificate of ~~c~~Compliance or other package approval be issued for the package to be used under the general license.

(6) General licenses for which no package approval is required are issued in 17.8 and 17.9.

(7) These rules apply to any person required to obtain a ~~c~~Certificate of ~~c~~Compliance or an approved compliance plan from the NRC pursuant to 10 CFR 71 if the person delivers radioactive material to a common or contract carrier for transport or transports the material outside the confines of the person's plant or other authorized place of use.

17.1.4.2 The packaging and transport of radioactive material are also subject to other parts of these regulations and to the regulations of other agencies (such as the DOT, the United States Postal Service and the NRC) having jurisdiction over means of transport.

17.1.4.3 The requirements of this part are in addition to, and not in substitution for, other requirements.

17.1.5 Published Material Incorporated by Reference.

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. ~~Published material incorporated in Part 17 by reference is available in accord with Part 1, Section 1.4.~~

17.2 Definitions.

17.2.1 Definitions of general applicability to these regulations are in Part 1, Section 1.2.2.

17.2.2 Terms used in Part 17 have the definitions set forth as follows.

“Carrier” means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

"Certificate holder" means a person who has been issued a ~~c~~Certificate of ~~c~~Compliance or other package approval by the NRC.

"Certificate of Compliance" (COC) means the certificate issued by the NRC under subpart D of 10 CFR 71 ~~(January 1, 2014)~~ which approves the design of a package for the transportation of radioactive material

“Closed transport vehicle” means a transport vehicle equipped with a securely attached exterior enclosure that during normal transportation restricts the access of unauthorized persons to the cargo space containing the radioactive material. The enclosure may be either temporary or permanent but shall limit access from top, sides, and ends. In the case of packaged materials, it may be of the “see-through” type.

“Consignment” means each shipment of a package or groups of packages or load of radioactive material offered by a shipper for transport.

“Containment system” means the assembly of components of the packaging intended to retain the radioactive material during transport.

Commented [jsj8]: Here, and throughout the rule, Certificate of Compliance is capitalized for consistency with the formal definition in 17.2.2.

Commented [jsj9]: New language is added to provide an online resource for documents referenced in the rule.

Commented [jsj10]: The original date is eliminated. Retaining the original date (or incorporating an updated date) may negate or cause confusion for those certificates that have been issued in the past and/or prior to a specified date.

The NRC certificates - are issued under the regulations in place at the time of issuance and have their own expiration date.

"Contamination" means the presence of a radioactive substance on a surface in quantities in excess of 0.4 Bq/cm^2 (1x10^{-5} µCi/cm^2) for beta and gamma emitters and low toxicity alpha emitters, or 0.04 Bq/cm^2 (1x10^{-6} µCi/cm^2) for all other alpha emitters.

(1) *Fixed contamination* means contamination that cannot be removed from a surface during normal conditions of transport.

(2) *Non-fixed contamination* means contamination that can be removed from a surface during normal conditions of transport.

"Conveyance" means:

(1) For transport by public highway or rail any transport vehicle or large freight container;

(2) For transport by water any vessel, or any hold, compartment, or defined deck area of a vessel including any transport vehicle on board the vessel; and

(3) For transport by any aircraft.

"Criticality Safety Index (CSI)" means the dimensionless number (rounded up to the next tenth) assigned to and placed on the label of a fissile material package, to designate the degree of control of accumulation of packages**, overpacks, or freight containers** containing fissile material during transportation. Determination of the criticality safety index is described in 10 CFR 71.22, 71.23, and 71.59. **The criticality safety index for an overpack, freight container, consignment or conveyance containing fissile material packages is the arithmetic sum of the criticality safety indices of all the fissile material packages contained within the overpack, freight container, consignment or conveyance.**

"Deuterium" means, for the purposes of Part 17, deuterium and any deuterium compound, including heavy water, in which the ratio of deuterium atoms to hydrogen atoms exceeds 1:5000.

"Exclusive use" means the sole use by a single consignor of a conveyance for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee. The consignor and the carrier must ensure that any loading or unloading is performed by personnel having radiological training and resources appropriate for safe handling of the consignment. The consignor must issue specific instructions, in writing, for maintenance of exclusive use shipment controls, and include them with the shipping paper information provided to the carrier by the consignor.

"Fissile material package" means a fissile material packaging together with its fissile material contents.

"Graphite" means, for the purposes of Part 17, graphite with a boron equivalent content less than 5 parts per million and density greater than 1.5 grams per cubic centimeter.

"Indian ~~t~~**T**ribe" means an Indian or Alaska native ~~t~~**T**ribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian ~~t~~**T**ribe pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.

"Low specific activity material" (LSA material) means radioactive material with limited specific activity which is nonfissile or **is** except**ed** under Part 17 and which satisfies the descriptions and limits set forth ~~below~~**in the following section**. Shielding materials surrounding the LSA material may not be considered in determining the estimated average specific activity of the package contents. **The** LSA material must be in one of three groups:

(1) LSA-I.

(a) Uranium and thorium ores, concentrates of uranium and thorium ores, and other ores containing naturally occurring radionuclides **that**~~which~~ are ~~not~~ intended to be processed for the use of these radionuclides; ~~or~~

Commented [jsj11]: Definitions added, consistent with the definition added to 10 CFR 71.4.

This definition is based on the definition in International Atomic Energy Agency (IAEA) TS-R-1 regulations for international transportation of radioactive materials. The definition addresses those solid objects which are not themselves radioactive, but rather, are contaminated on their surfaces.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [JJ12]: Language amended and updated consistent with the existing and updated definition in 10 CFR 71.4.

The current definition in federal rules is amended based on a similar definition in IAEA TS-R-1 regulations for international transportation of radioactive materials.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)
NRC Letter April 6, 2017

Commented [jsj13]: Consistent with federal rule in 10 CFR Part 71.4, "tribe" is modified to "Tribe" here and elsewhere throughout rule as applicable.

NRC Compatibility "B"
NRC RATS 2015-5
80 FR 74974 (December 1, 2015)

Commented [jsj14]: Language added, consistent with an equivalent definition in 10 CFR 71.4.

This definition is modified based on a similar definition in IAEA TS-R-1 regulations for international transportation of radioactive materials.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj15]: In a prior amendment to 10 CFR 71, NRC incorrectly incorporated the modifier "not" (as in "…not intended to be processed…"). This was later determined to be in conflict with U.S. DOT requirements in effect at the time. Therefore, NRC has corrected the definition for LSA-I in 10 CFR 71. The proposed change similarly corrects this same error in Part 17.

(b) ~~Solid unirradiated n~~**N**atural uranium, ~~or~~ depleted uranium, ~~or~~ natural thorium or their ~~solid or liquid~~ compounds or mixtures**, provided they are unirradiated and in solid or liquid form;**~~.~~

(c) Radioactive material, other than fissile material, for which the A_2 value in Appendix 17A is unlimited; or

(d) Other radioactive material in which the activity is distributed throughout and the estimated average specific activity does not exceed 30 times the value for exempt material activity concentration determined in accordance with Appendix 17A.

(2) LSA-II.

(a) Water with tritium concentration up to 0.8 TBq/liter (20.0 Ci/liter); or

(b) Other radioactive material in which the activity is distributed throughout, and the **estimated** average specific activity does not exceed 10^{-4} x A_2/g for solids and gases, and 10^{-5} x A_2/g for liquids.

(3) LSA-III. Solids **(e.g., consolidated wastes, activated materials), excluding powders, that satisfy the requirements of 10 CFR 71.77,** in ~~and for~~ which:

(a) The radioactive material is distributed throughout a solid or a collection of solid objects, or is essentially uniformly distributed in a solid compact binding agent (such as concrete, bitumen, ~~or~~ ceramic**, etc.**); ~~and~~

(b) The radioactive material is relatively insoluble, or it is intrinsically contained in a relatively insoluble material, so that, even under loss of packaging, the loss of radioactive material per package by leaching, when placed in water for 7 days, **will**~~would~~ not exceed 0.1 x A_2; **and**

(c) The estimated average specific activity of the solid**, excluding any shielding material,** does not exceed 2 x 10^{-3} A_2/g; and

~~(d) A specimen of the material has passed a leaching test, provided also that any differences between the specimen tested and the material to be transported were taken into account in determining whether the test requirements have been met.~~

~~(i) The specimen, representing no less than the entire contents of the package, must be immersed for 7 days in water at ambient temperature;~~

~~(ii) The volume of water to be used in the test must be sufficient to ensure that at the end of the test period the free volume of the unabsorbed and unreacted water remaining will be at least 10% of the volume of the specimen itself;~~

~~(iii) The water must have an initial pH of 6-8 and a maximum conductivity 10 micromho/cm at 20°C (68°F); and~~

~~(iv) The total activity of the free volume of water must be measured following the 7-day immersion test and must not exceed 0.1x A_2.~~

Commented [jsj16]: The requirements pertaining to testing (for LSA-III materials) have not been eliminated but rather, are removed from Part 17 since they are addressed in 10 CFR 71.77 which is referenced as part of the LSA-III definition above.

"Low toxicity alpha emitters" means natural uranium, depleted uranium, natural thorium; uranium-235, uranium-238, thorium-232, thorium-228 or thorium-230 when contained in ores or physical or chemical concentrates or tailings; or alpha emitters with a half-life of less than 10 days.

"Nuclear waste" means, for the purposes of Part 17, a quantity of source, byproduct or special nuclear material required to be in NRC-approved specification packaging while transported to, through or across a state boundary to a disposal site, or to a collection point for transport to a disposal site.

"Packaging" means the assembly of components necessary to ensure compliance with the packaging requirements of 10 CFR 71. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

"Quality assurance", for the purposes of Part 17, comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service.

"Quality control", for the purposes of Part 17, comprises those quality assurance actions that relate to control of the physical characteristics and quality of the material or component to predetermined requirements.

"Regulations of the DOT" means the regulations in 49 CFR Parts 100-189 and Parts 390-397 (October 1, ~~2006~~**2016**).

"Regulations of the NRC" means the regulations in 10 CFR 71 (January 1, ~~2014~~**2016**) for purposes of Part 17.

"Surface contaminated object" (SCO) means a solid object that is not itself classed as radioactive material, but which has radioactive material distributed on any of its surfaces. The SCO must be in one of two groups with surface activity not exceeding the following limits:

(1) SCO-I: a solid object on which:

(a) The non-fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4 Bq/cm^2 (10^{-4} microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or 0.4 Bq/cm^2 (10^{-5} microcurie/cm^2) for all other alpha emitters;

(b) The fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4 x 10^4 Bq/cm^2 (1.0 microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or 4 x 10^3 Bq/cm^2 (0.1 microcurie/cm^2) for all other alpha emitters; and

(c) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 4 x 10^4 Bq/cm^2 (1 microcurie/cm^2) for beta, gamma and low toxicity alpha emitters, or 4 x 10^3 Bq/cm^2 (0.1 microcurie/cm^2) for all other alpha emitters.

(2) SCO-II: a solid object on which the limits for SCO-I are exceeded and on which:

(a) The non-fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 400 Bq/cm^2 (10^{-2} microcurie/cm^2) for beta, gamma and low toxicity alpha emitters or 40 Bq/cm^2 (10^{-3} microcurie/cm^2) for all other alpha emitters;

(b) The fixed contamination on the accessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 8 x 10^5 Bq/cm^2 (20 microcuries/cm^2) for beta, gamma and low toxicity alpha emitters, or 8 x 10^4 Bq/cm^2 (2 microcuries/cm^2) for all other alpha emitters; and

(c) The non-fixed contamination plus the fixed contamination on the inaccessible surface averaged over 300 cm^2 (or the area of the surface if less than 300 cm^2) does not exceed 8 x 10^5 Bq/cm^2 (20 microcuries/cm^2) for beta, gamma and low toxicity alpha emitters, or 8 x 10^4 Bq/cm^2 (2 microcuries/cm^2) for all other alpha emitters.

"Transport index" (TI) means the dimensionless number, rounded up the next tenth, placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is the number determined by multiplying the maximum radiation level in millisievert (mSv) per hour at 1 meter (3.3 feet) from the external surface of the package by 100 (equivalent to the maximum radiation level in millirem per hour at 1 meter).

"Tribal official" means the highest ranking individual that represents Tribal leadership, such as the Chief, President, or Tribal Council leadership.

"Type A package" means a Type A packaging that, together with its radioactive contents limited to A1 or A2 as appropriate, meets the requirements of 49 CFR 173.410 and 173.412 and is designed to retain the integrity of containment and shielding required by Part 17 under normal conditions of transport as demonstrated by the tests set forth in 49 CFR 173.465 or 173.466, as appropriate.

"Type A packaging" means a packaging designed for a Type A package.

"Type AF package", "Type BF package", "Type B(U)F package", and "Type B(M)F package" each means a fissile material packaging together with its fissile material contents.

"Type A quantity" means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A1 for special form radioactive material or A2 for normal form radioactive material, where A1 and A2 are given in Appendix 17A or may be determined by procedures described in Appendix 17A.

"Type B package" means a Type B packaging together with its radioactive contents.~~2~~[1]

~~2~~[1] A Type B package design is designated as B(U) or B(M). On approval, a Type B package design is designated by NRC as B(U) unless the package has a maximum normal operating pressure of more than 700kPa (100 lb/in2) gauge or a pressure relief device that would allow the release of radioactive material to the environment under the tests specified in 10 CFR 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval of international shipments. No distinction is made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, refer to 49 CFR Part 173. A Type B package approved prior to September 6, 1983 was designated only as Type B; limitations on its use are specified in 17.8.

"Type B packaging" means a packaging designed to retain the integrity of containment and shielding when subjected to the normal conditions of transport and hypothetical accident test conditions set forth 10 CFR Part 71.

"Type B quantity" means a quantity of radioactive material greater than a Type A quantity.

"Uranium – natural, depleted, enriched".

(1) "Natural uranium" means, for the purposes of Part 17, uranium (which may be chemically separated) with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235 and the remainder by weight essentially uranium-238).

(2) "Depleted uranium" means, for the purposes of Part 17, uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(3) "Enriched uranium" means, for the purposes of Part 17, uranium containing more uranium 235 than the naturally occurring distribution of uranium isotopes.

Commented [jsj17]: Definitions specific to transportation of radioactive materials are added, consistent with 10 CFR Part 71.4 definitions and so as to not conflict with other similar definitions for non-transportation purposes.

NRC Compatibility "B"
NRC RATS 2015-3

LICENSE-RELATED REGULATORY REQUIREMENTS

17.3 Requirement for License.

No person shall transport radioactive material or deliver radioactive material to a carrier for transport except as authorized in a general or specific license issued by the Department, an Agreement State, a Licensing State, or NRC, or as exempted in 17.4

17.4 Exemptions.

17.4.1 Common and contract carriers, freight forwarders, and warehouse workers which are subject to the requirements of the DOT in 49 CFR 170 through 189, or the U.S. Postal Service in the Postal Service Manual (Domestic Mail Manual), are exempt from the requirements of Part 17 to the extent that they transport or store radioactive material in the regular course of their carriage for others or storage incident thereto. Common and contract carriers who are not subject to the requirements of the DOT or U.S. Postal Service are subject to 17.3 and other applicable requirements of these regulations.

17.4.2 A~~ny~~ licensee is exempt from the requirements of Part 17 with respect to shipment or carriage of the following low-level materials:

17.4.2.1 Natural material and ores containing naturally occurring radionuclides that are **either in their natural state,** ~~not intended to be~~**or have only been** processed for **purposes other than for the extraction of the radionuclides, and which are not intended to be processed for the** use of these radionuclides, provided the activity concentration of the material does not exceed 10 times the **applicable radionuclide activity concentration** values specified in Appendix 17A, Table 17A2**, or Table 17A3 of this part**.

17.4.2.2 Materials for which the activity concentration is not greater than the activity concentration values specified in Appendix 17A, Table 17A2, or **Table 17A3 of this part, or** for which the consignment activity is not greater than the limit for an exempt consignment found in Appendix 17A, Table 17A2 **or Table 17A3 of this part**.

17.4.2.3 Non-radioactive solid objects with radioactive substances present on any surfaces in quantities not in excess of the levels cited in the definition of contamination in 17.2.

17.4.3 Fissile materials meeting the requirements of one of the paragraphs (a) through (f) in 10 CFR 71.15 are exempt from classification as fissile material, and from the fissile material package standards of 10 CFR 71.55 and 10 CFR 71.59, but are subject to all other requirements of 10 CFR 71, except as noted in paragraphs (a) through (f) in 10 CFR 71.15.

17.4.4 Any physician licensed by a state to dispense drugs in the practice of medicine is exempt from 17.5 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under Part 7 or equivalent requirements of another Agreement State or NRC.

17.5 Transportation of Licensed Material.

17.5.1 Each licensee who transports licensed material outside the site of usage, as specified in the Department license, or where transport is on public highways, or who delivers licensed material to a carrier for transport, shall:

17.5.1.1 Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the DOT, particularly the regulations of the DOT in the following areas:

(1) Packaging - 49 CFR Part 173: Subparts A and B and I.

Commented [jsj18]: Language is updated, consistent with changes to 10 CFR 71.14(a)(1), 49 CFR, and IAEA transportation requirements (TS-R-1).

Consistent with federal rule, the added language clarifies the concept that processing ores and other naturally occurring materials - and the associated transport of such materials - may be needed for purposes other than for the materials radioactivity content.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)
49 CFR 173.401(b)

Commented [jsj19]: Language is updated, consistent with changes to 10 CFR 71.14(a)(2) and IAEA transportation requirements in TS-R-1.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj20]: A new provision is added, consistent with changes to 10 CFR 71.14(a)(3).

Consistent with U.S. DOT requirements and for transportation purposes only, some solid items may be exempt from (radioactive material) transportation requirements even if they have contamination on their surfaces, provided levels are below those specified in the newly added definition of "contamination" as found in Section 17.2.

NRC Compatibility "B"
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80 FR 33987 (June 12, 2015)

(2) Marking and labeling - 49 CFR Part 172: Subpart D, § § 172.400 through 172.407, § § 172.436 through 172.441, and Subpart E.

(3) Placarding - 49 CFR Part 172: Subpart F, especially § § 172.500 through 172.519, 172.556, and Appendices B and C.

(4) Accident reporting - 49 CFR Part 171: § § 171.15 and 171.16.

(5) Shipping papers and emergency information - 49 CFR Part 172: Subparts C and G.

(6) Hazardous material employee training - 49 CFR Part 172: Subpart H.

(7) Security plans - 49 CFR Part 172: Subpart I.

(8) Hazardous material shipper/carrier registration - 49 CFR Part 107: Subpart G.

17.5.1.2 The licensee shall also comply with applicable regulations of the DOT pertaining to the following modes of transportation:

(1) Rail - 49 CFR Part 174: Subparts A through D, and K.

(2) Air - 49 CFR Part 175.

(3) Vessel - 49 CFR Part 176: Subparts A through F, and M.

(4) Public highway - 49 CFR Part 177 and Parts 390 through 397.

17.5.1.3 Assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee in accordance with 4.32.5.2.

17.5.2 If, for any reason, the regulations of the DOT are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of 49 CFR Parts 170 through 189 appropriate to the mode of transport to the same extent as if the shipment was subject to these regulations.

GENERAL LICENSES

17.6 General Licenses for Carriers.

17.6.1 A general license is hereby issued to any common or contract carrier not exempt under 17.4 to receive, possess, transport, and store radioactive material in the regular course of their carriage for others or storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the DOT insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.[~~3~~2]

[~~3~~2] Notification of an incident shall be filed with, or made to, the Department as prescribed in 49 CFR, regardless of and in addition to the notification made to the DOT or other agencies.

17.6.2 A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the DOT insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.[3]

17.6.3 Persons who transport radioactive material pursuant to the general licenses in 17.6.1 and 17.6.2 are exempt from the requirements of Parts 4 and 10 of these regulations to the extent that they transport radioactive material.

17.7 General License: NRC-Approved Packages.

17.7.1 A general license is hereby issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, **NRC issued** ~~c~~**C**ertificate of ~~c~~**C**ompliance, or other approval has been issued by the ~~NRC~~**Department**.

17.7.2 This general license applies only to a licensee who~~:~~

~~17.7.2.1 H~~ **has a quality assurance program approved by** ~~NRC~~**the Department as satisfying the provisions of Subpart H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of** 10 CFR 71 ~~Subpart H~~.

~~17.7.2.2 Has a copy of the specific license, certificate of compliance, or other approval by the NRC of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the action(s) to be taken prior to shipment;~~

17.7.3 Each licensee issued a general license under Section 17.7.1 shall:

17.7.3.1 Maintain a copy of the NRC issued Certificate of Compliance, or other approval of the package, and the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken before shipment;

17.7.~~2.3~~**3.2 Comply** ~~Complies~~ with the terms and conditions of the license, **NRC issued** ~~c~~**C**ertificate **of Compliance**, or other approval by the ~~NRC~~**Department**, as applicable, and the applicable requirements of **Subparts A (excluding 71.11), G (excluding 71.85(a)-(c), and 71.91(b)), and H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of 10 CFR 71** ~~Part 17~~;

17.7.~~2.4~~**3.3** Prior to the licensee's first use of the package, ~~has submitted~~**submit** to the **Department** ~~NRC~~ in writing ~~in accordance with 10 CFR 71.1~~**71.17(c)(3)**:

(1) The licensee's name and license number; and

(2) The package identification number specified in the package approval.~~; and~~

17.7.~~3~~**4** The general license in 17.7.1 applies only when the package approval authorizes use of the package under this general license.

17.7.~~4~~**5** For a Type B or fissile material package, the design of which was approved by NRC before April 1, 1996, the general license in 17.7.1 is subject to additional restrictions of 10 CFR 71.19.

17.8 General Licenses: Use of Foreign-Approved and Other Approved Packages

17.8.1 A general license is issued to any licensee of the Department to transport, or to deliver to a carrier for transport, licensed material in a package the design of which has been approved in a foreign national competent authority certificate**,** ~~and~~**that has been** revalidated by the DOT as meeting the applicable requirements of 49 CFR ~~171.12~~**171.23**.

17.8.2 Except as otherwise provided in this section, the general license applies only to a licensee who has a quality assurance program approved by the Department ~~NRC~~ **as satisfying the applicable provisions of 10 CFR 71.101 through 71.137, excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125.**

17.8.3 This general license applies only to **shipments made to or from locations outside the United States**~~:~~**.**

~~17.8.1.1 Shipments made to or from locations outside the United States; and~~

~~17.8.1.2 A licensee who:~~

Commented [JJ21]: Language updated based on a request from NRC.
Agreement States such as Colorado do not have jurisdiction for issuing a Certificate of Compliance, so the language is clarified here.

NRC Compatibility "B"
NRC Letter April 6, 2017

Commented [JJ22]: As requested by NRC in correspondence dated April 6, 2017, the responsibility for review of a licensee quality assurance program within Colorado is the Colorado radiation program.

NRC Compatibility "B"
NRC Letter April 6, 2017

Commented [jsj23]: Language updated to exclude those provisions which are limited to NRC jurisdiction in subpart H of 10 CFR 71.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj24]: Provision 17.7.2.2 is deleted and replaced by the provisions of 17.7.3 for consistency with the language and formatting of 10 CFR 71.17.

Commented [jsj25]:
Language is updated, consistent with 10 CFR 71.17(c)(1).

The revised language is similar to that in prior section 17.7.2.2 and conveys similar requirements, with the exception that a copy of the specific license is not explicitly required.

NRC Compatibility "B"

Commented [jsj26]: Section renumbered and language is updated, consistent with formatting and language of 10 CFR 71.17(c)(2).

Due to differences in the format between Part 17 and 10 CFR 71, "has submitted"(past) is replaced with "submit" (active).
NRC Compatibility "B"

Commented [JJ27]:
To avoid confusion and partial duplication of regulatory requirements, the reference to Part 17 is deleted, thereby deferring to 10 CFR Part 71.

Commented [jsj28]: Language is updated, consistent with 10 CFR 71.21(a).

A prior USDOT rulemaking relocated the requirements in 49 CFR 171.12 to 171.23, so the cross-reference is updated here.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj29]: Language is added, consistent with 10 CFR 71.21(b).

Commented [jsj30]: Language is updated, consistent with 10 CFR 71.21(c).

NRC Compatibility "B"
NRC RATS 2015-3

Commented [jsj31]: Language of 17.8.1.1 merged into 17.8.3, consistent with phrasing and format of 10 CFR 71.21(c).

Commented [jsj32]: Replaced by new 17.8.4., consistent with phrasing and format of 10 CFR 71.21(d).

17.8.4 Each licensee issued a general license under Section 17.8.1 shall:

~~(1) Has a quality assurance program approved by NRC;~~

~~(2)~~**(1)** ~~Has~~**Maintain** a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate, relating to the use and maintenance of the packaging and to the actions to be taken ~~prior to~~**before** shipment; **and**

~~(3) Complies with the terms and conditions of the certificate and revalidation; and~~

~~(4)~~**(2) Comply with the terms and conditions of the certificate and revalidation, and**~~Complies~~ with the applicable requirements of Part 17, sections 17.1 through 17.5, 17.10 through 17.17, and **Subparts A (excluding 71.11), G (excluding 71.85(a)-(c), and 71.91(b)), and H (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125) of 10 CFR 71**~~10 CFR 71 Subparts A, G, and H. With respect to the quality assurance provisions of 10 CFR 71 Subpart H, the licensee is exempt from design, construction, and fabrication considerations~~.

17.9 General Licenses: Fissile Material Transport

17.9.1 A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the licensee meets the requirements of 10 CFR 71.22 and the material is shipped in accordance with 10 CFR 71.22 and each applicable requirement of Part 17.

17.9.2 A general license is hereby issued to any licensee to transport fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources, or to deliver fissile material in the form of plutonium-beryllium (Pu-Be) special form sealed sources to a carrier for transport, if the licensee meets the requirements of 10 CFR 71.23 and the material is shipped in accordance with 10 CFR 71.23 and each applicable requirement of Part 17.

QUALITY ASSURANCE

17.10 Quality Assurance Requirements.

17.10.1 Subpart H of 10 CFR 71 describes quality assurance requirements applying to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety. As used in Subpart H of 10 CFR 71, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component to predetermined requirements.

Each licensee is responsible for satisfying the quality assurance requirements that apply to its use of a packaging for the shipment of licensed material subject to the applicable requirements of Subpart H of 10 CFR 71 (excluding 71.101(c)(2), (d), and (e) and 71.107 through 71.125).

17.10.2 Radiography containers.

A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices and meeting the requirements of Part 5, sections 5.12(4) through 5.12(6) or equivalent Agreement State or NRC requirement, is deemed to satisfy the requirements of 17.7.2 and 10 CFR 71.101(b).

~~17.10.1 Quality assurance requirements apply to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging that are important to safety.~~

Commented [jsj33]: Replaced by new 17.8.2., consistent with phrasing and format of 10 CFR 71.21.

Commented [jsj34]: Deleted due to replacement by 17.8.4(2), consistent with phrasing and format of 10 CFR 71.21.

Commented [jsj35]: Last sentence deleted, consistent with changes to 10 CFR 71.21(d)(2), which also removed this provision.

Exceptions to the references in Subparts A, G, and H of 10 CFR Part 21 are added since some provisions of Subpart H are under NRC only jurisdiction.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [JJ36]: Due to the potential overlap in provisions of Part 17 and 10 CFR Part 71 as discussed in correspondence from NRC to Colorado, most original provisions in this section are removed in order to defer to the 10 CFR Part 71 requirements that are within Colorado's jurisdiction.

NRC Compatibility "B"
NRC Letter April 6, 2017
Subpart H – Quality Assurance 71.101 through 71.137
NRC RATS 2015-3

17.10.1.1 The licensee, certificate holder, and applicant for a COC are responsible for complying with the quality assurance requirements which apply to design, fabrication, testing, and modification of packaging.

17.10.1.2 Each licensee is responsible for complying with each quality assurance provision which applies to the licensee's use of a packaging for the shipment of licensed material subject to the requirements of 10 CFR 71 and Part 17.

17.10.2 Each licensee, certificate holder, and applicant for a COC shall:

17.10.2.1 Be responsible to establish, maintain, and execute a quality assurance program that, using a graded approach to an extent that is commensurate with each quality assurance requirement's importance to safety, satisfies

(1) Each applicable criterion of 10 CFR 71.101 through 71.137; and

(2) Any specific provision that is applicable to the licensee's activities including procurement of packaging.

17.10.2.2 Be subject to each requirement that is applicable, whether the term "licensee" is or is not used in the requirement, for whatever design, fabrication, assembly, and testing of the package is accomplished with respect to a package before the time a package approval is issued.

17.10.3 Before the use of any package for the shipment of licensed material subject Part 17, each licensee shall obtain NRC approval of its quality assurance program.

17.10.4 A program for transport container inspection and maintenance limited to radiographic exposure devices, source changers, or packages transporting these devices and meeting the requirements of 10 CFR 34.31(b), or equivalent Agreement State requirements, is deemed to satisfy the requirements of 17.7 and 17.10.2.

Commented [JJ37]: The requirements of 17.10.4 have been updated and incorporated into 17.10.2 (above).

17.10.5 The licensee, certificate holder, and applicant for a COC shall be responsible for the establishment and execution of the quality assurance program.

17.10.5.1 The licensee, certificate holder, and applicant for a COC may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, or any part of the quality assurance program, but shall retain responsibility for the program.

17.10.5.2 The licensee shall clearly establish and delineate, in writing, the authority and duties of persons and organizations performing activities affecting the safety-related functions of structures, systems, and components, including performing the functions associated with attaining quality objectives and the quality assurance functions.

17.10.6 The quality assurance functions are:

17.10.6.1 Assuring that an appropriate quality assurance program is established and effectively executed; and

17.10.6.2 Verifying, by procedures such as checking, auditing, and inspection, that activities affecting the safety-related functions have been performed correctly.

17.10.7 The persons and organizations performing quality assurance functions must have sufficient authority and organizational freedom to:

17.10.7.1 Identify quality problems;

17.10.7.2 Initiate, recommend, or provide solutions; and

~~17.10.7.3 Verify implementation of solutions.~~

17.11 Advance Notification of Shipment of Nuclear Waste.

17.11.1 As specified in 17.11.3, 17.11.4, and 17.11.5, each licensee shall provide advance notification to the governor of a state, or the governor's designee, of the shipment of licensed material (nuclear waste), within or across the boundary of the state, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

17.11.2 As specified in 17.11.3, 17.11.4, and 17.11.5 of this section, after June 11, 2013, each licensee shall provide advance notification to the Tribal official of participating Tribes referenced in 17.11.4.3(3), or the official's designee, of the shipment of licensed material, within or across the boundary of the Tribe's reservation, before the transport, or delivery to a carrier, for transport, of licensed material outside the confines of the licensee's plant or other place of use or storage.

17.11.3 Advance notification is also required under this section for the shipment of licensed material, other than irradiated fuel, meeting the following three conditions:

17.11.3.1 The licensed material is required by this part to be in Type B packaging for transportation;

17.11.3.2 The licensed material is being transported to or across a state boundary en route to a disposal facility or to a collection point for transport to a disposal facility; and

17.11.3.3 The quantity of licensed material in a single package exceeds the least of the following:

(1) 3000 times the A_1 value of the radionuclides as specified in Appendix 17A, Table A1 for special form radioactive material; or

(2) 3000 times the A_2 value of the radionuclides as specified in Appendix 17A, Table A1 for normal form radioactive material; or

(3) 1000 TBq (27,000 Ci).

17.11.4 Procedures for submitting advance notification

17.11.4.1 The notification must be made in writing to:

(1) The office of each appropriate governor or governor's designee;

(2) The office of each appropriate Tribal official or Tribal official's designee;

(3) The Department.

17.11.4.2 A notification delivered by mail must be postmarked at least 7 days before the beginning of the 7 day period during which departure of the shipment is estimated to occur.

17.11.4.3 A notification delivered by any other means than mail must reach the office of the governor or of the governor's designee or the Tribal official, or Tribal official's designee at least 4 days before the beginning of the 7-day period during which departure of the shipment is estimated to occur.

(1) A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the Federal Register on June 30, 1995 (60 FR 34306)

(2) ~~The list of governor's designees and Tribal official's designees of participating Tribes will be published annually in the Federal Register on or about June 30th to reflect any changes in information.~~**Contact information for each State, including telephone and mailing addresses of governors and governors' designees, and participating Tribes, including telephone and mailing addresses of Tribal officials and Tribal official's designees, is available on the NRC Web site at: https://scp.nrc.gov/special/designee.pdf.**

(3) A list of the names and mailing addresses of the governor's designees and Tribal official's designees of participating Tribes is available on request from the Director, Division of **Material Safety, State, Tribal, and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards,**~~Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs,~~ U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

17.11.4.4 The licensee shall retain a copy of the notification as a record for 3 years.

17.11.5 Information to be furnished in advance notification of shipment.

17.11.5.1 Each advance notification of nuclear waste shall contain the following information:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the nuclear waste shipment;

(2) A description of the nuclear waste contained in the shipment, as required by 49 CFR 172.202 and 172.203(d);

(3) The point of origin of the shipment and the 7-day period during which departure of the shipment is estimated to occur;

(4) The 7-day period during which arrival of the shipment at state boundaries or Tribal reservation boundaries is estimated to occur;

(5) The destination of the shipment, and the 7-day period during which arrival of the shipment is estimated to occur; and

(6) A point of contact with a telephone number for current shipment information.

17.11.6 Revision notice

17.11.6.1 A licensee who finds that schedule information previously furnished to a governor or governor's designee or a Tribal official or Tribal official's designee, in accordance with this section, will not be met, shall:

(1) Telephone a responsible individual in the office of the governor of the state or of the governor's designee or the Tribal official or Tribal official's designee an inform that individual of the extent of the delay beyond the schedule originally reported; and

(2) Maintain a record of the name of the individual contacted for 3 years.

17.11.7 Cancellation notice

17.11.7.1 Each licensee who cancels a nuclear waste shipment, for which advance notification has been sent, shall:

Commented [jsj38]: Language is updated, consistent with NRC regulations in 10 CFR 71.97(c) (3)(ii) which was amended in 2015.

Rather than publishing in the federal register annually, the contact list will be maintained by NRC on NRC's web site.

NRC RATS 2015-5
NRC Compatibility "B"

Commented [jsj39]: Address corrected, consistent with NRC regulations in 10 CFR 71.97(c)(3)(ii).

The change is necessary due to a reorganization at NRC.

(1) Send a cancellation notice to the governor of each state, or governor's designee previously notified, each Tribal official or Tribal official's designee previously notified and to the Department;

(2) State in the notice that it is a cancellation and identify the advance notification that is being cancelled; and

(3) Retain a copy of the notice for 3 years.

17.12 Air Transport of Plutonium.

Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this part or included indirectly by citation of the regulations of the DOT, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air, or delivered to a carrier for air transport, unless:

17.12.1 The plutonium is contained in a medical device designed for individual human application; or

17.12.2 The plutonium is contained in a material in which the specific activity is less than or equal to the activity concentration values for plutonium specified in Appendix 17A, Table 17A-1, and in which the radioactivity is essentially uniformly distributed; or

17.12.3 The plutonium is shipped in a single package containing no more than an A2 quantity of plutonium in any isotope or form and is shipped in accordance with 17.5; or

17.12.4 The plutonium is shipped in a package specifically authorized (in the ~~c~~**C**ertificate of ~~c~~**C**ompliance issued by the NRC for that package) for the shipment of plutonium by air and the licensee requires, through special arrangement with the carrier, compliance with 49 CFR 175.704, the regulations of the DOT applicable to the air transport of plutonium.

OPERATING CONTROLS AND PROCEDURES

17.13 Fissile Material: Assumptions as to Unknown Properties of Fissile Material.

When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties had credible values that would cause the maximum neutron multiplication.

17.14 Preliminary Determinations.

~~Prior to~~**Before** the first use of any packaging for the shipment of radioactive material **the licensee shall ascertain that the determinations in paragraphs (a) through (c) of 10 CFR 71.85 have been made by the certificate holder.**~~:~~

~~17.14.1 The licensee shall ascertain that there are no defects which could significantly reduce the effectiveness of the packaging;~~

~~17.14.2 Where the maximum normal operating pressure will exceed 35 kilopascal (5 pounds per square inch) gauge, the licensee shall test the containment systems at an internal pressure at least 50 percent higher than the maximum normal operating pressure to verify the capability of that system to maintain its structural integrity at that pressure;~~

~~17.14.3 The licensee shall determine that the packaging has been fabricated in accordance with the design approved by the NRC; and~~

~~17.14.4 The licensee shall conspicuously and durably mark the packaging with its model number, serial number, gross weight, and a package identification number as assigned by the NRC.~~

17.15 Routine Determinations.

Commented [jsj40]: Language added consistent with 10 CFR 71.85(d).

The intent of the revised provision is to ensure that the (shipping package) certificate holders are responsible for certain actions and have made the required preliminary determinations.

NOTE: The phrase "by the certificate holder" is not included in 10 CFR 71, but is added for clarity.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj41]: The provisions in 17.14.1 through 17.14.4 are deleted, due to a 2015 change in NRC compatibility level "B" to compatibility "NRC" for these specific regulations. Due to this change in compatibility, the requirements are no longer under state jurisdiction. (The equivalent items remain in federal rule and can be found in 10 CFR 71.85(a) through 71.85(c)).

Provisions that are designated as "NRC" compatibility are elements that cannot be relinquished to Agreement States such as Colorado and therefore states should not adopt (or must remove) these regulatory provisions.

NRC Compatibility "NRC"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Prior to each shipment of licensed material, the licensee shall determine that:

17.15.1 The package is proper for the contents to be shipped;

17.15.2 The package is in unimpaired physical condition except for superficial defects such as marks or dents;

17.15.3 Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

17.15.4 Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

17.15.5 Any pressure relief device is operable and set in accordance with written procedures;

17.15.6 The package has been loaded and closed in accordance with written procedures;

17.15.7 Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for the purpose unless it satisfies design requirements specified in 10 CFR 71.45;

17.15.8 The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable and within the limits specified in 49 CFR 173.443.

17.15.8.1 Determination of the level of non-fixed (removable) contamination shall be based upon wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material.

(1) The number and location of measurements shall be sufficient to yield a representative assessment of the removable contamination levels.

(2) Other methods of assessment of equal or greater detection efficiency may be used.

17.15.8.2 In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed (removable) radioactive contamination:

(1) At the beginning of transport shall not exceed the levels specified in 49 CFR 173.443; and

(2) At any time during transport shall not exceed 10 times the levels specified in 49 CFR 173.443.

17.15.9 External radiation levels around the package and around the vehicle, if applicable, shall not exceed:

17.15.9.1 2 mSv/h (200 millirem per hour) at any point on the external surface of the package at any time during transportation;

17.15.9.2 A transport index of 10.0.

17.15.10 For a package transported in exclusive use by rail, highway or water, radiation levels external to the package may exceed the limits specified in 17.15.9 but shall not exceed any of the following:

17.15.10.1 2 mSv/h (200 millirem per hour) on the accessible external surface of the package unless the following conditions are met, in which case the limit is 10 mSv/h (1000 millirem per hour);

(1) The shipment is made in a closed transport vehicle,

(2) Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation, and

(3) No loading or unloading operation occurs between the beginning and end of the transportation.

17.15.10.2 2 mSv/h (200 millirem per hour) at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of a flat-bed style vehicle, with a personnel barrier, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load (or enclosure, if used), and on the lower external surface of the vehicle;

(1) A flat bed style vehicle with a personnel barrier shall have radiation levels determined at vertical planes.

(2) If no personnel barrier is in place, the package cannot exceed 2 mSv/h (200 millirem per hour) at any accessible surface.

17.15.10.3 0.1 mSv/h (10 millirem per hour) at any point 2 meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of a flat-bed style vehicle, at any point 2 meters from the vertical planes projected from the outer edges of the vehicle; and

17.15.10.4 0.02 mSv/h (2 millirem per hour) in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with 10.3; and

17.15.11 For shipments made under the provisions of Section 17.15.10, the shipper shall provide specific written instructions to the carrier for maintenance of the exclusive use shipment controls. The instructions must be included with the shipping paper information.

17.15.12 The written instructions required for exclusive use shipments must be sufficient so that, when followed, they will cause the carrier to avoid actions that will:

17.15.12.1 Unnecessarily delay delivery; or

17.15.12.2 Unnecessarily result in increased radiation levels or radiation exposures to transport workers or members of the general public.

17.15.13 A package must be prepared for transport so that in still air at 100 degrees Fahrenheit (38 degrees Celsius) and in the shade, no accessible surface of a package would have a temperature exceeding 50 degrees Celsius (122 degrees Fahrenheit) in a nonexclusive use shipment or 82 degrees Celsius (185 degrees Fahrenheit) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

17.15.14 A package may not incorporate a feature intended to allow continuous venting during transport.

17.15.15 Before delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to the consignee, or otherwise made available to the consignee, for the consignee's use in accordance with 4.32.5.2.

REPORTS AND RECORDS

17.16 Reports.

The licensee shall report to the Department within 30 days:

17.16.1 Any instance in which there is significant reduction in the effectiveness of any packaging during use; and

17.16.2 Details of any defects with safety significance in the packaging after first use, with the means employed to repair the defects and prevent their recurrence; and

17.16.3 Instances in which the conditions of approval in the ~~c~~**C**ertificate of ~~c~~**C**ompliance were not observed in making a shipment.

17.17 Shipment Records.

17.17.1 Each licensee shall maintain, for a period of 3 years after shipment, a record of each shipment of licensed material not exempt under 17.4 showing, where applicable:

17.17.1.**1** Identification of the packaging by model number and serial number;

17.17.**1**.2 Verification that the packaging, as shipped, had no significant defect;

17.17.**1**.3 Volume and identification of coolant;

17.17.**1**.4 Type and quantity of licensed material in each package, and the total quantity of each shipment;

17.17.1.5 **For each item of irradiated fissile material:**

(1) Identification by model number and serial number;

(2) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and

(3) Any abnormal or unusual condition relevant to radiation safety;

17.17.1.6 Date of the shipment;

17.17.1.~~6~~7 **For fissile packages and for Tybe B packages, any special controls exercised;**

17.17.1.8 Name and address of the transferee;

17.17.1.~~7~~**9** Address to which the shipment was made; and

17.17.1.~~8~~**10** Results of the determinations required by 17.15 and by the conditions of the package approval.

17.17.2 The licensee~~, certificate holder, and an applicant for a COC~~, shall make available to the Department for inspection, upon reasonable notice, all records required by this part. Records are only valid if stamped, initialed, or signed and dated by authorized personnel, or otherwise authenticated.

17.17.3 The licensee~~, certificate holder, and an applicant for a COC~~ shall maintain sufficient written records to furnish evidence of the quality of packaging.

17.17.3.1 The records to be maintained shall include:

(1) Results of the determinations required by ~~17.14~~10 CFR 71.85(a) through (c);

(2) Design, fabrication, and assembly records;

Commented [jsj42]: Provision added, consistent with 10 CFR 71.91(a)(5).

NRC RATS 2015-3 changed the compatibility level for this provision from a lower level "D" (not required for compatibility) to a compatibility category "C", which is now required for compatibility. Therefore, a number of items previously excluded from the rule are now added into the draft rule.

NRC Compatibility "C"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj43]: Provision added, consistent with 10 CFR 71.91(a)(7).

NRC RATS 2015-3 changed the compatibility level for this provision from a lower level "D" (not required for compatibility) to a compatibility category "C", which is now required for compatibility.

NRC Compatibility "C"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj44]: Provision added, consistent with 10 CFR 71.91(c).

NRC RATS 2015-3 changed the compatibility level for this provision from a lower level "D" (not required for compatibility) to a compatibility category "C", which is now required for compatibility.

NRC Compatibility "C"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj45]: Provision added, consistent with 10 CFR 71.91(d).

NRC RATS 2015-3 changed the compatibility level for this provision from a lower level "D" (not required for compatibility) to a compatibility category "C", which is now required for compatibility.

NRC Compatibility "C"
NRC RATS 2015-3 80 FR 33987 (June 12, 2015)

Commented [JJ46]: As a result of the change in compatibility category of 17.14 to "NRC" (only) jurisdiction and the subsequent removal of most provisions in 17.14, the reference for recordkeeping is modified to refer to 10 CFR 71.

NRC Compatibility "C"
RATS 2015-3
10 CFR 71.91(c)-(d)

(3) Results of reviews, inspections, tests, and audits; results of monitoring work performance and materials analyses; and

(4) Results of maintenance, modification, and repair activities.

17.17.3.2 Inspection, test, and audit records must identify:

(1) The inspector or data records,

(2) The type of observation,

(3) The results,

(4) The acceptability, and

(5) The action taken in connection with any deficiencies noted.

17.17.3.3 The records required by 17.17.3. must be retained for 3 years after the life of the packaging to which they apply.

Appendix 17A - Determination of A_1 and A_2

17A1 Values of A_1 and A_2 for individual radionuclides, which are the bases for many activity limits elsewhere in these regulations are given in Table 17A1. The curie (Ci) values specified are obtained by converting from the Terabecquerel (TBq) **value**~~figure~~. The Terabecquerel values are the regulatory standard. The curie values are for information only and are not intended to be the regulatory standard. ~~The curie values are expressed to three significant figures to assure that the difference in the TBq and Ci quantities is one tenth of one percent or less.~~ Where values of A_1 or A_2 are unlimited, it is for radiation control purposes only. For nuclear criticality safety, some materials are subject to controls placed on fissile material.

17A2 For individual radionuclides whose identities are known, but which are:

17A2.1 Not listed in Table 17A1:

(1) The A_1 and A_2 values Table 17A3 may be used.

(2) Otherwise, the licensee shall obtain prior NRC approval of the A_1 and A_2 values for radionuclides not listed in Table 17A1, before shipping the material. The licensee shall submit such request for prior approval to NRC in accordance with 10 CFR 71.1.

17A2.2 Not listed in Table 17A2:

(1) The exempt material activity concentration and exempt consignment activity values contained in Table 17A3 may be used.

(2) Otherwise, the licensee shall obtain prior NRC approval of the exempt material activity concentration and exempt consignment activity values for radionuclides not listed in Table 17A2, before shipping the material. The licensee shall submit such request for prior approval to NRC in accordance with 10 CFR 71.1.

17A3 In the calculations of A_1 and A_2 for a radionuclide not in Table 17A1, a single radioactive decay chain, in which radionuclides are present in their naturally occurring proportions, and in which no radioactive decay product nuclide has a half-life either longer than 10 days, or longer than that of the parent nuclide, shall be considered as a single radionuclide, and the activity to be taken into account, and the A_1 or A_2 value to be applied shall be those corresponding to the parent nuclide of that chain. In the case of radioactive decay chains in which any radioactive decay product nuclide has a half-life either longer than 10 days, or greater than that of the parent nuclide, the parent and those radioactive decay product nuclides shall be considered as mixtures of different nuclides.

17A4 For mixtures of radionuclides whose identities and respective activities are known, the following conditions apply:

17A4.1 For special form radioactive material, the maximum quantity transported in a Type A package is as follows:

$$\sum_i \frac{B(i)}{A_1(i)} \leq 1$$

where B(i) is the activity of radionuclide i **in special form**, and A_1 (i) is the A_1 value for radionuclide i.

17A4.2 For normal form radioactive material, the maximum quantity transported in a Type A package is as follows:

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Commented [jsj49]: There is no change to the calculation formula in 17A4.2 – only the formula file type has changed.

The purpose of the change is to incorporate a graphics file format that allows for future editing.

~~$\Sigma_i \frac{B(i)}{A_2(i)} \leq 1$~~

$$\Sigma_i \frac{B(i)}{A_2(i)} \leq 1$$

where B(i) is the activity of radionuclide i **in normal form**, and A_2(i) is the A_2 value for radionuclide i.

17A4.3 If the package contains both special and normal form radioactive materials, the activity that may be transported in a Type A package is as follows:

$$\Sigma_i \frac{B(i)}{A_1(i)} + \Sigma_j \frac{C(j)}{A_2(j)} \leq 1$$

Where B(i) is the activity of radionuclide i as special form radioactive material, A_1(i) is the A_1 value for radionuclide i, C(j) is the activity of radionuclide j as normal form radioactive material, and A_2(j) is the A_2 value for radionuclide j.

17A4.~~3~~4 Alternatively, ~~an~~**the** A_1 value for mixtures of special form material may be determined as follows:

~~$A_1 \text{ for mixture} = \frac{1}{\Sigma_i \frac{f(i)}{A_1(i)}}$~~

$$A_1 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_1(i)}}$$

where f(i) is the fraction of activity of nuclide i in the mixture and A_1(i) is the appropriate A_1 value for nuclide i.

17A4.~~4~~5 Alternatively, the A_2 value for mixtures of normal form material may be determined as follows:

~~$A_2 \text{ for mixture} = \frac{1}{\Sigma_i \frac{f(i)}{A_2(i)}}$~~

$$A_2 \text{ for mixture} = \frac{1}{\sum_i \frac{f(i)}{A_2(i)}}$$

where f(i) is the fraction of activity of nuclide ~~i~~**i** in the mixture and A_2(i) is the appropriate A_2 value for nuclide ~~i~~**i**.

17A4.~~5~~6 The exempt activity concentration for mixtures of nuclides may be determined as follows:

Commented [jsj50]: This is a new provision and equation, added for consistency with 10 CFR 71, Appendix A, paragraph IV.c.

Commented [jsj51]: There is no change to the calculation formula in (renumbered) 17A4.4 – only the formula file type has changed.

The purpose of the change is to incorporate a graphics file format that allows for future editing.

Commented [jsj52]: There is no change to the calculation formula in (renumbered) 17A4.5 – only the formula file type has changed.

The purpose of the change is to incorporate a graphics file format that allows for future editing.

Commented [jsj53]: Effectively, there is no change to the calculation formula in (renumbered) 17A4.6 – only the formula file type has changed as well as clarifying wording being added, consistent with 10 CFR 71, Appendix A.

The purpose of the change is to incorporate a graphics file format that allows for future editing.

$$[A] = \frac{1}{\sum_i \frac{f(i)}{[A](i)}}$$

Exempt activity concentration for mixture = $\frac{1}{\sum_i \frac{f(i)}{[A](i)}}$

where f(i) is the fraction of activity concentration of radionuclide i in the mixture, and [A](i) is the activity concentration for exempt material containing radionuclide i.

17A4.67 The activity limit for an exempt consignment for mixtures of radionuclides may be determined as follows:

$$A = \frac{1}{\sum_i \frac{f(i)}{A(i)}}$$

Exempt consignment activity limit for mixture = $\frac{1}{\sum_i \frac{f(i)}{A(i)}}$

where f(i) is the fraction of activity of radionuclide i in the mixture, and A(i) is the activity limit for exempt consignments for radionuclide i.

17A5 When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest A_1 or A_2 value, as appropriate, for the radionuclides in each group may be used in applying the formulas in 17A4. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest A_1 or A_2 values for the alpha emitters and beta/gamma emitters.

17A6 When the identity of each radionuclide is known, but the individual activities of some of the radionuclides are not known, the radionuclides may be grouped and the lowest [A] (activity concentration for exempt materials) or A (activity limit for exempt consignment) value, as appropriate, for the radionuclides in each group may be used in applying the formulas in 17A4. Groups may be based on the total alpha activity and the total beta/gamma activity when these are known, using the lowest [A] or A values for the alpha emitters and beta/gamma emitters, respectively.

Commented [jsj54]: Similar to other equation editing, the graphics file format in this equation is updated to allow for future editing.

Commented [jsj55]: This is a new provision added for consistency with a similar provision in Appendix A of 10 CFR 71.V.b.

The added provision incorporates language when shipments involve concentrations of exempt materials that are not addressed by 17A5.

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TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Ac-225 (a)	Actinium (89)	$8.0X10^{-1}$	$2.2X10^{1}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$2.1X10^{3}$	$5.8X10^{4}$
Ac-227 (a)	.	$9.0X10^{-1}$	$2.4X10^{1}$	$9.0X10^{-5}$	$2.4X10^{-3}$	2.7	$7.2X10^{1}$
Ac-228	.	$6.0X10^{-1}$	$1.6X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$8.4X10^{4}$	$2.2X10^{6}$
Ag-105	Silver (47)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$1.1X10^{3}$	$3.0X10^{4}$
Ag-108m (a)	.	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.7X10^{-1}$	$2.6X10^{1}$
Ag-110m (a)	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.8X10^{2}$	$4.7X10^{3}$
Ag-111	.	2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$5.8X10^{3}$	$1.6X10^{5}$
Al-26	Aluminum (13)	$1.0X10^{-1}$	2.7	$1.0X10^{-1}$	2.7	$7.0X10^{-4}$	$1.9X10^{-2}$
Am-241	Americium (95)	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$1.3X10^{-1}$	3.4
Am-242m (a)	.	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$3.6X10^{-1}$	$1.0X10^{1}$
Am-243 (a)	.	5.0	$1.4X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$7.4X10^{-3}$	$2.0X10^{-1}$
Ar-37	Argon (18)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.7X10^{3}$	$9.9X10^{4}$
Ar-39	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{1}$	$5.4X10^{2}$	1.3	$3.4X10^{1}$
Ar-41	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.5X10^{6}$	$4.2X10^{7}$
As-72	Arsenic (33)	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$6.2X10^{4}$	$1.7X10^{6}$
As-73	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$8.2X10^{2}$	$2.2X10^{4}$
As-74	.	1.0	$2.7X10^{1}$	$9.0X10^{-1}$	$2.4X10^{1}$	$3.7X10^{3}$	$9.9X10^{4}$
As-76	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$5.8X10^{4}$	$1.6X10^{6}$
As-77	.	$2.0X10^{1}$	$5.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$3.9X10^{4}$	$1.0X10^{6}$
At-211 (a)	Astatine (85)	$2.0X10^{1}$	$5.4X10^{2}$	$5.0X10^{-1}$	$1.4X10^{1}$	$7.6X10^{4}$	$2.1X10^{6}$
Au-193	Gold (79)	7.0	$1.9X10^{2}$	2.0	$5.4X10^{1}$	$3.4X10^{4}$	$9.2X10^{5}$
Au-194	.	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.5X10^{4}$	$4.1X10^{5}$
Au-195	.	$1.0X10^{1}$	$2.7X10^{2}$	6.0	$1.6X10^{2}$	$1.4X10^{2}$	$3.7X10^{3}$
Au-198	.	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.0X10^{3}$	$2.4X10^{5}$
Au-199	.	$1.0X10^{1}$	$2.7X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$7.7X10^{3}$	$2.1X10^{5}$
Ba-131 (a)	Barium (56)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$3.1X10^{3}$	$8.4X10^{4}$
Ba-133	.	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	9.4	$2.6X10^{2}$
Ba-133m	.	$2.0X10^{1}$	$5.4X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.2X10^{4}$	$6.1X10^{5}$
Ba-140 (a)	.	$5.0X10^{-1}$	$1.4X10^{1}$	$3.0X10^{-1}$	8.1	$2.7X10^{3}$	$7.3X10^{4}$
Be-7	Beryllium (4)	$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{1}$	$5.4X10^{2}$	$1.3X10^{4}$	$3.5X10^{5}$
Be-10	.	$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-1}$	$1.6X10^{1}$	$8.3X10^{-4}$	$2.2X10^{-2}$
Bi-205	Bismuth (83)	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$1.5X10^{3}$	$4.2X10^{4}$
Bi-206	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$3.8X10^{3}$	$1.0X10^{5}$
Bi-207	.	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	1.9	$5.2X10^{1}$
Bi-210	.	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.6X10^{3}$	$1.2X10^{5}$
Bi-210m (a)	.	$6.0X10^{-1}$	$1.6X10^{1}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.1X10^{-5}$	$5.7X10^{-4}$
Bi-212 (a)	.	$7.0X10^{-1}$	$1.9X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$5.4X10^{5}$	$1.5X10^{7}$
Bk-247	Berkelium (97)	8.0	$2.2X10^{2}$	$8.0X10^{-4}$	$2.2X10^{-2}$	$3.8X10^{-2}$	1.0
Bk-249 (a)	.	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{-1}$	8.1	$6.1X10^{1}$	$1.6X10^{3}$
Br-76	Bromine (35)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$9.4X10^{4}$	$2.5X10^{6}$
Br-77	.	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$2.6X10^{4}$	$7.1X10^{5}$
Br-82	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{4}$	$1.1X10^{6}$
C-11	Carbon (6)	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.1X10^{7}$	$8.4X10^{8}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
C-14	.	4.0X10 ^{1}	1.1X10 ^{3}	3.0	8.1X10 ^{1}	1.6X10 $^{-1}$	4.5
Ca-41	Calcium (20)	Unlimited	Unlimited	Unlimited	Unlimited	3.1X10 $^{-3}$	8.5X10 $^{-2}$
Ca-45	.	4.0X10 ^{1}	1.1X10 ^{3}	1.0	2.7X10 ^{1}	6.6X10 ^{2}	1.8X10 ^{4}
Ca-47 (a)	.	3.0	8.1X10 ^{1}	3.0X10 $^{-1}$	8.1	2.3X10 ^{4}	6.1X10 ^{5}
Cd-109	Cadmium (48)	3.0X10 ^{1}	8.1X10 ^{2}	2.0	5.4X10 ^{1}	9.6X10 ^{1}	2.6X10 ^{3}
Cd-113m	.	4.0X10 1	1.1X10 3	5.0X10 -1	1.4X10 1	8.3	2.2X10 ^{2}
Cd-115 (a)	.	3.0	8.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	1.9X10 ^{4}	5.1X10 ^{5}
Cd-115m	.	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	9.4X10 ^{2}	2.5X10 ^{4}
Ce-139	Cerium (58)	7.0	1.9X10 ^{2}	2.0	5.4X10 ^{1}	2.5X10 ^{2}	6.8X10 ^{3}
Ce-141	.	2.0X10 ^{1}	5.4X10 ^{2}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.1X10 ^{3}	2.8X10 ^{4}
Ce-143	.	9.0X10 $^{-1}$	2.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	2.5X10 ^{4}	6.6X10 ^{5}
Ce-144 (a)	.	2.0X10 $^{-1}$	5.4	2.0X10 $^{-1}$	5.4	1.2X10 ^{2}	3.2X10 ^{3}
Cf-248	Californium (98)	4.0X10 ^{1}	1.1X10 ^{3}	6.0X10 $^{-3}$	1.6X10 $^{-1}$	5.8X10 ^{1}	1.6X10 ^{3}
Cf-249	.	3.0	8.1X10 ^{1}	8.0X10 $^{-4}$	2.2X10 $^{-2}$	1.5X10 $^{-1}$	4.1
Cf-250	.	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 $^{-3}$	5.4X10 $^{-2}$	4.0	1.1X10 ^{2}
Cf-251	.	7.0	1.9X10 ^{2}	7.0X10 $^{-4}$	1.9X10 $^{-2}$	5.9X10 $^{-2}$	1.6
Cf-252 ~~(h)~~	.	~~5~~1.0X10 $^{-2}$~~1~~	~~1.4~~2.7	3.0X10 $^{-3}$	8.1X10 $^{-2}$	2.0X10 ^{1}	5.4X10 ^{2}
Cf-253 (a)	.	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 $^{-2}$	1.1	1.1X10 ^{3}	2.9X10 ^{4}
Cf-254	.	1.0X10 $^{-3}$	2.7X10 $^{-2}$	1.0X10 $^{-3}$	2.7X10 $^{-2}$	3.1X10 ^{2}	8.5X10 ^{3}
Cl-36	Chlorine (17)	1.0X10 ^{1}	2.7X10 ^{2}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.2X10 $^{-3}$	3.3X10 $^{-2}$
Cl-38	.	2.0X10 $^{-1}$	5.4	2.0X10 $^{-1}$	5.4	4.9X10 ^{6}	1.3X10 ^{8}
Cm-240	Curium (96)	4.0X10 ^{1}	1.1X10 ^{3}	2.0X10 $^{-2}$	5.4X10 $^{-1}$	7.5X10 ^{2}	2.0X10 ^{4}
Cm-241	.	2.0	5.4X10 ^{1}	1.0	2.7X10 ^{1}	6.1X10 ^{2}	1.7X10 ^{4}
Cm-242	.	4.0X10 ^{1}	1.1X10 ^{3}	1.0X10 $^{-2}$	2.7X10 $^{-1}$	1.2X10 ^{2}	3.3X10 ^{3}
Cm-243	.	9.0	2.4X10 ^{2}	1.0X10 $^{-3}$	2.7X10 $^{-2}$	1.9X10 $^{-3}$	5.2X10 ^{1}
Cm-244	.	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 $^{-3}$	5.4X10 $^{-2}$	3.0	8.1X10 ^{1}
Cm-245	.	9.0	2.4X10 ^{2}	9.0X10 $^{-4}$	2.4X10 $^{-2}$	6.4X10 $^{-3}$	1.7X10 $^{-1}$
Cm-246	.	9.0	2.4X10 ^{2}	9.0X10 $^{-4}$	2.4X10 $^{-2}$	1.1X10 $^{-2}$	3.1X10 $^{-1}$
Cm-247 (a)	.	3.0	8.1X10 ^{1}	1.0X10 $^{-3}$	2.7X10 $^{-2}$	3.4X10 $^{-6}$	9.3X10 $^{-5}$
Cm-248	.	2.0X10 $^{-2}$	5.4X10 $^{-1}$	3.0X10 $^{-4}$	8.1X10 $^{-3}$	1.6X10 $^{-4}$	4.2X10 $^{-3}$
Co-55	Cobalt (27)	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	1.1X10 ^{5}	3.1X10 ^{6}
Co-56	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	1.1X10 ^{3}	3.0X10 ^{4}
Co-57	.	1.0X10 ^{1}	2.7X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	3.1X10 ^{2}	8.4X10 ^{3}
Co-58	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	1.2X10 ^{3}	3.2X10 ^{4}
Co-58m	.	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 ^{1}	1.1X10 ^{3}	2.2X10 ^{5}	5.9X10 ^{6}
Co-60	.	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	4.2X10 ^{1}	1.1X10 ^{3}
Cr-51	Chromium (24)	3.0X10 ^{1}	8.1X10 ^{2}	3.0X10 ^{1}	8.1X10 ^{2}	3.4X10 ^{3}	9.2X10 ^{4}
Cs-129	Cesium (55)	4.0	1.1X10 ^{2}	4.0	1.1X10 ^{2}	2.8X10 ^{4}	7.6X10 ^{5}
Cs-131	.	3.0X10 ^{1}	8.1X10 ^{2}	3.0X10 ^{1}	8.1X10 ^{2}	3.8X10 ^{3}	1.0X10 ^{5}
Cs-132	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	5.7X10 ^{3}	1.5X10 ^{5}
Cs-134	.	7.0X10 $^{-1}$	1.9X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	4.8X10 ^{1}	1.3X10 ^{3}
Cs-134m	.	4.0X10 ^{1}	1.1X10 ^{3}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.0X10 ^{5}	8.0X10 ^{6}
Cs-135	.	4.0X10 ^{1}	1.1X10 ^{3}	1.0	2.7X10 ^{1}	4.3X10 $^{-5}$	1.2X10 $^{-3}$
Cs-136	.	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	2.7X10 ^{3}	7.3X10 ^{4}

Commented [jsj56]: A1 values are increased (made less restrictive) for Cf252, consistent with 2015 changes to 10 CFR 71, Table A-1.

Amended values are consistent with U.S. Department of Transportation (DOT) requirements, and International Atomic Energy Agency (IAEA) transportation regulations in TS-R-1 (2009).

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TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Cs-137 (a)	.	2.0	5.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.2	8.7X10 ^{1}
Cu-64	Copper (29)	6.0	1.6X10 ^{2}	1.0	2.7X10 ^{1}	1.4X10 ^{5}	3.9X10 ^{6}
Cu-67	.	1.0X10 ^{1}	2.7X10 ^{2}	7.0X10 $^{-1}$	1.9X10 ^{1}	2.8X10 ^{4}	7.6X10 ^{5}
Dy-159	Dysprosium (66)	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 ^{1}	5.4X10 ^{2}	2.1X10 ^{2}	5.7X10 ^{3}
Dy-165	.	9.0X10 $^{-1}$	2.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.0X10 ^{5}	8.2X10 ^{6}
Dy-166 (a)	.	9.0X10 -1	2.4X10 1	3.0X10 -1	8.1	8.6X10 3	2.3X10 ^{5}
Er-169	Erbium (68)	4.0X10 ^{1}	1.1X10 ^{3}	1.0	2.7X10 ^{1}	3.1X10 ^{3}	8.3X10 ^{4}
Er-171	.	8.0X10 $^{-1}$	2.2X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	9.0X10 ^{4}	2.4X10 ^{6}
Eu-147	Europium (63)	2.0	5.4X10 ^{1}	2.0	5.4X10 ^{1}	1.4X10 ^{3}	3.7X10 ^{4}
Eu-148	.	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	6.0X10 ^{2}	1.6X10 ^{4}
Eu-149	.	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 ^{1}	5.4X10 ^{2}	3.5X10 ^{2}	9.4X10 ^{3}
Eu-150. (short.lived)	.	2.0	5.4X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	6.1X10 ^{4}	1.6X10 ^{6}
Eu-150. (long.lived)	.	7.0X10 $^{-1}$	1.9X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	6.1X10 ^{4}	1.6X10 ^{6}
Eu-152	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	6.5	1.8X10 ^{2}
Eu-152m	.	8.0X10 $^{-1}$	2.2X10 ^{1}	8.0X10 $^{-1}$	2.2X10 ^{1}	8.2X10 ^{4}	2.2X10 ^{6}
Eu-154	.	9.0X10 $^{-1}$	2.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	9.8	2.6X10 ^{2}
Eu-155	.	2.0X10 ^{1}	5.4X10 ^{2}	3.0	8.1X10 ^{1}	1.8X10 ^{1}	4.9X10 ^{2}
Eu-156	.	7.0X10 $^{-1}$	1.9X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	2.0X10 ^{3}	5.5X10 ^{4}
F-18	Fluorine.(9)	1.0	2.7X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.5X10 ^{6}	9.5X10 ^{7}
Fe-52.(a)	Iron.(26)	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	2.7X10 ^{5}	7.3X10 ^{6}
Fe-55	.	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 ^{1}	1.1X10 ^{3}	8.8X10 ^{1}	2.4X10 ^{3}
Fe-59	.	9.0X10 $^{-1}$	2.4X10 ^{1}	9.0X10 $^{-1}$	2.4X10 ^{1}	1.8X10 ^{3}	5.0X10 ^{4}
Fe-60 (a)	.	4.0X10 ^{1}	1.1X10 ^{3}	2.0X10 $^{-1}$	5.4	7.4X10 $^{-4}$	2.0X10 $^{-2}$
Ga-67	Gallium (31)	7.0	1.9X10 ^{2}	3.0	8.1X10 ^{1}	2.2X10 ^{4}	6.0X10 ^{5}
Ga-68	.	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	1.5X10 ^{6}	4.1X10 ^{7}
Ga-72	.	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	1.1X10 ^{5}	3.1X10 ^{6}
Gd-146.(a)	Gadolinium(64)	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	6.9X10 ^{2}	1.9X10 ^{4}
Gd-148	.	2.0X10 ^{1}	5.4X10 ^{2}	2.0X10 $^{-3}$	5.4X10 $^{-2}$	1.2	3.2X10 ^{1}
Gd-153	.	1.0X10 ^{1}	2.7X10 ^{2}	9.0	2.4X10 ^{2}	1.3X10 ^{2}	3.5X10 ^{3}
Gd-159	.	3.0	8.1X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.9X10 ^{4}	1.1X10 ^{6}
Ge-68.(a)	Germanium(32)	5.0X10 $^{-1}$	1.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	2.6X10 ^{2}	7.1X10 ^{3}
Ge-71	.	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 ^{1}	1.1X10 ^{3}	5.8X10 ^{3}	1.6X10 ^{5}
Ge-77	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	1.3X10 ^{5}	3.6X10 ^{6}
Hf-172 (a)	Hafnium (72)	6.0X10 $^{-1}$	1.6X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	4.1X10 ^{1}	1.1X10 ^{3}
Hf-175	.	3.0	8.1X10 ^{1}	3.0	8.1X10 ^{1}	3.9X10 ^{2}	1.1X10 ^{4}
Hf-181	.	2.0	5.4X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	6.3X10 ^{2}	1.7X10 ^{4}
Hf-182	.	Unlimited	Unlimited	Unlimited	Unlimited	8.1X10 $^{-6}$	2.2X10 $^{-4}$
Hg-194 (a)	Mercury (80)	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	1.3X10 $^{-1}$	3.5
Hg-195m (a)	.	3.0	8.1X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	1.5X10 ^{4}	4.0X10 ^{5}
Hg-197	.	2.0X10 ^{1}	5.4X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	9.2X10 ^{3}	2.5X10 ^{5}
Hg-197m	.	1.0X10 ^{1}	2.7X10 ^{2}	4.0X10 $^{-1}$	1.1X10 ^{1}	2.5X10 ^{4}	6.7X10 ^{5}
Hg-203	.	5.0	1.4X10 ^{2}	1.0	2.7X10 ^{1}	5.1X10 ^{2}	1.4X10 ^{4}

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Ho-166	Holmium (67)	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	2.6X10 ^{4}	7.0X10 ^{5}
Ho-166m	.	6.0X10 $^{-1}$	1.6X10 ^{1}	5.0X10 $^{-1}$	1.4X10 ^{1}	6.6X10 $^{-2}$	1.8
I-123	Iodine (53)	6.0	1.6X10 ^{2}	3.0	8.1X10 ^{1}	7.1X10 ^{4}	1.9X10 ^{6}
I-124	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	9.3X10 ^{3}	2.5X10 ^{5}
I-125	.	2.0X10 ^{1}	5.4X10 ^{2}	3.0	8.1X10 ^{1}	6.4X10 ^{2}	1.7X10 ^{4}
I-126	.	2.0	5.4X10 1	1.0	2.7X10 1	2.9X10 3	8.0X10 ^{4}
I-129	.	Unlimited	Unlimited	Unlimited	Unlimited	6.5X10 $^{-6}$	1.8X10 $^{-4}$
I-131	.	3.0	8.1X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	4.6X10 ^{3}	1.2X10 ^{5}
I-132	.	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	3.8X10 ^{5}	1.0X10 ^{7}
I-133	.	7.0X10 $^{-1}$	1.9X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	4.2X10 ^{4}	1.1X10 ^{6}
I-134	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	9.9X10 ^{5}	2.7X10 ^{7}
I-135.(a)	.	6.0X10 $^{-1}$	1.6X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.3X10 ^{5}	3.5X10 ^{6}
In-111	Indium (49)	3.0	8.1X10 ^{1}	3.0	8.1X10 ^{1}	1.5X10 ^{4}	4.2X10 ^{5}
In-113m	.	4.0	1.1X10 ^{2}	2.0	5.4X10 ^{1}	6.2X10 ^{5}	1.7X10 ^{7}
In-114m.(a)	.	1.0X10 1	2.7X10 ^{2}	5.0X10 $^{-1}$	1.4X10 ^{1}	8.6X10 ^{2}	2.3X10 ^{4}
In-115m	.	7.0	1.9X10 ^{2}	1.0	2.7X10 ^{1}	2.2X10 ^{5}	6.1X10 ^{6}
Ir-189.(a)	Iridium (77)	1.0X10 ^{1}	2.7X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	1.9X10 ^{3}	5.2X10 ^{4}
Ir-190	.	7.0X10 $^{-1}$	1.9X10 ^{1}	7.0X10 $^{-1}$	1.9X10 ^{1}	2.3X10 ^{3}	6.2X10 ^{4}
Ir-192 ~~(c)~~	.	[c] 1.0	[c] 2.7X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	3.4X10 ^{2}	9.2X10 ^{3}
Ir-194	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	3.1X10 ^{4}	8.4X10 ^{5}
K-40	Potassium (19)	9.0X10 $^{-1}$	2.4X10 ^{1}	9.0X10 $^{-1}$	2.4X10 ^{1}	2.4X10 $^{-7}$	6.4X10 $^{-6}$
K-42	.	2.0X10 $^{-1}$	5.4	2.0X10 $^{-1}$	5.4	2.2X10 ^{5}	6.0X10 ^{6}
K-43	.	7.0X10 $^{-1}$	1.9X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.2X10 ^{5}	3.3X10 ^{6}
Kr-79	**Krypton (36)**	**4.0**	**1.1X10 ^{2}**	**2.0**	**5.4X10 ^{1}**	**4.2X10 ^{4}**	**1.1X10 ^{6}**
Kr-81	~~Krypton (36)~~	4.0X10 ^{1}	1.1X10 ^{3}	4.0X10 ^{1}	1.1X10 ^{3}	7.8X10 $^{-4}$	2.1X10 $^{-2}$
Kr-85	.	1.0X10 ^{1}	2.7X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	1.5X10 ^{1}	3.9X10 ^{2}
Kr-85m	.	8.0	2.2X10 ^{2}	3.0	8.1X10 ^{1}	3.0X10 ^{5}	8.2X10 ^{6}
Kr-87	.	2.0X10 $^{-1}$	5.4	2.0X10 $^{-1}$	5.4	1.0X10 ^{6}	2.8X10 ^{7}
La-137	Lanthanum(57)	3.0X10 ^{1}	8.1X10 ^{2}	6.0	1.6X10 ^{2}	1.6X10 $^{-3}$	4.4X10 $^{-2}$
La-140	.	4.0X10 $^{-1}$	1.1X10 ^{1}	4.0X10 $^{-1}$	1.1X10 ^{1}	2.1X10 ^{4}	5.6X10 ^{5}
Lu-172	Lutetium (71)	6.0X10 $^{-1}$	1.6X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	4.2X10 ^{3}	1.1X10 ^{5}
Lu-173	.	8.0	2.2X10 ^{2}	8.0	2.2X10 ^{2}	5.6X10 ^{1}	1.5X10 ^{3}
Lu-174	.	9.0	2.4X10 ^{2}	9.0	2.4X10 ^{2}	2.3X10 ^{1}	6.2X10 ^{2}
Lu-174m	.	2.0X10 ^{1}	5.4X10 ^{2}	1.0X10 ^{1}	2.7X10 ^{2}	2.0X10 ^{2}	5.3X10 ^{3}
Lu-177	.	3.0X10 ^{1}	8.1X10 ^{2}	7.0X10 $^{-1}$	1.9X10 ^{1}	4.1X10 ^{3}	1.1X10 ^{5}
Mg-28.(a)	Magnesium(12)	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	2.0X10 ^{5}	5.4X10 ^{6}
Mn-52	Manganese(25)	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	1.6X10 ^{4}	4.4X10 ^{5}
Mn-53	.	Unlimited	Unlimited	Unlimited	Unlimited	6.8X10 $^{-5}$	1.8X10 $^{-3}$
Mn-54	.	1.0	2.7X10 ^{1}	1.0	2.7X10 ^{1}	2.9X10 ^{2}	7.7X10 ^{3}
Mn-56	.	3.0X10 $^{-1}$	8.1	3.0X10 $^{-1}$	8.1	8.0X10 ^{5}	2.2X10 ^{7}
Mo-93	Molybdenum (42)	4.0X10 ^{1}	1.1X10 ^{3}	2.0X10 ^{1}	5.4X10 ^{2}	4.1X10 $^{-2}$	1.1
Mo-99 (a) ~~(i~~h)	.	1.0	2.7X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	1.8X10 ^{4}	4.8X10 ^{5}
N-13	Nitrogen (7)	9.0X10 $^{-1}$	2.4X10 ^{1}	6.0X10 $^{-1}$	1.6X10 ^{1}	5.4X10 ^{7}	1.5X10 ^{9}

Commented [jsj57]: Footnote for Ir192 updated, consistent with 2015 changes to 10 CFR 71, Table A-1.

Footnote "c" is relocated to clarify that it only applies to the A1 value and only to the special form (~sealed sources) of the isotope.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj58]: Values for Kr-79 added, consistent with 2015 changes to 10 CFR 71, Table A-1.

Previously, the more generic values of Table 17A3 were used since there was no value specific to Kr-79. The IAEA added values for Kr-79 to better reflect the radiological hazard of this radionuclide. In turn, the NRC adopted the same values in 10 CFR 71.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj59]: Footnote for Mo99 updated, consistent with 2015 changes to 10 CFR 71, Table A-1.

With reference to (new) footnote "h", the change restores the A_2 value (20 Ci) for Mo99 for domestic shipments. The original footnote "i" was inadvertently removed from the rule sometime in the past. This original footnote "i" indicated that the domestic value for Mo99 was 20 Ci, so there is no change to the A_2 value.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Na-22	Sodium (11)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$2.3X10^{2}$	$6.3X10^{3}$
Na-24	.	$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$3.2X10^{5}$	$8.7X10^{6}$
Nb-93m	Niobium (41)	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	8.8	$2.4X10^{2}$
Nb-94	.	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$6.9X10^{-3}$	$1.9X10^{-1}$
Nb-95	.	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.5X10^{3}$	$3.9X10^{4}$
Nb-97	.	$9.0X10^{-1}$	$2.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.9X10^{5}$	$2.7X10^{7}$
Nd-147	Neodymium (60)	6.0	$1.6X10^{2}$	$6.0X10^{-1}$	$1.6X10^{1}$	$3.0X10^{3}$	$8.1X10^{4}$
Nd-149	.	$6.0X10^{-1}$	$1.6X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$4.5X10^{5}$	$1.2X10^{7}$
Ni-59	Nickel (28)	Unlimited	Unlimited	Unlimited	Unlimited	$3.0X10^{-3}$	$8.0X10^{-2}$
Ni-63	.	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	2.1	$5.7X10^{1}$
Ni-65	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$7.1X10^{5}$	$1.9X10^{7}$
Np-235	Neptunium (93)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$5.2X10^{1}$	$1.4X10^{3}$
Np-236 (short-lived)	.	$2.0X10^{1}$	$5.4X10^{2}$	2.0	$5.4X10^{1}$	$4.7X10^{-4}$	$1.3X10^{-2}$
Np-236 (long-lived)	.	$9.0X10^{0}$	$2.4X10^{2}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$4.7X10^{-4}$	$1.3X10^{-2}$
Np-237	.	$2.0X10^{1}$	$5.4X10^{2}$	$2.0X10^{-3}$	$5.4X10^{-2}$	$2.6X10^{-5}$	$7.1X10^{-4}$
Np-239	.	7.0	$1.9X10^{2}$	$4.0X10^{-1}$	$1.1X10^{1}$	$8.6X10^{3}$	$2.3X10^{5}$
Os-185	Osmium (76)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$2.8X10^{2}$	$7.5X10^{3}$
Os-191	.	$1.0X10^{1}$	$2.7X10^{2}$	2.0	$5.4X10^{1}$	$1.6X10^{3}$	$4.4X10^{4}$
Os-191m	.	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{1}$	$8.1X10^{2}$	$4.6X10^{4}$	$1.3X10^{6}$
Os-193	.	2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.0X10^{4}$	$5.3X10^{5}$
Os-194 (a)	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.1X10^{1}$	$3.1X10^{2}$
P-32	Phosphorus. (15)	$5.0X10^{-1}$	$1.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$1.1X10^{4}$	$2.9X10^{5}$
P-33	.	$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$5.8X10^{3}$	$1.6X10^{5}$
Pa-230. (a)	Protactinium. (91)	2.0	$5.4X10^{1}$	$7.0X10^{-2}$	1.9	$1.2X10^{3}$	$3.3X10^{4}$
Pa-231	.	4.0	$1.1X10^{2}$	$4.0X10^{-4}$	$1.1X10^{-2}$	$1.7X10^{-3}$	$4.7X10^{-2}$
Pa-233	.	5.0	$1.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$7.7X10^{2}$	$2.1X10^{4}$
Pb-201	Lead. (82)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$6.2X10^{4}$	$1.7X10^{6}$
Pb-202	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{1}$	$5.4X10^{2}$	$1.2X10^{-4}$	$3.4X10^{-3}$
Pb-203	.	4.0	$1.1X10^{2}$	3.0	$8.1X10^{1}$	$1.1X10^{4}$	$3.0X10^{5}$
Pb-205	.	Unlimited	Unlimited	Unlimited	Unlimited	$4.5X10^{-6}$	$1.2X10^{-4}$
Pb-210. (a)	.	1.0	$2.7X10^{1}$	$5.0X10^{-2}$	1.4	2.8	$7.6X10^{1}$
Pb-212. (a)	.	$7.0X10^{-1}$	$1.9X10^{1}$	$2.0X10^{-1}$	5.4	$5.1X10^{4}$	$1.4X10^{6}$
Pd-103. (a)	Palladium. (46)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$2.8X10^{3}$	$7.5X10^{4}$
Pd-107	.	Unlimited	Unlimited	Unlimited	Unlimited	$1.9X10^{-5}$	$5.1X10^{-4}$
Pd-109	.	2.0	$5.4X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$7.9X10^{4}$	$2.1X10^{6}$
Pm-143	Promethium. (61)	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$1.3X10^{2}$	$3.4X10^{3}$
Pm-144	.	$7.0X10^{-1}$	$1.9X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.2X10^{1}$	$2.5X10^{3}$
Pm-145	.	$3.0X10^{1}$	$8.1X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	5.2	$1.4X10^{2}$
Pm-147	.	$4.0X10^{1}$	$1.1X10^{3}$	2.0	$5.4X10^{1}$	$3.4X10^{1}$	$9.3X10^{2}$
Pm-148m. (a)	.	$8.0X10^{-1}$	$2.2X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$7.9X10^{2}$	$2.1X10^{4}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Pm-149	.	2.0	5.4X10 1	6.0X10 -1	1.6X10 1	1.5X10 4	4.0X10 5
Pm-151	.	2.0	5.4X10 1	6.0X10 -1	1.6X10 1	2.7X10 4	7.3X10 5
Po-210	Polonium. (84)	4.0X10 1	1.1X10 3	2.0X10 -2	5.4X10 -1	1.7X10 2	4.5X10 3
Pr-142	Praseodymium. (59)	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	4.3X10 4	1.2X10 6
Pr-143	.	3.0	8.1X10 1	6.0X10 -1	1.6X10 1	2.5X10 3	6.7X10 4
Pt-188. (a)	Platinum. (78)	1.0	2.7X10 1	8.0X10 -1	2.2X10 1	2.5X10 3	6.8X10 4
Pt-191	.	4.0	1.1X10 2	3.0	8.1X10 1	8.7X10 3	2.4X10 5
Pt-193	.	4.0X10 1	1.1X10 3	4.0X10 1	1.1X10 3	1.4	3.7X10 1
Pt-193m	.	4.0X10 1	1.1X10 3	5.0X10 -1	1.4X10 1	5.8X10 3	1.6X10 5
Pt-195m	.	1.0X10 1	2.7X10 2	5.0X10 -1	1.4X10 1	6.2X10 3	1.7X10 5
Pt-197	.	2.0X10 1	5.4X10 2	6.0X10 -1	1.6X10 1	3.2X10 4	8.7X10 5
Pt-197m	.	1.0X10 1	2.7X10 2	6.0X10 -1	1.6X10 1	3.7X10 5	1.0X10 7
Pu-236	Plutonium. (94)	3.0X10 1	8.1X10 2	3.0X10 -3	8.1X10 -2	2.0X10 1	5.3X10 2
Pu-237	.	2.0X10 1	5.4X10 2	2.0X10 1	5.4X10 2	4.5X10 2	1.2X10 4
Pu-238	.	1.0X10 1	2.7X10 2	1.0X10 -3	2.7X10 -2	6.3X10 -1	1.7X10 1
Pu-239	.	1.0X10 1	2.7X10 2	1.0X10 -3	2.7X10 -2	2.3X10 -3	6.2X10 -2
Pu-240	.	1.0X10 1	2.7X10 2	1.0X10 -3	2.7X10 -2	8.4X10 -3	2.3X10 -1
Pu-241. (a)	.	4.0X10 1	1.1X10 3	6.0X10 -2	1.6	3.8	1.0X10 2
Pu-242	.	1.0X10 1	2.7X10 2	1.0X10 -3	2.7X10 -2	1.5X10 -4	3.9X10 -3
Pu-244. (a)	.	4.0X10 -1	1.1X10 1	1.0X10 -3	2.7X10 -2	6.7X10 -7	1.8X10 -5
Ra-223. (a)	Radium. (88)	4.0X10 -1	1.1X10 1	7.0X10 -3	1.9X10 -1	1.9X10 3	5.1X10 4
Ra-224. (a)	.	4.0X10 -1	1.1X10 1	2.0X10 -2	5.4X10 -1	5.9X10 3	1.6X10 5
Ra-225 (a)	.	2.0X10 -1	5.4	4.0X10 -3	1.1X10 -1	1.5X10 3	3.9X10 4
Ra-226. (a)	.	2.0X10 -1	5.4	3.0X10 -3	8.1X10 -2	3.7X10 -2	1.0
Ra-228. (a)	.	6.0X10 -1	1.6X10 1	2.0X10 -2	5.4X10 -1	1.0X10 1	2.7X10 2
Rb-81	Rubidium (37)	2.0	5.4X10 1	8.0X10 -1	2.2X10 1	3.1X10 5	8.4X10 6
Rb-83. (a)	.	2.0	5.4X10 1	2.0	5.4X10 1	6.8X10 2	1.8X10 4
Rb-84	.	1.0	2.7X10 1	1.0	2.7X10 1	1.8X10 3	4.7X10 4
Rb-86	.	5.0X10 -1	1.4X10 1	5.0X10 -1	1.4X10 1	3.0X10 3	8.1X10 4
Rb-87	.	Unlimited	Unlimited	Unlimited	Unlimited	3.2X10 -9	8.6X10 -8
Rb(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	6.7X10 6	1.8X10 8
Re-184	Rhenium (75)	1.0	2.7X10 1	1.0	2.7X10 1	6.9X10 2	1.9X10 4
Re-184m	.	3.0	8.1X10 1	1.0	2.7X10 1	1.6X10 2	4.3X10 3
Re-186	.	2.0	5.4X10 1	6.0X10 -1	1.6X10 1	6.9X10 3	1.9X10 5
Re-187	.	Unlimited	Unlimited	Unlimited	Unlimited	1.4X10 -9	3.8X10 -8
Re-188	.	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	3.6X10 4	9.8X10 5
Re-189. (a)	.	3.0	8.1X10 1	6.0X10 -1	1.6X10 1	2.5X10 4	6.8X10 5
Re(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	0.0	2.4X10 -8
Rh-99	Rhodium (45)	2.0	5.4X10 1	2.0	5.4X10 1	3.0X10 3	8.2X10 4
Rh-101	.	4.0	1.1X10 2	3.0	8.1X10 1	4.1X10 1	1.1X10 3
Rh-102	.	5.0X10 -1	1.4X10 1	5.0X10 -1	1.4X10 1	4.5X10 1	1.2X10 3
Rh-102m	.	2.0	5.4X10 1	2.0	5.4X10 1	2.3X10 2	6.2X10 3
Rh-103m	.	4.0X10 1	1.1X10 3	4.0X10 1	1.1X10 3	1.2X10 6	3.3X10 7

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Rh-105	.	1.0X10 1	2.7X10 2	8.0X10 -1	2.2X10 1	3.1X10 4	8.4X10 5
Rn-222. (a)	Radon (86)	3.0X10 -1	8.1	4.0X10 -3	1.1X10 -1	5.7X10 3	1.5X10 5
Ru-97	Ruthenium (44)	5.0	1.4X10 2	5.0	1.4X10 2	1.7X10 4	4.6X10 5
Ru-103. (a)	.	2.0	5.4X10 1	2.0	5.4X10 1	1.2X10 3	3.2X10 4
Ru-105	.	1.0	2.7X10 1	6.0X10 -1	1.6X10 1	2.5X10 5	6.7X10 6
Ru-106. (a)	.	2.0X10 -1	5.4	2.0X10 -1	5.4	1.2X10 2	3.3X10 3
S-35	Sulphur (16)	4.0X10 1	1.1X10 3	3.0	8.1X10 1	1.6X10 3	4.3X10 4
Sb-122	Antimony (51)	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	1.5X10 4	4.0X10 5
Sb-124	.	6.0X10 -1	1.6X10 1	6.0X10 -1	1.6X10 1	6.5X10 2	1.7X10 4
Sb-125	.	2.0	5.4X10 1	1.0	2.7X10 1	3.9X10 1	1.0X10 3
Sb-126	.	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	3.1X10 3	8.4X10 4
Sc-44	Scandium (21)	5.0X10 -1	1.4X10 1	5.0X10 -1	1.4X10 1	6.7X10 5	1.8X10 7
Sc-46	.	5.0X10 -1	1.4X10 1	5.0X10 -1	1.4X10 1	1.3X10 3	3.4X10 4
Sc-47	.	1.0X10 1	2.7X10 2	7.0X10 -1	1.9X10 1	3.1X10 4	8.3X10 5
Sc-48	.	3.0X10 -1	8.1	3.0X10 -1	8.1	5.5X10 4	1.5X10 6
Se-75	Selenium (34)	3.0	8.1X10 1	3.0	8.1X10 1	5.4X10 2	1.5X10 4
Se-79	.	4.0X10 1	1.1X10 3	2.0	5.4X10 1	2.6X10 -3	7.0X10 -2
Si-31	Silicon (14)	6.0X10 -1	1.6X10 1	6.0X10 -1	1.6X10 1	1.4X10 6	3.9X10 7
Si-32	.	4.0X10 1	1.1X10 3	5.0X10 -1	1.4X10 1	3.9	1.1X10 2
Sm-145	Samarium (62)	1.0X10 1	2.7X10 2	1.0X10 1	2.7X10 2	9.8X10 1	2.6X10 3
Sm-147	.	Unlimited	Unlimited	Unlimited	Unlimited	8.5X10 -1	2.3X10 -8
Sm-151	.	4.0X10 1	1.1X10 3	1.0X10 1	2.7X10 2	9.7X10 -1	2.6X10 1
Sm-153	.	9.0	2.4X10 2	6.0X10 -1	1.6X10 1	1.6X10 4	4.4X10 5
Sn-113. (a)	Tin (50)	4.0	1.1X10 2	2.0	5.4X10 1	3.7X10 2	1.0X10 4
Sn-117m	.	7.0	1.9X10 2	4.0X10 -1	1.1X10 1	3.0X10 3	8.2X10 4
Sn-119m	.	4.0X10 1	1.1X10 3	3.0X10 1	8.1X10 2	1.4X10 2	3.7X10 3
Sn-121m. (a)	.	4.0X10 1	1.1X10 3	9.0X10 -1	2.4X10 1	2.0	5.4X10 1
Sn-123	.	8.0X10 -1	2.2X10 1	6.0X10 -1	1.6X10 1	3.0X10 2	8.2X10 3
Sn-125	.	4.0X10 -1	1.1X10 1	4.0X10 -1	1.1X10 1	4.0X10 3	1.1X10 5
Sn-126. (a)	.	6.0X10 -1	1.6X10 1	4.0X10 -1	1.1X10 1	1.0X10 -3	2.8X10 -2
Sr-82 . (a)	Strontium (38)	2.0X10 -1	5.4	2.0X10 -1	5.4	2.3X10 3	6.2X10 4
Sr-85	.	2.0	5.4X10 1	2.0	5.4X10 1	8.8X10 2	2.4X10 4
Sr-85m	.	5.0	1.4X10 2	5.0	1.4X10 2	1.2X10 6	3.3X10 7
Sr-87m	.	3.0	8.1X10 1	3.0	8.1X10 1	4.8X10 5	1.3X10 7
Sr-89	.	6.0X10 -1	1.6X10 1	6.0X10 -1	1.6X10 1	1.1X10 3	2.9X10 4
Sr-90. (a)	.	3.0X10 -1	8.1	3.0X10 -1	8.1	5.1	1.4X10 2
Sr-91. (a)	.	3.0X10 -1	8.1	3.0X10 -1	8.1	1.3X10 5	3.6X10 6
Sr-92. (a)	.	1.0	2.7X10 1	3.0X10 -1	8.1	4.7X10 5	1.3X10 7
T(H-3)	Tritium. (1)	4.0X10 1	1.1X10 3	4.0X10 1	1.1X10 3	3.6X10 2	9.7X10 3
Ta-178. (long	Tantalum. (73)	1.0	2.7X10 1	8.0X10 -1	2.2X10 1	4.2X10 6	1.1X10 8
Ta-179	.	3.0X10 1	8.1X10 2	3.0X10 1	8.1X10 2	4.1X10 1	1.1X10 3
Ta-182	.	9.0X10 -1	2.4X10 1	5.0X10 -1	1.4X10 1	2.3X10 2	6.2X10 3

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Tb-157	Terbium. (65)	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$5.6X10^{-1}$	$1.5X10^{1}$
Tb-158	.	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$5.6X10^{-1}$	$1.5X10^{1}$
Tb-160	.	1.0	$2.7X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$4.2X10^{2}$	$1.1X10^{4}$
Tc-95m (a)	Technetium (43)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$8.3X10^{2}$	$2.2X10^{4}$
Tc-96	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.2X10^{4}$	$3.2X10^{5}$
Tc-96m. (a)	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.4X10^{6}$	$3.8X10^{7}$
Tc-97	.	Unlimited	Unlimited	Unlimited	Unlimited	$5.2X10^{-5}$	$1.4X10^{-3}$
Tc-97m	.	$4.0X10^{1}$	$1.1X10^{3}$	1.0	$2.7X10^{1}$	$5.6X10^{2}$	$1.5X10^{4}$
Tc-98	.	$8.0X10^{-1}$	$2.2X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$3.2X10^{-5}$	$8.7X10^{-4}$
Tc-99	.	$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.3X10^{-4}$	$1.7X10^{-2}$
Tc-99m	.	$1.0X10^{1}$	$2.7X10^{2}$	4.0	$1.1X10^{2}$	$1.9X10^{5}$	$5.3X10^{6}$
Te-121	Tellurium. (52)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$2.4X10^{3}$	$6.4X10^{4}$
Te-121m	.	5.0	$1.4X10^{2}$	3.0	$8.1X10^{1}$	$2.6X10^{2}$	$7.0X10^{3}$
Te-123m	.	8.0	$2.2X10^{2}$	1.0	$2.7X10^{1}$	$3.3X10^{2}$	$8.9X10^{3}$
Te-125m	.	$2.0X10^{1}$	$5.4X10^{2}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.7X10^{2}$	$1.8X10^{4}$
Te-127	.	$2.0X10^{1}$	$5.4X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$9.8X10^{4}$	$2.6X10^{6}$
Te-127m. (a)	.	$2.0X10^{1}$	$5.4X10^{2}$	$5.0X10^{-1}$	$1.4X10^{1}$	$3.5X10^{2}$	$9.4X10^{3}$
Te-129	.	$7.0X10^{-1}$	$1.9X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$7.7X10^{5}$	$2.1X10^{7}$
Te-129m. (a)	.	$8.0X10^{-1}$	$2.2X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.1X10^{3}$	$3.0X10^{4}$
Te-131m. (a)	.	$7.0X10^{-1}$	$1.9X10^{1}$	$5.0X10^{-1}$	$1.4X10^{1}$	$3.0X10^{4}$	$8.0X10^{5}$
Te-132. (a)	.	$5.0X10^{-1}$	$1.4X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$1.1X10^{4}$	$3.0X10^{5}$
Th-227	Thorium. (90)	$1.0X10^{1}$	$2.7X10^{2}$	$5.0X10^{-3}$	$1.4X10^{-1}$	$1.1X10^{3}$	$3.1X10^{4}$
Th-228. (a)	.	$5.0X10^{-1}$	$1.4X10^{1}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$3.0X10^{1}$	$8.2X10^{2}$
Th-229	.	5.0	$1.4X10^{2}$	$5.0X10^{-4}$	$1.4X10^{-2}$	$7.9X10^{-3}$	$2.1X10^{-1}$
Th-230	.	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$7.6X10^{-4}$	$2.1X10^{-2}$
Th-231	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.0X10^{4}$	$5.3X10^{5}$
Th-232	.	Unlimited	Unlimited	Unlimited	Unlimited	$4.0X10^{-9}$	$1.1X10^{-7}$
Th-234. (a)	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$8.6X10^{2}$	$2.3X10^{4}$
Th(nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	$8.1X10^{-9}$	$2.2X10^{-7}$
Ti-44. (a)	Titanium. (22)	$5.0X10^{-1}$	$1.4X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	6.4	$1.7X10^{2}$
Tl-200	Thallium. (81)	$9.0X10^{-1}$	$2.4X10^{1}$	$9.0X10^{-1}$	$2.4X10^{1}$	$2.2X10^{4}$	$6.0X10^{5}$
Tl-201	.	$1.0X10^{1}$	$2.7X10^{2}$	4.0	$1.1X10^{2}$	$7.9X10^{3}$	$2.1X10^{5}$
Tl-202	.	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$2.0X10^{3}$	$5.3X10^{4}$
Tl-204	.	$1.0X10^{1}$	$2.7X10^{2}$	$7.0X10^{-1}$	$1.9X10^{1}$	$1.7X10^{1}$	$4.6X10^{2}$
Tm-167	Thulium. (69)	7.0	$1.9X10^{2}$	$8.0X10^{-1}$	$2.2X10^{1}$	$3.1X10^{3}$	$8.5X10^{4}$
Tm-170	.	3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.2X10^{2}$	$6.0X10^{3}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Tm-171	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$
U-230. (fast. lung. absorption). (a)(d)	Uranium. (92)	$4.0X10^{1}$	$1.1X10^{3}$	$1.0X10^{-1}$	2.7	$1.0X10^{3}$	$2.7X10^{4}$
U-230. (medium. lung. absorption). (a)(e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{-3}$	$1.1X10^{-1}$	$1.0X10^{3}$	$2.7X10^{4}$
U-230 (slow lung absorption) (a)(f)	.	$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{-3}$	$8.1X10^{-2}$	$1.0X10^{3}$	$2.7X10^{4}$
U-232. (fast. lung. absorption). (d)	.	$4.0X10^{1}$	$1.1X10^{3}$	$1.0X10^{-2}$	$2.7X10^{-1}$	$8.3X10^{-1}$	$2.2X10^{1}$
U-232. (medium. lung. absorption). (e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$7.0X10^{-3}$	$1.9X10^{-1}$	$8.3X10^{-1}$	$2.2X10^{1}$
U-232. (slow. lung. absorption). (f)	.	$1.0X10^{1}$	$2.7X10^{2}$	$1.0X10^{-3}$	$2.7X10^{-2}$	$8.3X10^{-1}$	$2.2X10^{1}$
U-233. (fast. lung. absorption). (d)	.	$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-2}$	2.4	$3.6X10^{-4}$	$9.7X10^{-3}$
U-233. (medium. lung. absorption). (e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$3.6X10^{-4}$	$9.7X10^{-3}$
U-233. (slow. lung. absorption). (f)	.	$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$3.6X10^{-4}$	$9.7X10^{-3}$
U-234. (fast. lung. absorption)(d)	.	$4.0X10^{1}$	$1.1X10^{3}$	$9.0X10^{-2}$	2.4	$2.3X10^{-4}$	$6.2X10^{-3}$
U-234 (medium lung absorption) (e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.3X10^{-4}$	$6.2X10^{-3}$
U-234 (slow lung absorption) (f)	.	$4.0X10^{1}$	$1.1X10^{3}$	$6.0X10^{-3}$	$1.6X10^{-1}$	$2.3X10^{-4}$	$6.2X10^{-3}$
U-235. (all. lung. absorption. types). (a),(d),(e),(f)	.	Unlimited	Unlimited	Unlimited	Unlimited	$8.0X10^{-8}$	$2.2X10^{-6}$
U-236. (fast.	.	Unlimited	Unlimited	Unlimited	Unlimited	$2.4X10^{-6}$	$6.5X10^{-5}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
lung. absorption). (d)							
U-236. (medium. lung . absorption). (e)	.	$4.0X10^{1}$	$1.1X10^{3}$	$2.0X10^{-2}$	$5.4X10^{-1}$	$2.4X10^{-6}$	$6.5X10^{-5}$
U-236 (slow lung absorption) (f)	.	4.0X10 1	1.1X10 3	6.0X10 -3	1.6X10 -1	2.4X10 -6	6.5X10 -5
U-238 . (all lung absorption types) (d),(e),(f)	.	Unlimited	Unlimited	Unlimited	Unlimited	1.2X10 -8	3.4X10 -7
U. (nat)	.	Unlimited	Unlimited	Unlimited	Unlimited	$2.6X10^{-8}$	$7.1X10^{-7}$
U. (enriched. to. 20%. or. less). (g)	.	Unlimited	Unlimited	Unlimited	Unlimited	See. Table. 17A4	See. Table. 17A4
U. (dep)	.	Unlimited	Unlimited	Unlimited	Unlimited	See. Table. 17A4	(See. Table. 17A3)
V-48	Vanadium. (23)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$6.3X10^{3}$	$1.7X10^{5}$
V-49	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.0X10^{2}$	$8.1X10^{3}$
W-178. (a)	Tungsten. (74)	9.0	$2.4X10^{2}$	5.0	$1.4X10^{2}$	$1.3X10^{3}$	$3.4X10^{4}$
W-181	.	$3.0X10^{1}$	$8.1X10^{2}$	$3.0X10^{1}$	$8.1X10^{2}$	$2.2X10^{2}$	$6.0X10^{3}$
W-185	.	$4.0X10^{1}$	$1.1X10^{3}$	$8.0X10^{-1}$	$2.2X10^{1}$	$3.5X10^{2}$	$9.4X10^{3}$
W-187	.	2.0	$5.4X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$2.6X10^{4}$	$7.0X10^{5}$
W-188. (a)	.	$4.0X10^{-1}$	$1.1X10^{1}$	$3.0X10^{-1}$	8.1	$3.7X10^{2}$	$1.0X10^{4}$
Xe-122. (a)	Xenon. (54)	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$4.8X10^{4}$	$1.3X10^{6}$
Xe-123	.	2.0	$5.4X10^{1}$	$7.0X10^{-1}$	$1.9X10^{1}$	$4.4X10^{5}$	$1.2X10^{7}$
Xe-127	.	4.0	$1.1X10^{2}$	2.0	$5.4X10^{1}$	$1.0X10^{3}$	$2.8X10^{4}$
Xe-131m	.	$4.0X10^{1}$	$1.1X10^{3}$	$4.0X10^{1}$	$1.1X10^{3}$	$3.1X10^{3}$	$8.4X10^{4}$
Xe-133	.	$2.0X10^{1}$	$5.4X10^{2}$	$1.0X10^{1}$	$2.7X10^{2}$	$6.9X10^{3}$	$1.9X10^{5}$
Xe-135	.	3.0	$8.1X10^{1}$	2.0	$5.4X10^{1}$	$9.5X10^{4}$	$2.6X10^{6}$
Y-87. (a)	Yttrium. (39)	1.0	$2.7X10^{1}$	1.0	$2.7X10^{1}$	$1.7X10^{4}$	$4.5X10^{5}$
Y-88	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$5.2X10^{2}$	$1.4X10^{4}$
Y-90	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$2.0X10^{4}$	$5.4X10^{5}$
Y-91	.	$6.0X10^{-1}$	$1.6X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$9.1X10^{2}$	$2.5X10^{4}$
Y-91m	.	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$1.5X10^{6}$	$4.2X10^{7}$
Y-92	.	$2.0X10^{-1}$	5.4	$2.0X10^{-1}$	5.4	$3.6X10^{5}$	$9.6X10^{6}$
Y-93	.	$3.0X10^{-1}$	8.1	$3.0X10^{-1}$	8.1	$1.2X10^{5}$	$3.3X10^{6}$
Yb-169	Ytterbium. (70)	4.0	$1.1X10^{2}$	1.0	$2.7X10^{1}$	$8.9X10^{2}$	$2.4X10^{4}$

TABLE 17A1: A_1 AND A_2 VALUES FOR RADIONUCLIDES							
Symbol of radionuclide	Element and atomic number	A_1 (TBq)	A_1 (Ci)b	A_2 (TBq)	A_2 (Ci).	Specific activity	
						(TBq/g)	(Ci/g)
Yb-175	.	$3.0X10^{1}$	$8.1X10^{2}$	$9.0X10^{-1}$	$2.4X10^{1}$	$6.6X10^{3}$	$1.8X10^{5}$
Zn-65	Zinc. (30)	2.0	$5.4X10^{1}$	2.0	$5.4X10^{1}$	$3.0X10^{2}$	$8.2X10^{3}$
Zn-69	.	3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.8X10^{6}$	$4.9X10^{7}$
Zn-69m. (a)	.	3.0	$8.1X10^{1}$	$6.0X10^{-1}$	$1.6X10^{1}$	$1.2X10^{5}$	$3.3X10^{6}$
Zr-88	Zirconium. (40)	3.0	$8.1X10^{1}$	3.0	$8.1X10^{1}$	$6.6X10^{2}$	$1.8X10^{4}$
Zr-93	.	Unlimited	Unlimited	Unlimited	Unlimited	$9.3X10^{-5}$	$2.5X10^{-3}$
Zr-95. (a)	.	2.0	$5.4X10^{1}$	$8.0X10^{-1}$	$2.2X10^{1}$	$7.9X10^{2}$	$2.1X10^{4}$
Zr-97. (a)	.	$4.0X10^{-1}$	$1.1X10^{1}$	$4.0X10^{-1}$	$1.1X10^{1}$	$7.1X10^{4}$	$1.9X10^{6}$

Notes:

a A1 and/or A2 values include contributions from daughter nuclides with half-lives less than 10 days, **as listed in the following:**

Mg-28	**Al-28**
Ca-47	**Sc-47**
Ti-44	**Sc-44**
Fe-52	**Mn-52m**
Fe-60	**Co-60m**
Zn-69m	**Zn-69**
Ge-68	**Ga-68**
Rb-83	**Kr-83m**
Sr-82	**Rb-82**
Sr-90	**Y-90**
Sr-91	**Y-91m**
Sr-92	**Y-92**
Y-87	**Sr-87m**
Zr-95	**Nb-95m**
Zr-97	**Nb-97m, Nb-97**
Mo-99	**Tc-99m**
Tc-95m	**Tc-95**
Tc-96m	**Tc-96**
Ru-103	**Rh-103m**
Ru-106	**Rh-106**
Pd-103	**Rh-103m**
Ag-108m	**Ag-108**
Ag-110m	**Ag-110**
Cd-115	**In-115m**
In-114m	**In-114**
Sn-113	**In-113m**
Sn-121m	**Sn-121**
Sn-126	**Sb-126m**
Te-127m	**Te-127**
Te-129m	**Te-129**
Te-131m	**Te-131**
Te-132	**I-132**
I-135	**Xe-135m**
Xe-122	**I-122**
Cs-137	**Ba-137m**
Ba-131	**Cs-131**
Ba-140	**La-140**
Ce-144	**Pr-144m, Pr-144**
Pm-148m	**Pm-148**
Gd-146	**Eu-146**
Dy-166	**Ho-166**
Hf-172	**Lu-172**
W-178	**Ta-178**
W-188	**Re-188**
Re-189	**Os-189m**
Os-194	**Ir-194**
Ir-189	**Os-189m**
Pt-188	**Ir-188**
Hg-194	**Au-194**
Hg-195m	**Hg-195**
Pb-210	**Bi-210**

Commented [jsj60]: Footnote updated, consistent with 2015 changes to 10 CFR 71, Table A1.

Pb-212	**Bi-212, Tl-208, Po-212**
Bi-210m	**Tl-206**
Bi-212	**Tl-208, Po-212**
At-211	**Po-211**
Rn-222	**Po-218, Pb-214, At-218, Bi-214, Po-214**
Ra-223	**Rn-219, Po-215, Pb-211, Bi-211, Po-211, Tl-207**
Ra-224	**Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212**
Ra-225	**Ac-225, Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209**
Ra-226	**Rn-222, Po-218, Pb-214, At-218, Bi-214, Po-214**
Ra-228	**Ac-228**
Ac-225	**Fr-221, At-217, Bi-213, Tl-209, Po-213, Pb-209**
Ac-227	**Fr-223**
Th-228	**Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208, Po-212**
Th-234	**Pa-234m, Pa-234**
Pa-230	**Ac-226, Th-226, Fr-222, Ra-222, Rn-218, Po-214**
U-230	**Th-226, Ra-222, Rn-218, Po-214**
U-235	**Th-231**
Pu-241	**U-237**
Pu-244	**U-240, Np-240m**
Am-242m	**Am-242, Np-238**
Am-243	**Np-239**
Cm-247	**Pu-243**
Bk-249	**Am-245**
Cf-253	**Cm-249**

b The values of A_1 and A_2 in Curies (Ci) are approximate and for information only; the regulatory standard units are Terabecquerels (TBq) (see Appendix 17A – Determination of A_1 and A_2, Section 17A1)

c The ~~quantity~~**activity of Ir-192 in special form** may be determined from a measurement of the rate of decay or a measurement of the radiation level at a prescribed distance from the source.

d These values apply only to compounds of uranium that take the chemical form of UF6, UO2F2 and UO2(NO3)2 in both normal and accident conditions of transport.

e These values apply only to compounds of uranium that take the chemical form of UO3, UF4, UCl4, and hexavalent compounds in both normal and accident conditions of transport.

f These values apply to all compounds of uranium other than those specified in d and e, above.

g These values apply to unirradiated uranium only.

h **A_2 = 0.74 TBq (20 Ci) for Mo-99 for domestic use.**~~These values apply to domestic transport only. For international transport, use the values in the table below.~~

~~**TABLE 17A1 (SUPPLEMENT): A1 AND A2 VALUES FOR RADIONUCLIDES FOR INTERNATIONAL SHIPMENTS**~~

~~Symbol of radionuclide~~	~~Element and atomic number~~	~~A_1 (TBq)~~	~~A_1 (Ci)~~	~~A_2 (TBq)~~	~~A_2 (Ci)~~	~~Specific activity (TBq/g)~~	~~Specific activity (Ci/g)~~
~~Cf-252~~	~~Californium (98)~~	~~$5.0x10^{-2}$~~	~~1.4~~	~~$3.0x10^{-3}$~~	~~$8.1x10^{-2}$~~	~~$2.0x10^{+1}$~~	~~$5.4x10^{+2}$~~
~~Mo-99 [c]~~	~~Molybdenum (42)~~	~~1.0~~	~~$2.7x10^{+1}$~~	~~$6.0x10^{-1}$~~	~~$1.6x10^{+1}$~~	~~$1.8x10^{+4}$~~	~~$4.8x10^{+5}$~~

Commented [jsj61]: Footnote updated, consistent with 2015 changes to 10 CFR 71, Table A1.

As discussed in an earlier note, footnote "c" applies only to the special form of Ir-192.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj62]: Footnote revised, consistent with changes to 10 CFR 71, Table A1.

A domestic value limit for Mo-99 shipment is retained and updated, while the A1 values are harmonized into a single set of values.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

Commented [jsj63]: Supplemental table 17A1 is deleted as the values for international shipments of Cf-252 and Mo-99 have been harmonized and now appear in the main Table 17A1 (above).

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TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Ac-225 ~~(a)~~	Actinium (89)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Ac-227 ~~(a)~~	.	1.0×10^{-1}	2.7×10^{-12}	1.0×10^{3}	2.7×10^{-8}
Ac-228	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ag-105	Silver (47)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ag-108m (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ag-110m ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ag-111	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Al-26	Aluminum (13)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Am-241	Americium (95)	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Am-242m (a)	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Am-243 (a)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Ar-37	Argon (18)	1.0×10^{6}	2.7×10^{-5}	1.0×10^{8}	2.7×10^{-3}
Ar-39	.	1.0×10^{7}	2.7×10^{-4}	1.0×10^{4}	2.7×10^{-7}
Ar-41	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
As-72	Arsenic (33)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
As-73	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
As-74	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
As-76	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
As-77	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
At-211 ~~(a)~~	Astatine (85)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Au-193	Gold (79)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Au-194	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Au-195	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Au-198	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Au-199	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ba-131 ~~(a)~~	Barium (56)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ba-133	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ba-133m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ba-140 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Be-7	Beryllium (4)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Be-10	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Bi-205	Bismuth (83)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Bi-206	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Bi-207	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Bi-210	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Bi-210m ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Bi-212 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Bk-247	Berkelium (97)	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Bk-249 [5]	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Br-76	Bromine (35)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}

Commented [JJ64]: Page break inserted at first page of table to ensure the table begins on a new page at time of final publication.

Commented [jsj65]: Here and subsequently in Table 17A2, references to footnote "(a)", are removed or added for consistency with equivalent footnote of Table A-2 of 10 CFR 71.

The equivalent footnotes in 10 CFR 71 did not change, but rather, the changes are to address differences between the Table 17A2 and the Part 71 table for certain radionuclides.

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Br-77	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Br-82	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
C-11	Carbon (6)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
C-14	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Ca-41	Calcium (20)	1.0×10^{5}	2.7×10^{-6}	1.0×10^{7}	2.7×10^{-4}
Ca-45	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Ca-47 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Cd-109	Cadmium (48)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Cd-113m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Cd-115 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Cd-115m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Ce-139	Cerium (58)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ce-141	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Ce-143	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ce-144 (a)	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Cf-248	Californium (98)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cf-249	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cf-250	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cf-251	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cf-252	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cf-253 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Cf-254	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cl-36	Chlorine (17)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Cl-38	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Cm-240	Curium (96)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Cm-241	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Cm-242	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Cm-243	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Cm-244	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cm-245	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cm-246	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Cm-247 ~~(a)~~	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Cm-248	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Co-55	Cobalt (27)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Co-56	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Co-57	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Co-58	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Co-58m	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Co-60	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Cr-51	Chromium (24)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Cs-129	Cesium (55)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Cs-131	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Cs-132	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Cs-134	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cs-134m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Cs-135	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Cs-136	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Cs-137 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Cu-64	Copper (29)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Cu-67	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Dy-159	Dysprosium (66)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Dy-165	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Dy-166 ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Er-169	Erbium (68)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Er-171	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Eu-147	Europium (63)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Eu-148	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Eu-149	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Eu-150 (short-lived)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Eu-150 (long-lived)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Eu-152	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Eu-152 m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Eu-154	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Eu-155	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Eu-156	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
F-18	Fluorine (9)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Fe-52 ~~(a)~~	Iron (26)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Fe-55	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Fe-59	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Fe-60 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Ga-67	Gallium (31)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ga-68	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Ga-72	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Gd-146 ~~(a)~~	Gadolinium (64)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Gd-148	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Gd-153	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Gd-159	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Ge-68 ~~(a)~~	Germanium (32)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Ge-71	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
Ge-77	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Hf-172 ~~(a)~~	Hafnium (72)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Hf-175	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Hf-181	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Hf-182	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Hg-194 ~~(a)~~	Mercury (80)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Hg-195m ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Hg-197	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Hg-197m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Hg-203	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Ho-166	Holmium (67)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Ho-166m	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
I-123	Iodine (53)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
I-124	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
I-125	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
I-126	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
I-129	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
I-131	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
I-132	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
I-133	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
I-134	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
I-135 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
In-111	Indium (49)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
In-113m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
In-114m ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
In-115m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ir-189 ~~(a)~~	Iridium (77)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Ir-190	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ir-192	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Ir-194	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
K-40	Potassium (19)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
K-42	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
K-43	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Kr-79	**Krypton (36)**	**1.0×10^{3}**	**2.7×10^{-8}**	**1.0×10^{5}**	**2.7×10^{-6}**
Kr-81	~~Krypton (36)~~	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Kr-85	.	1.0×10^{5}	2.7×10^{-6}	1.0×10^{4}	2.7×10^{-7}
Kr-85m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{10}	2.7×10^{-1}
Kr-87	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
La-137	Lanthanum (57)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
La-140	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Lu-172	Lutetium (71)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Lu-173	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}

Commented [jsj66]: Values for Kr-79 added, consistent with 2015 changes to 10 CFR 71, Table A-2.

Previously, specific values for Kr-79 were not available and the generic values of Table 17A3 were applicable. The IAEA derived values for Kr-79 and are now included in this table.

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TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Lu-174	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Lu-174m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Lu-177	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Mg-28 ~~(a)~~	Magnesium (12)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Mn-52	Manganese (25)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Mn-53	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{9}	2.7×10^{-2}
Mn-54	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Mn-56	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Mo-93	Molybdenum (42)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{8}	2.7×10^{-3}
Mo-99 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
N-13	Nitrogen (7)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
Na-22	Sodium (11)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Na-24	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Nb-93m	Niobium (41)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Nb-94	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Nb-95	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Nb-97	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Nd-147	Neodymium (60)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Nd-149	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ni-59	Nickel (28)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
Ni-63	.	1.0×10^{5}	2.7×10^{-6}	1.0×10^{8}	2.7×10^{-3}
Ni-65	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Np-235	Neptunium (93)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Np-236 (short-lived)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Np-236 (long-lived)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Np-237 **(a)**	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Np-239	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Os-185	Osmium (76)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Os-191	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Os-191m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Os-193	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Os-194 ~~(a)~~	Osmium (76)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
P-32	Phosphorus (15)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
P-33	.	1.0×10^{5}	2.7×10^{-6}	1.0×10^{8}	2.7×10^{-3}
Pa-230(a)	Protactinium (91)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pa-231	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES					
Symbol of radionuclide	**Element and atomic number**	**Activity concentration for exempt material (Bq/g)**	**Activity concentration for exempt material (Ci/g)**	**Activity limit for exempt consignment (Bq)**	**Activity limit for exempt consignment (Ci)**
Pa-233	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Pb-201	Lead (82)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pb-202	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Pb-203	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pb-205	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Pb-210 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Pb-212 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Pd-103 ~~(a)~~	Palladium (46)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{8}	2.7×10^{-3}
Pd-107	.	1.0×10^{5}	2.7×10^{-6}	1.0×10^{8}	2.7×10^{-3}
Pd-109	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Pm-143	Promethium (61)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pm-144	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pm-145	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Pm-147	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Pm-148m ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pm-149	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Pm-151	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Po-210	Polonium (84)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Pr-142	Praseodymium (59)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Pr-143	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Pt-188 ~~(a)~~	Platinum (78)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Pt-191	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pt-193	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Pt-193m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Pt-195m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pt-197	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Pt-197m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Pu-236	Plutonium (94)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Pu-237	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Pu-238	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Pu-239	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Pu-240	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Pu-241 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Pu-242	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Pu-244 ~~(a)~~	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Ra-223 (a)	Radium (88)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Ra-224 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Ra-225 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Ra-226 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Ra-228 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Rb-81	Rubidium (37)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Rb-83 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Rb-84	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Rb-86	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Rb-87	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Rb (natural)	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Re-184	Rhenium (75)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Re-184m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Re-186	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Re-187	.	1.0×10^{6}	2.7×10^{-5}	1.0×10^{9}	2.7×10^{-2}
Re-188	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Re-189 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Re (natural)	.	1.0×10^{6}	2.7×10^{-5}	1.0×10^{9}	2.7×10^{-2}
Rh-99	Rhodium (45)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Rh-101	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Rh-102	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Rh-102m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Rh-103m	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
Rh-105	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Rn-222 (a)	Radon (86)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{8}	2.7×10^{-3}
Ru-97	Ruthenium (44)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Ru-103 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Ru-105	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ru-106 (a)	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
S-35	Sulphur (16)	1.0×10^{5}	2.7×10^{-6}	1.0×10^{8}	2.7×10^{-3}
Sb-122	Antimony (51)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{4}	2.7×10^{-7}
Sb-124	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Sb-125	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sb-126	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sc-44	Scandium (21)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sc-46	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Sc-47	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sc-48	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Se-75	Selenium (34)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Se-79	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Si-31	Silicon (14)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Si-32	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Sm-145	Samarium (62)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Sm-147	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Sm-151	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
Sm-153	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Sn-113 ~~(a)~~	Tin (50)	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Sn-117m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sn-119m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Sn-121m ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Sn-123	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Sn-125	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Sn-126 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sr-82 ~~(a)~~	Strontium (38)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sr-85	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sr-85m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Sr-87m	Strontium (38)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Sr-89	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Sr-90 (a)	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{4}	2.7×10^{-7}
Sr-91 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Sr-92 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
T(H-3)	Tritium (1)	1.0×10^{6}	2.7×10^{-5}	1.0×10^{9}	2.7×10^{-2}
Ta-178 (long-lived)	Tantalum (73)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Ta-179	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Ta-182	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Tb-157	Terbium (65)	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Tb-158	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tb-160	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tc-95m ~~(a)~~	Technetium (43)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tc-96	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tc-96m ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Tc-97	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{8}	2.7×10^{-3}
Tc-97m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Tc-98	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tc-99	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
Tc-99m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Te-121	Tellurium (52)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Te-121m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Te-123m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Te-125m	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Te-127	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Te-127m ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Te-129	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Te-129m ~~(a)~~	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Te-131m ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Te-132 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Th-227	Thorium (90)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}

Commented [jsj67]: Select values for Te-121m are revised, consistent with 10 CFR 71, Table A-2.

The IAEA revised its values for Te-121m based on new analyses and information.

This is a relatively uncommon isotope. As such, the proposed change is not expected to have an impact on licensees.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES					
Symbol of radionuclide	**Element and atomic number**	**Activity concentration for exempt material (Bq/g)**	**Activity concentration for exempt material (Ci/g)**	**Activity limit for exempt consignment (Bq)**	**Activity limit for exempt consignment (Ci)**
Th-228 (a)	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Th-229 **(a)**	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Th-230	.	1.0	2.7×10^{-11}	1.0×10^{4}	2.7×10^{-7}
Th-231	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Th-232	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
Th-234 (a)	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Th (natural) **(a)**	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
Ti-44 ~~(a)~~	Titanium (22)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
Tl-200	Thallium (81)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Tl-201	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Tl-202	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Tl-204	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{4}	2.7×10^{-7}
Tm-167	Thulium (69)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Tm-170	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Tm-171	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{8}	2.7×10^{-3}
U-230 (fast lung absorption) (a),(b)	Uranium (92)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
U-230 (medium lung absorption) ~~(a),~~(c)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
U-230 (slow lung absorption) ~~(a),~~(d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
U-232 (fast lung absorption) **(a),**(b)	Uranium (92)	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U-232 (medium lung absorption) (c)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U-232 (slow lung absorption) (d)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U-233 (fast lung absorption) (b)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-233 (medium lung absorption) (c)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-233 (slow lung absorption) (d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-234 (fast lung absorption) (b)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-234 (medium lung absorption) (c)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-234 (slow lung absorption) (d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES					
Symbol of radionuclide	**Element and atomic number**	**Activity concentration for exempt material (Bq/g)**	**Activity concentration for exempt material (Ci/g)**	**Activity limit for exempt consignment (Bq)**	**Activity limit for exempt consignment (Ci)**
U-235 (all lung absorption types) (a),(b),(c),(d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-236 (fast lung absorption) (b)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-236 (medium lung absorption) (c)	Uranium (92)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-236 (slow lung absorption) (d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U-238 (all lung absorption types) **(a),**(b),(c),(d)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{4}	2.7×10^{-7}
U (natural) **(a)**	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U (enriched to 20% or less) (e)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
U (depleted)	.	1.0	2.7×10^{-11}	1.0×10^{3}	2.7×10^{-8}
V-48	Vanadium (23)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}
V-49	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
W-178 ~~(a)~~	Tungsten (74)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
W-181	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
W-185	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{7}	2.7×10^{-4}
W-187	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
W-188 ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Xe-122 ~~(a)~~	Xenon (54)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
Xe-123	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{9}	2.7×10^{-2}
Xe-127	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Xe-131m	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{4}	2.7×10^{-7}
Xe-133	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{4}	2.7×10^{-7}
Xe-135	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{10}	2.7×10^{-1}
Y-87 ~~(a)~~	Yttrium (39)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Y-88	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Y-90	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{5}	2.7×10^{-6}
Y-91	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{6}	2.7×10^{-5}
Y-91m	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Y-92	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Y-93	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{5}	2.7×10^{-6}
Yb-169	Ytterbium (79)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{7}	2.7×10^{-4}
Yb-175	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Zn-65	Zinc (30)	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Zn-69	.	1.0×10^{4}	2.7×10^{-7}	1.0×10^{6}	2.7×10^{-5}
Zn-69m ~~(a)~~	.	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}

TABLE 17A2: EXEMPT MATERIAL ACTIVITY CONCENTRATIONS AND EXEMPT CONSIGNMENT ACTIVITY LIMITS FOR RADIONUCLIDES

Symbol of radionuclide	Element and atomic number	Activity concentration for exempt material (Bq/g)	Activity concentration for exempt material (Ci/g)	Activity limit for exempt consignment (Bq)	Activity limit for exempt consignment (Ci)
Zr-88	Zirconium (40)	1.0×10^{2}	2.7×10^{-9}	1.0×10^{6}	2.7×10^{-5}
Zr-93 **(a)**	.	1.0×10^{3}	2.7×10^{-8}	1.0×10^{7}	2.7×10^{-4}
Zr-95 ~~(a)~~	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{6}	2.7×10^{-5}
Zr-97 (a)	.	1.0×10^{1}	2.7×10^{-10}	1.0×10^{5}	2.7×10^{-6}

a Parent nuclides and their progeny included in secular equilibrium are listed in the following:

Sr-90	Y-90
Zr-93	Nb-93m
Zr-97	Nb-97
Ru-106	Rh-106
Ag-108m	**Ag-108**
Cs-137	Ba-137m
~~Ce-134~~	~~La-134~~
Ce-144	Pr-144
Ba-140	La-140
Bi-212	Tl-208 (0.36), Po-212 (0.64)
Pb-210	Bi-210, Po-210
Pb-212	Bi-212, Tl-208 (0.36), Po-212 (0.64)
~~Rn-220~~	~~Po-216~~
Rn-222	Po-218, Pb-214, Bi-214, Po-214
Ra-223	Rn-219, Po-215, Pb-211, Bi-211, Tl-207
Ra-224	Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
Ra-226	Rn-222, Po-218, Pb-214, Bi-214, Po-214, Pb-210, Bi-210, Po-210
Ra-228	Ac-228
~~Th-226~~	~~Ra-222, Rn-218, Po-214~~
Th-228	Ra-224, Rn-220, Po-216, Pb212, Bi-212, Tl208 (0.36), Po-212 (0.64)
Th-229	Ra-225, Ac-225, Fr-221, At-217, Bi-213, Po-213, Pb-209
Th-nat	Ra-228, Ac-228, Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-12 (0.64)
Th-234	Pa-234m
U-230	Th-226, Ra-222, Rn-218, Po-214
U-232	Th-228, Ra-224, Rn-220, Po-216, Pb-212, Bi-212, Tl-208 (0.36), Po-212 (0.64)
U-235	Th-231
U-238	Th-234, Pa-234m
U-nat	Th-234, Pa-234m, U-234, Th-230, Ra-226, Rn-222, Po-218, Pb-214, Bi-214, Po-214, **Pb-210, Bi-210, Po-210**
~~U-240~~	~~Np-240m~~
Np-237	Pa-233
Am-242m	Am-242
Am-243	Np-239

b These values apply only to compounds of uranium that take the chemical form of UF6, UO2F2 and UO2(NO3)2 in both normal and accident conditions of transport.

c These values apply only to compounds of uranium that take the chemical form of UO3, UF4, UCl4, and hexavalent compounds in both normal and accident conditions of transport.

Commented [jsj68]: Tab spacing is added for formatting purposes only.

Consistent with 10 CFR 71 (and IAEA regulation), Ag-108m is added, and certain parent and progeny values are removed from this footnote.

974 d These values apply to all compounds of uranium other than those specified in ~~d and e~~**b and c**, above.

975 e These values apply to unirradiated uranium only.

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TABLE 17A3: GENERAL VALUES FOR A1 AND A2

Contents	A_1 (TBq)	A_1 (Ci)	A_2 (TBq)	A_2 (Ci)	Activity concen-tration for exempt material(Bq/g)	Activity concen-tration for exempt material(Ci/g)	Activity limits for exempt consign-ments (Bq)	Acti limit exe consign-ments (Ci)
Only beta or gamma emitting radionuclides are known to be present	1×10^{-1}	2.7×10^{0}	2×10^{-2}	5.4×10^{-1}	1×10^{1}	2.7×10^{-10}	1×10^{4}	2.7×10^{-7}
~~Only a~~Alpha emitting radionuclides, **but no neutron emitters,** are known to be present **(a)**	2×10^{-1}	5.4×10^{0}	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^{3}	2.7×10^{-8}
Neutron emitting nuclides are known to be present or ~~No~~**no** relevant data are available	1×10^{-3}	2.7×10^{-2}	9×10^{-5}	2.4×10^{-3}	1×10^{-1}	2.7×10^{-12}	1×10^{3}	2.7×10^{-8}

a If beta or gamma emitting nuclides are known to be present, the A1 value of 0.1 TBq (2.7 Ci) should be used.

Commented [jsj69]: Page break inserted at first page of table to ensure the table begins on a new page at time of final publication.

ALSO - SEE NEXT COMMENT.

Commented [jsj70]: Changes are made to Table 17A3 and footnote, consistent with existing provisions and recent updates to 10 CFR 71, Table A-3.

Due to the original wording, some users may have incorrectly applied the (original) third criteria of the table when they encountered an alpha emitter that also emitted beta particles or gamma rays when it was intended that they be assigned to the second row of the table. The updated language is intended to clarify the requirements and avoid such errors.

For neutron emitters that also emit alpha particles (including Cf-252, Cf-254, Cm-248), the third row of the table would apply.

NRC Compatibility "B"
NRC RATS 2015-3
80 FR 33987 (June 12, 2015)

TABLE 17A4: ACTIVITY-MASS RELATIONSHIPS FOR URANIUM

Uranium Enrichment (i) weight % U-235 present	Specific Activity	Specific Activity
.	TBq/g	Ci/g
0.45	1.8×10^{-8}	5.0×10^{-7}
0.72	2.6×10^{-8}	7.1×10^{-7}
1.0	2.8×10^{-8}	7.6×10^{-7}
1.5	3.7×10^{-8}	1.0×10^{-6}
5.0	1.0×10^{-7}	2.7×10^{-6}
10.0	1.8×10^{-7}	4.8×10^{-6}
20.0	3.7×10^{-7}	1.0×10^{-5}
35.0	7.4×10^{-7}	2.0×10^{-5}
50.0	9.3×10^{-7}	2.5×10^{-5}
90.0	2.2×10^{-6}	5.8×10^{-5}
93.0	2.6×10^{-6}	7.0×10^{-5}
95.0	3.4×10^{-6}	9.1×10^{-5}

(i) The figures for uranium include representative values for the activity of the uranium-235 that is concentrated during the enrichment process.

Commented [JJ71]: Page break inserted at first page of table to ensure the table begins on a new page at time of final publication.

COLORADO
Board of Health
Department of Public Health & Environment

Notice of Public Rule-Making Hearing

September 20, 2017

ID #: 104

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: September 20, 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 1007-1, Part 1, Radiation Control - General Provisions
6 CCR 1007-1, Part 17, Radiation Control - Transportation of Radioactive Materials

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

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

Statute(s)
§25-1.5-101(1)(k) and (1)(l),C.R.S.
§25-11-103, C.R.S.
§25-11-104, C.R.S.
§25-1-108, 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:
Radiation Control Program, Hazardous Materials and Waste Management Division, HMWM-RM-B2, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-3454.

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, September 14, 2017.

Deborah Nelson, Board of Health Administrator
Date: 2017-07-13T11:36:37

Notice of Proposed Rulemaking

Tracking number

2017-00304

Department

1000 - Department of Public Health and Environment

Agency

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

CCR number

6 CCR 1015-3

Rule title

EMERGENCY MEDICAL SERVICES

Rulemaking Hearing

Date

09/20/2017

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 proposed rule changes will ensure Colorado continues to align with national data standards and maintains high quality, up-to-date data regarding emergency medical transports within the state. Additionally, with the new feature of automatic uploads of data via the internet, the department proposes shortening the data submission timeline for agencies from within 60 days of the end of the reporting quarter to within 60 days of patient contact. Other proposed rule changes update language to be more in line with current practice and reformat the rules to help improve readability.

Statutory authority

Section 25-3.5-501(1), C.R.S.
Section 25-3.5-307(1) (c), C.R.S.
Section 25-3.5-308(1) (e), C.R.S.

Contact information

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Title

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COLORADO
Department of Public Health & Environment

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

To: Members of the State Board of Health

From: Jeanne-Marie Bakehouse, Emergency Medical and Trauma Services Branch Chief
Scott Beckley, Lead Data Analyst, Emergency Medical and Trauma Services Branch

Through: D. Randy Kuykendall, Division Director, DRK

Date: July 19, 2017

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1015-3, Rules Pertaining to Emergency Medical Services, Chapter Three, Emergency Medical Services Data and Information Collection and Record Keeping, with a request for the rulemaking hearing to occur in September of 2017

Colorado began using the National Emergency Medical Services Information System (NEMSIS) Version 2.2.1 in 2006. NEMSIS is the national repository that stores, in a standardized manner, emergency medical services data that states collect from their emergency medical services agencies. This information is used to develop nationwide curricula, as well as for research, quality improvement and quality assurance projects, and other purposes. In 2008, a national revision process began in order to update NEMSIS. Version 3 was released in late 2011, and NEMSIS announced a transition from Version 2 to Version 3 starting in 2014. Colorado began actively working on the transition to the new version in early 2015. The national update from Version 2 to Version 3 fixes errors and adds needed elements to improve data quality. The changes in NEMSIS also allow for patient data to be collected by EMS agencies both off-line and online, allowing for automatic uploads when in internet range for quicker data availability.

The proposed rule changes will ensure Colorado continues to align with national data standards and maintains high quality, up-to-date data regarding emergency medical transports within the state. Additionally, with the new feature of automatic uploads of data via the internet, the department proposes shortening the data submission timeline for agencies from within 60 days of the end of the reporting quarter to within 60 days of patient contact.

The department had originally anticipated a January 1, 2017 implementation date to coincide with NEMSIS ceasing to accept Version 2 data after December 31, 2016. However, due to the complex nature of the work and needed technical input from a variety of subject matter expert stakeholders, the department delayed the statewide move from Version 2 to Version 3 until January 1, 2018. This allowed for the needed technical input as well as additional time to work closely with ImageTrend, the third party vendor used by the department to collect data and transmit it to NEMSIS. The department has also now worked with 35 different agencies to beta test the Version 3 software in order to help ensure that valid data is being collected in a consistent manner.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1015-3, Rules Pertaining to Emergency Medical Services, Chapter Three, Emergency Medical Services Data and Information Collection and Record Keeping

Basis and Purpose.

Colorado adopted NEMSIS Version 2.2.1 in 2006, and over the years has collected more than 4.5 million EMS agency patient care or "trip" reports. This data is used in a variety of ways on the local, state, and national level to enhance continuous quality improvement efforts and help improve emergency medical services delivery. Beginning in 2008, a national revision of NEMSIS took place to improve shortcomings of Version 2, such as insufficient data elements and value choices, and it addressed data quality issues. The result of this national effort is NEMSIS Version 3, with the current release being Version 3.4.0. Effective December 31, 2016 NEMSIS Version 2.2.1 was discontinued at the national level, while still being collected for state purposes. The department has been working over the past two years to complete the transition to Version 3.4.0. The department began with one beta test agency in 2015, and expanded the beta test to more agencies in 2016. Currently, the department has agreements in place with about 35 ambulance agencies to submit required data to the department using NEMSIS Version 3.4.0. As of May 2017, the department has received more than 100,000 EMS agency trip reports using the new Version 3, through the state's vendor ImageTrend's Elite Platform. Although full studies have not been completed, early assessments of the Version 3 data indicate that quality of the data is improved. Quality will continue to be improved over 2017 as the department works with NEMSIS to release an updated version of the state schematron, a rule-based validation tool that constrains the content of elements during data entry to ensure that they have the needed attributes prior to submission of the data.

Another key improvement offered by NEMSIS Version 3.4.0 is the ability for data to be submitted over mobile devices connected to the internet. When NEMSIS Version 2.2.1 was adopted, EMS trip reports were largely filled out by hand in the field and then entered into the computer at a later time. With changes in technology over the last decade, multiple ambulance agencies now have the capability to use mobile devices in the field. This has in turn created advancements in the capabilities to submit data in a more timely fashion. The department proposes changing the deadline for submission from within 60 days of the end of the reporting quarter to within 60 days of patient contact.

Other proposed rule changes update language to be more in line with current practice and reformat the rules to help improve readability.

The department is requesting a January 1, 2018 effective date for these amended rules.

Specific Statutory Authority.
These rules are promulgated pursuant to the following statutes:

Section 25-3.5-501(1), C.R.S.
Section 25-3.5-307(1) (c), C.R.S.
Section 25-3.5-308(1) (e), C.R.S.

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____; rules are ___ authorized ___ required.
____X__ No

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

_____ Yes
___X___ No

Does this rule incorporate materials by reference?

____X__ Yes
_____ No

Does this rule create or modify fines or fees?

_____ Yes
____X__ No

REGULATORY ANALYSIS
for Amendments to
6 CCR 1015-3, Rules Pertaining to Emergency Medical Services, Chapter Three, Emergency Medical Services Data and Information Collection and Record Keeping

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.

All licensed ground and air ambulance emergency medical service agencies that are involved in patient transport that originates within the state of Colorado are required to submit data to the department. Whether ground or air, all agencies will need to update their software to be compliant with NEMSIS Version 3.4.0 by December 31, 2017, and software vendors are already at work to meet this deadline.

Once all agencies are on NEMSIS Version 3.4.0 with its benefits of improved data quality, the data available for local, regional, statewide and national use will be of increased usefulness for continuous quality improvement studies and efforts and ultimately should result in a more efficient system. The department has been collecting data from emergency medical service agencies for over 10 years and the proposed rules expand upon the data elements that have been collected historically. For most agencies, the proposed rules will amount to a software upgrade with accompanying technical support from their vendors. For some agencies, there may be costs associated with hardware updates as well. The cost to each agency will vary according to its software vender and the contract an individual agency has in place with the vendor.

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 change in NEMSIS versions will affect all of the approximately 240 licensed ground or air transport emergency medical services agencies. The new software version will correct many of the shortcomings of the previous version, and should provide additional capabilities to collect quality data that can be used to improve patient care and support quality improvement projects.

The economic impact of the proposed rule change on these agencies will vary depending on the software system and version the agency is currently using. In late 2010 to early 2011, most of the 16 EMS software companies used by agencies across the state indicated that they would transition existing clients to the new Version 3 as part of their support contracts, with no additional fees. However, there may be additional hardware and staff training costs, depending on what an agency already has in place. For agencies experiencing economic hardships, there are competitive department EMTS grant funds available to help offset hardware and software costs for EMS data collection.

In late 2015, the department started working with a beta test agency to launch the new software and work through some initial glitches. Additional beta test agencies were brought on to the system in 2016, furthering the field testing and the ability to fix technical problems in advance of a full launch. As of May 2017, about 35 agencies are using the new software, and of these beta users, five are city and/or county based agencies. Initial comments from beta users has been constructive and mostly positive.

Technical fixes have continued, and much progress has been made. The anticipated release in mid-2017 of the updated state schematron, the validator tool, should continue to bolster quality data submission.

According to early adopters of the new software version in other states, the software improvements have reduced the time necessary to complete a patient record, and while each state has its own configuration, Colorado beta test agencies reported a reduction in this time as well. Because of this efficiency, submitting data within 60 days of patient contact should not have a negative economic impact on the agencies.

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

There will be no additional costs to the department or other state agencies to implement or enforce this rule revision. The department will continue to offer free training to emergency medical service agencies that use the vendor ImageTrend through funds already identified in the current 5-year contract between the department and ImageTrend. For agencies that do not use the ImageTrend platform, the cost of their training would be determined by their software vendor.

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

The national database is no longer accepting data collected through NEMSIS Version 2.2.1. The update to NEMSIS Version 3.4.0 will not only ensure that Colorado meets national standards, but also improves the quality of data received. NEMSIS Version 3.4.0 contains more data elements, more value choices, and fixes data quality issues that were identified within NEMSIS Version 2.2.1. While there will be a cost associated for agencies to upgrade their software to be compatible with NEMSIS Version 3.4.0, agencies have the option to submit EMTS grant funding requests through the department to help offset this expense. Agencies have been submitting data for about 10 years to the department, and the update from NEMSIS Version 2.2.1 to Version 3.4.0 is the next evolution in the state repository.

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

There is no less costly or less intrusive method to achieve the update from NEMSIS Version 2.2.1 to NEMSIS Version 3.4.0. The department worked with stakeholders who represented a broad spectrum of private and public emergency medical service agencies over a two-year-long process to ensure that agencies would be prepared for the update and could understand their potential costs. Additionally, agencies can submit requests through the department's EMTS grants program to help offset hardware and software expenses for EMS data collection.

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

A Data Task Force was convened in January 2015 to evaluate NEMSIS Version 3.4.0, determine whether Colorado should convert to the new version, and identify the data

elements the department should require agencies to report. Once the task force determined that Colorado should continue to meet national standards and update to Version 3.4.0, work commenced on determining which of the 585 possible data elements should be collected. It was determined that agencies need only submit up to 269 elements, depending on the complexity of the response call. A number of these 269 elements are self-populating or call dependent, so the data elements applying to an individual call may be significantly less. These 269 data elements include those defined as National Mandatory, National Required, State Recommended and State Optional by NEMSIS 3.4.0.

The Data Task Force also discussed how the upgrade to NEMSIS Version 3.4.0 could shorten the time required to submit data. The current rule requires data to be submitted by 60 days after the end of a quarter, meaning that data is often not complete for 6 months out of the year, resulting in incomplete data being used for quality improvement processes. While it is possible with Version 3.4.0 for data to be submitted in "real time" of the patient interaction, the Data Task Force and the department recognized that several areas in the state do not have adequate Wi-Fi coverage to make automatic uploads a realistic requirement. The proposed revisions allow 60 days post-patient contact for submittal of the information to accommodate the various technological and internet availability of agencies throughout the state.

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.

Currently, over 4.5 million ambulance trip reports have been reported to the department using Version 2 over the past 10 years, each with a minimum of 67 data elements that were required to be reported as part of NEMSIS Version 2.2.1. Over time, limitations to the Version 2 data set were identified. The increase to 269 data elements under NEMSIS Version 3.4.0 will improve the quality of the data, making it a more useful tool for the department and its national, regional and local partners. By limiting the required data elements to 269 out of the 585 possibilities, software vendors should be able to provide updated software in a timely and cost effective manner to the end users.

STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1015-3, Rules Pertaining to Emergency Medical Services, Chapter Three, Emergency Medical Services Data and Information Collection and Record Keeping

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

The 2015 Data Task Force was made up of the following individuals:

Name	Role/Area
Bill Clark	Foothills and Mile High RETAC
Roger Coit	Rural EMS provider
Brandon Chambers	Southern RETAC and Southeastern RETAC
Terri Foechterle	Western RETAC and rural transport
Jim Richardson	Hospital & STEMI
Chris Montera	EMS Chief Member
Josh Eveatt	Southeastern RETAC Coordinator
Karen Jacobson	Director, NEMSIS Technical Assistance Center
Linda Underbrink	Foothills RETAC
Joe Graw, Anne Hulsether, Kashif Khan	ImageTrend - State Software Company
John Gredig	Rural Fire & Rescue
Sean Caffery	EMSAC Board Member & EMS pediatrics
Clancy Meyers	Stroke Advisory Committee
Adam Mihlfried	EMS Software Companies
Jimmy Taylor	SEMTAC and Air Transport
Bruce Evans	SEMTAC
Ben Dengerink	Air Transport
Jeremiah Ahrens	CQI Coordinator
Amy Allen	Southwest RETAC Coordinator
Victor Janoski	Trauma
Mark Cheline	EMS Software Companies
Maria Mandt	Pediatric Hospital & Medical Director
Matthew Lindsay	EMS Provider
Ben Barnett	Zoll Products
David Kearns	Air Transport

The following individuals and/or entities were notified that this rule-making was proposed for consideration by the Board of Health:

The department has been giving updates on a quarterly basis to the State Emergency Medical and Trauma Services Advisory Council (SEMTAC) as well as to the Regional Emergency Medical and Trauma Advisory Councils (RETACs) since the Data Task Force began meeting in January 2015. Membership of SEMTAC contains representatives who will be involved in the adoption of NEMSIS Version 3.4.0, such as fire chiefs, emergency medical service providers, and county

commissioners, among others. Additionally, the department informed the RETACs in March 2016 that draft rules were ready for review. SEMTAC reviewed the proposed rule on April 13, 2017 and voted to recommend the department present the proposed rule the Board of Health for adoption. All Data Task Force, SEMTAC and RETAC meetings are open to the public and advertised in advance.

Following the announcement to the RETACs, the department notified the greater emergency medical service provider community on May 24, 2017 via the Emergency Medical and Trauma Services Branch weekly email newsletter, *EMTS on the Go*. This newsletter is sent to more than 1,500 stakeholders and individuals, and included a link to the proposed rule changes.

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 emergency medical services community is in agreement that the update from NEMSIS Version 2.2.1 to Version 3.4.0 will increase the value of data collected by the department and benefit the community as a whole. The major discussion point in the Data Task Force was determining what elements from the national data set should be made mandatory for reporting to the state. The Data Task Force spent the bulk of its time together coming to consensus that only up to 269 of the 585 possible elements were of significant value for the state of Colorado.

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?

There is no impact on health equity or environmental justice as this is a data repository change.

COLORADO
Department of Public Health & Environment

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

State Emergency Medical and Trauma Services Advisory Council

April 13, 2017

Mr. Tony Cappello, President
State Board of Health
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South, EDO-A5
Denver, CO 80246-1530

Dear Mr. Cappello:

At the April 13, 2017 meeting of the State Emergency Medical and Trauma Services Advisory Council (SEMTAC) of the Colorado Department of Public Health and Environment, proposed revisions to 6 C.C.R 1015-3, Chapter 3- Emergency Medical Services Data and Information Collection and Record Keeping, were reviewed and discussed. The rule revision aligns Colorado EMS data reporting with the National Emergency Medical Services Information System (NEMSIS), by updating from NEMSIS version 2.2.1 to 3.4.0.. A motion was made and passed to approve the proposed revisions.

Sincerely yours,

Chief Richard A. Martin
Chairman

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

Emergency Medical Services

6 CCR 1015-3

.....

CHAPTER THREE – RULES PERTAINING TO EMERGENCY MEDICAL SERVICES DATA AND INFORMATION COLLECTION AND RECORD KEEPING

Section 1 – Purpose and Authority for Rules

1.1 The authority and requirement for data collection is provided in ~~C.R.S.~~ § 25-3.5-501(1), C.R.S., which states, "Each ambulance service shall prepare and transmit copies of uniform and standardized records, as specified by regulation adopted by the department, concerning the transportation and treatment of patients in order to evaluate the performance of the emergency medical services system and to plan systematically for improvements in said system at all levels."

Additional authority for data collection and analysis is provided in ~~C.R.S.~~ § 25-3.5-307, C.R.S., requiring data collection and reporting by air ambulance agencies, § 25-3.-5-308(1)(e), C.R.S., requiring data collection and reporting by a ground ambulance service, and ~~C.R.S.~~ § 25-3.5-704(2)(h), C.R.S., requiring the establishment of a continuous quality improvement system to evaluate the statewide emergency medical and trauma services system.

1.2 This section consists of rules for the collection and reporting of essential data related to the performance, needs and quality assessment of the statewide emergency medical and trauma services system. These rules focus primarily on the data that ambulance agencies are required to collect and provide to the Department. Rules regarding the collection of data by designated trauma facilities can be found in 6 CCR 1015-4, Chapter 1.

Section 2 - Definitions

2.1 "Agency" or "agencies" ~~as used in this Chapter Three means (ground) ambulance services~~ - Ambulance service and air ambulance ~~services~~ service.

2.2 "Air Ambulance" ~~means a~~ - A fixed-wing or rotor-wing aircraft that is equipped to provide air transportation and is specifically designed to accommodate the medical needs of individuals who are ill, injured, or otherwise mentally or physically incapacitated and who require in-flight medical supervision.

2.3 "Air Ambulance Service" ~~means any~~ - Any ~~governmental~~ public or private ~~organization~~ entity that uses an air ambulance to ~~transports in an aircraft patient(s)~~ transport patients ~~who require in-flight medical supervision~~ to a medical facility.

2.4 "Ambulance" ~~means any~~ - Any privately or publicly owned ~~ground~~ vehicle that meets the requirements of ~~C.R.S.~~ § 25-3.5-103(1.5~~).~~), C.R.S.

2.5 "Ambulance service" ~~means the~~ - The furnishing, operating, conducting, maintaining, advertising, or otherwise engaging in or professing to be engaged in the transportation of patients by ambulance. Taken in context, it also means the person so engaged or professing to be so engaged. The person so engaged and the vehicles used for the emergency transportation of persons injured at a mine are excluded from this definition when the personnel utilized in the operation of said vehicles are subject to the mandatory safety standards of the federal mine safety and health administration, or its successor agency.

2.6 "Department" - The Colorado Department of Public Health and Environment.

2.7 “NEMSIS” - National Emergency Medical Services Information System

2.8 “Patient” ~~means any~~ - Any individual who is sick, injured, or otherwise incapacitated or helpless.

Section 3 – Reporting Requirements

3.1 All ambulance service agencies and air ambulance service agencies licensed in Colorado shall provide the Department with the required data and information as specified in Sections 3.2 and 3.3 below in a format determined by the Department or in an alternate media acceptable to the Department.

~~3.2 The required data and information for the agency profile shall be based on the Colorado Emergency Medical Services Information System (CEMSIS).~~

3.2 Agencies shall provide organizational profile data in a manner designated by the Department.

3.2.1 ~~Agency~~ Organizational profile data shall include but not be limited to information about licensing, service types and level, agency contact information, agency director and medical director contact information, demographics of the service area, number and types of responding personnel, number of calls by response type, ~~data collection methods,~~ counties served, organizational type, and number and type of vehicles.

~~3.2.2 Agencies shall provide agency profile data to the Department using the CEMSIS portal website.~~

3.2.3~~2~~ Agencies shall update ~~agency~~ organizational profile data whenever changes occur and at least annually.

3.3 The required data and information on patient care shall be based on ~~the National Emergency Medical Services Information System (NEMSIS).~~the NEMSIS EMS Data Standard published on July 13, 2016, referenced below.

~~3.3.1 These rules incorporate by reference the National Highway Traffic Safety Administration (NHTSA) Uniform Pre-Hospital Emergency Medical Services Dataset, Version 2.2.1, National Elements Subset, published in 2006~~

3.3.1 The National Highway Traffic Safety Administration (NHTSA) Office of Emergency Medical Services, NEMSIS Data Dictionary NHTSA Version 3.4.0, EMS Data Standard, published on July 13, 2016 (NEMSIS 3.4.0) is hereby incorporated by reference into this rule. Such incorporation does not include later amendments to or editions of the referenced material. The Health Facilities and Emergency Medical Services Division of the Department maintains ~~copies~~ a copy of the complete text of required data elements ~~for public inspection during regular business hours, and shall provide certified copies of any non-copyrighted material to the public~~ for public inspection at http://www.nemsis.org/media/nemsis_v3/release-3.4.0/DataDictionary/PDFHTML/DEMEMS/NEMSISDataDictionary.pdf. ~~cost upon request. Information regarding how~~ Certified copies of the incorporated materials may be obtained ~~or examined is available~~ from the Division by contacting:

EMTS ~~Section~~ Branch Chief
Health Facilities and EMS Division
Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246-1530

~~These materials have been submitted to the state publications depository and distribution center and are available for interlibrary loan. The incorporated material may be examined at any state publications depository library.~~

3.3.2 No later than January 1, 2018, agencies shall submit patient care data to the Department as defined by NEMSIS 3.4.0.

A) All elements that are identified as National Mandatory, National Required, State Recommended and State Optional by NEMSIS 3.4.0 shall be reported to the Department.

3.3.3 Submission of ~~the National Elements Subset~~NEMSIS 3.4.0 data as stated above in 3.3.2 is required, however, ambulance services may provide additional data as outlined in the complete NEMSIS ~~NHTSA Version 2.2.1~~3.4.0 Data Dictionary or as suggested by the Department.

3.3.~~2~~4 All transporting agencies licensed in Colorado shall report the required data elements, as stated in Section 3.3.2, on all responses that resulted in patient contact. Although not required, agencies may also report the required data elements on responses that did not result in patient contact or transport ~~(all calls).~~.

3.3.~~3~~5 Agencies unable to submit through the web-based data entry utility shall obtain approval from the Department prior to ~~using third party media to submit the required data.~~ submitting patient care data and information in any other format.

~~3.3.4 Agencies shall provide the data to the Department at least quarterly based on a calendar year or on a schedule submitted to and approved by the Department. The quarterly download must be submitted to the Department within 60 days of the end of the quarter (i.e., data for EMS responses occurring in January through March must be submitted by June 1; for responses in April through June by September 1; for responses in July through September by December 1; for responses in October through December by March 1). The data may be submitted more frequently than quarterly.~~

3.3.6 Agencies shall provide the data to the Department within 60 days of patient contact.

3.4 In order to be eligible to apply for funding through the EMTS grants program, agencies shall provide ~~agency~~ organizational profile information as described in Section 3.2 and regularly submit patient care information as described in Section 3.3.2. and 3.3.6.

3.5 If an agency fails to comply with these rules, the Department may report this lack of compliance to ~~the county(ies)~~any counties in which the agency is licensed ~~and/or to the agency's medical director~~.

Section 4 - Confidentiality of Data and Information on Patient Care

4.1 The data and information provided to the Department in accordance with Section 3.3 of these rules shall be used to conduct continuing quality improvement of the Emergency Medical and Trauma System, pursuant to ~~C.R.S.~~ § 25-3.5-704 (2)(h)(I), C.R.S. Any data provided to the department that identifies an individual patient's, provider's or facility's care outcomes or is part of the patient's medical record shall be strictly confidential, whether such data are recorded on paper or electronically. The confidentiality protections provided in ~~C.R.S.~~ § 25-3.5-704 (2)(h)(II), C.R.S. apply to this data.

4.2 Any patient care data in the EMS data system that could potentially identify individual patients or providers shall not be released in any form to any agency, institution, or individual, except as provided in Section 4.3.

4.3 An agency may retrieve the patient care data that the agency has submitted via the Department's web-based data entry utility ~~and that are stored on the Department's servers.~~.

4.4 Results from any analysis of the data by the Department shall only be presented in aggregate according to established Department policies.

4.5 The Department may establish procedures to allow access by outside agencies, institutions or individuals to information in the EMS data system that does not identify patients, providers or agencies. ~~These procedures are outlined in the Colorado EMS Data System Data Release Policy and other applicable Department data release policies.~~

COLORADO
Board of Health
Department of Public Health & Environment

Notice of Public Rule-Making Hearing

September 20, 2017

ID #: 103

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: September 20, 2017

Time: 10:00 AM

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

To consider the promulgation/amendments or repeal of:

CCR Number(s)
6 CCR 1015-3, Emergency Medical Services, Emergency Medical Services, Chapter 3, Data and Information Collection and Record Keeping

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

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

Statute(s)
§25-3.5-307, C.R.S.
§25-3.5-308, C.R.S.
§25-3.5-501, C.R.S.

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

For specific questions regarding the proposed rules, contact the division below:
Health Facilities and Emergency Medical Services Division, EMS 8300, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-6339.

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

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

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

Written testimony is due by 5:00 p.m., Thursday, September 14, 2017.

Deborah Nelson, Board of Health Administrator
Date: 2017-07-18T14:12:21

Notice of Proposed Rulemaking

Tracking number

2017-00335

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Workers' Compensation

CCR number

7 CCR 1101-3

Rule title

WORKERS' COMPENSATION RULES OF PROCEDURE WITH TREATMENT GUIDELINES

Rulemaking Hearing

Date

09/13/2017

Time

09:30 AM

Location

633 17th St. Denver CO 80202

Subjects and issues involved

Rule 13 - Physician Accreditation

Statutory authority

8-47-107

Contact information

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DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation
7 CCR 1101-3
WORKERS' COMPENSATION RULES OF PROCEDURE

Rule 13 Provider Accreditation ~~of Physicians~~

13-1 STATEMENT OF BASIS AND PURPOSE

(A) This rule ~~is promulgated to~~ implements and establishes procedures for the provider ~~physicians~~ accreditation program ~~as~~ set forth in § 8-42-101(3.5) and (3.6), C.R.S., as well ~~statute, to~~ educates the providers about ~~provide physicians with an understanding of~~ their administrative, legal, and medical roles in the Colorado workers' compensation system. Accreditation requirements ~~established~~ shall apply to:

(1) Provider~~hysician~~s who seek Level I or Level II accreditation under § 8-42-101(3.5) and (3.6), C.R.S.~~the Act~~;

~~and~~

(2) Physicians providing permanent impairment evaluations of claimants; and

(3) Physicians serving on the Division Independent Medical Examination Panel.

13-2 ACCREDITATION

~~(A)~~ To obtain Level I ~~or Level II~~ Accreditation, a provider ~~physician~~ must:

~~(1)~~ ~~be~~ Qqualify~~ied~~ under § 8-42-101(3.5), C.R.S.~~the act~~;

~~(2)~~ Ccomplete an application form prescribed by the Division and pay the registration fee ~~and in Level II cases, indicate if full accreditation or limited accreditation is sought~~;

~~(3)~~ Complete ~~attend~~ the~~a~~ Division Level I course~~seminar and/or review the Division materials on the worker's compensation system~~; ~~for Level II accreditation, this must include the~~ American Medical Association Guides to the Evaluation of Permanent Impairment, Third Edition (Revised), ~~in effect as of July 1, 1991 ("AMA Guides"), and~~

(4) Ddemonstrate an understanding of the Division~~such~~ materials by passing ~~taking~~ a Division-administered ~~n~~ examination. If the provider does not exhibit sufficient knowledge upon taking the examination a second time, he or she must attend the seminar again prior to any further attempts at the examination. Additional fees may apply. ~~administered by the Division; and~~

~~(~~5~~4)~~ ~~certify A~~agree~~ment~~ to comply with all relevant statutes, Division rules, and all Division-issued guidance (including materials incorporated by reference)~~;~~ ~~including but not limited to the medical treatment guidelines, permanent impairment rating guidelines and utilization standards adopted by the Director, and all relevant statutes.~~

~~(B) After paying the accreditation registration fee, a physician must satisfactorily complete the examination administered by the Division. If the physician does not exhibit sufficient knowledge upon completion of the examination on the third attempt, he or she shall be required to wait six months and pay a second registration fee before taking the examination again.~~ (6) The

~~(C)~~ a~~A~~ccreditation begins on the date the provider physician passes ~~successfully completes~~ the ~~accreditation~~ examination. The accreditation

~~(D) Level II Accreditation expires on December 31ST of the third calendar year following the year the physician successfully completed the Level II Accreditation examinations; Level I Accreditation~~ expires on July 31st of the third year following the year the provider ~~Level I applicant passed successfully completed~~ the ~~Level I Accreditation~~ examination.

(B) To obtain Level II Accreditation, a physician must:

(1) Receive Level I accreditation. However, a physician who received his/her initial Level II accreditation before January 1, 2018 is exempt from this requirement.

(2) Qualify under § 8-42-101(3.5), C.R.S.;

(3) Complete an application form prescribed by the Division, pay the registration fee, and indicate if full or limited accreditation is sought;

(4) Complete the Division Level II course;

(5) Demonstrate an understanding of the Division materials (including the American Medical Association Guides to the Evaluation of Permanent Impairment, as incorporated by reference into § 8-42-101(3)(a)(I), C.R.S. ('AMA Guides')) by passing a Division-administered examination. If the provider does not exhibit sufficient knowledge upon taking the examination a second time, he or she must attend the seminar again prior to any further attempts at the examination. Additional fees may apply.

(i) Full Accreditation: A physician who passes the full Level II Accreditation examination shall be fully accredited to determine permanent impairment ratings on any work-related injury or illness.

(ii) Limited Accreditation: A physician who seeks Level II Accreditation to rate impairment only in connection with a specialty medical practice and who satisfactorily completes specified portions of the Level II

examination shall receive limited accreditation to determine permanent impairment ratings on the corresponding sections of the AMA Guides.

(6) Agree to comply with all relevant statutes, Division rules, and all Division-issued guidance (including materials incorporated by reference).

(7) Submit his/her first three (3) impairment rating reports deemed sufficient by the Division within 12 months of passing the Level II accreditation examination; and

(8) Agree to the probationary one-year Level II accreditation period beginning on the date the physician passes the Level II accreditation examination. The probationary accreditation will expire if the physician fails to submit three (3) impairment rating reports deemed sufficient by the Division within one year of the examination. Non-probationary accreditation begins on the date the physician submits his/her first three (3) impairment rating reports deemed sufficient by the Division. The non-probationary accreditation expires on January 31ST of the third calendar year following the year the physician successfully completed the Level II Accreditation examination.

~~(E) For Level II Accreditation only:~~

~~(1) Full Accreditation: A qualified physician who satisfactorily completes the Level II Accreditation examination as determined and administered by the Division shall be fully accredited to determine permanent impairment ratings on any work-related injury or illness.~~

~~(2) Limited Accreditation: A qualified physician who seeks Level II Accreditation in order to rate impairment only in connection with an area of medical specialty and who satisfactorily completes specified portions of the Level II examination as determined and administered by the Division shall receive limited accreditation to determine permanent impairment ratings on the corresponding sections of the AMA Guides.~~

13-3 RENEWAL OF ACCREDITATION

(A) The Division will attempt to notify ~~shall provide~~ accredited providers ~~physicians not less than sixty (60) days written notice~~ of impending expiration of their accreditation.

(B) A provider ~~physician~~ who does not renew his or her ~~their~~ accreditation before the~~ir accreditation~~ expiration date may reapply and complete the process for initial accreditation under section 13-2.

(C) To renew accreditation, a provider ~~qualified physician~~ must:

(1) ~~be~~ Qqualify ~~ied~~ under § 8-42-101(3.5), C.R.S.~~the Act~~;

(2) C~~c~~omplete an application form prescribed by the Division, pay the registration fee, and, for Level II accreditation, indicate if full ~~accreditation~~ or limited reaccreditation is sought;

(3) Ccomplete the Division course requirements Reaccredidation Curriculum for the highest level of accreditation maintainedLevel I or Level II as appropriate;

(4) certify Aagreement to comply with all relevant statutes and Division rules, including but not limited to the medical treatment guidelines, permanent impairment rating guidelines, and utilization standards adopted by the Director, and all relevant statutes; and.

(5) For Level II reaccreditation only, submit submit his/her first three (3) impairment rating reports to the Division following initial accreditation. Physicians who re-accredit must submit to the Division one impairment rating report deemed sufficient by the Division (which may be a Division Independent Medical Examination report) for auditat least three (3) impairment reports during the three-year period following their reaccredidation. All such impairment rating reports may include Division Independent Medical Examination reports. A physician may not reaccredit until and unless this requirement is met, unless the physician has been unable to complete three impairment ratings during the three-year period for good cause as determined by the Director, and has met any other similar report requirement the Director may substitute. The purpose of providing anthese impairment reports is to demonstrate an understanding of the requirements of a sufficient impairment rating report; to educate and provide for education and feedback to the physician; and, and to assist the Division in examining its curriculum. Any correspondence or communication regarding this process is confidential and shall not be subject to discovery or examination by any person.

13-4 SANCTIONS UPON REVOCATION OF ACCREDITATION

(A) The Director, with input from the Medical Director, may initiate proceedings to sanction revoke a Level I or Level II Accreditation on any of the following grounds:

(1) Refusal to comply, substantial failure to comply, or two or more incidents of failure to comply with the provisions of these Workers' Compensation Rules of Procedure and all relevant statutes.

(2) Mmisrepresentation on the application for accreditation, or

(3). A unanimous recommendation to revoke accreditation by a reviewing panel by final order of the Director in a proceeding held pursuant to § 8-43-501(3)(c)(III) and (4), C.R.S., where the reviewing panel has unanimously recommended that accreditation be revoked.

(B) The severity of any sanctions taken under these rules shall reflect the character of the failure and the attendant circumstances. Examples of sanctions include, but are not limited to, a suspension or a revocation of accreditation.

(C) A proceeding to sanction revoke a Level I or Level II Accreditation may be initiated by the Director, with input from the Mmedical Ddirector, with referral for a hearing before an administrative law judge.

(D) Following a hearing ~~before an administrative law judge to revoke a physician's accreditation~~, the administrative law judge shall render proposed findings of fact and conclusions of law, and ~~then~~ make recommendations to the Director, who shall enter an order in the case.

Notice of Proposed Rulemaking

Tracking number

2017-00336

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Workers' Compensation

CCR number

7 CCR 1101-3 R17 Ex 07

Rule title

Rule 17: Exhibit 7 - COMPLEX REGIONAL PAIN SYNDROME/REFLEX SYMPATHETIC DYSTROPHY MEDICAL TREATMENT GUIDELINES

Rulemaking Hearing

Date

09/13/2017

Time

09:30 AM

Location

633 17th St. Denver CO 80202

Subjects and issues involved

Update to Exhibit 7 of the medical treatment guidelines. This update is a strike and replace. The entire existing exhibit will be deleted and replaced with the updated exhibit.

Statutory authority

8-47-107

Contact information

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RULE 17, EXHIBIT 7

Complex Regional Pain Syndrome/ Reflex Sympathetic Dystrophy Medical Treatment Guideline

Revised: _____

Effective: _____

Adopted: November 4, 1996	Effective: December 30, 1996
Revised: January 8, 1998	Effective: March 15, 1998
Revised: May 27, 2003	Effective: July 30, 2003
Revised: September 29, 2005	Effective: January 1, 2006
Revised: December 27, 2011	Effective: February 14, 2012

Presented by:

COLORADO
Department of
Labor and Employment

DIVISION OF WORKERS' COMPENSATION

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DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

CCR 1101-3

RULE 17, EXHIBIT 7

COMPLEX REGIONAL PAIN SYNDROME/REFLEX SYMPATHETIC DYSTROPHY MEDICAL TREATMENT GUIDELINE

A. INTRODUCTION

This document has been prepared by the Colorado Department of Labor and Employment, Division of Workers' Compensation (Division) and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Colorado's Workers' Compensation Act as injured workers with Complex Regional Pain Syndrome (CRPS), formerly known as Reflex Sympathetic Dystrophy (RSD).

Although the primary purpose of this document is advisory and educational, these guidelines are enforceable under the Workers' Compensation Rules of Procedure, 7 CCR 1101-3. The Division recognizes that acceptable medical practice may include deviations from these guidelines, as individual cases dictate. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care.

To properly utilize this document, the reader should not skip nor overlook any sections.

B. GENERAL GUIDELINE PRINCIPLES

The principles summarized in this section are key to the intended implementation of all Division of Workers' Compensation medical treatment guidelines and critical to the reader's application of the guidelines in this document.

1. **APPLICATION OF GUIDELINES** The Division provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer and patient through the Workers' Compensation Rules of Procedure. In lieu of more costly litigation, parties may wish to seek administrative dispute resolution services through the Division or the office of administrative courts.

2. **EDUCATION** Education of the patient and family, as well as the employer, insurer, policy makers, and the community, should be the primary emphasis in the treatment of chronic pain and disability. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth patient education is currently a component of treatment regimens which employ functional, restorative, preventive, and rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention. Facilitation through language interpretation, when necessary, is a priority and part of the medical care treatment protocol.

3. **INFORMED DECISION MAKING** Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioner, should identify their personal and professional functional goals of treatment at the first visit. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision making and achievement of functional goals. Patient education and informed decision making should facilitate self-management of symptoms and prevention of further injury.

4. **TREATMENT PARAMETER DURATION** Time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient adherence, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document.

5. **ACTIVE INTERVENTIONS** emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.

6. **ACTIVE THERAPEUTIC EXERCISE PROGRAM** goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

7. **POSITIVE PATIENT RESPONSE** Positive results are defined primarily as functional gains that can be objectively measured. Objective functional gains include, but are not

limited to: positional tolerances, range-of-motion, strength, endurance, activities of daily living, ability to function at work, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings. Patient completed functional questionnaires such as those recommended by the Division as part of Quality Performance and Outcomes Payments (QPOP, see Rule 18-8) and/or the Patient Specific Functional Scale can provide useful additional confirmation.

8. **RE-EVALUATION OF TREATMENT NO LESS THAN EVERY 3 TO 4 WEEKS** If a given treatment or modality is not producing positive results within 3 to 4 weeks or within the time to produce effect in the guidelines, the treatment should be either modified or discontinued. Before discontinuing the treatment, the provider should have a detailed discussion with the patient to determine the reason for failure to produce positive results. Reconsideration of diagnosis should also occur in the event of a poor response to a seemingly rational intervention.

9. **SURGICAL INTERVENTIONS** Surgery should be contemplated within the context of expected functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions.

10. **SIX-MONTH TIME FRAME** The prognosis drops precipitously for returning an injured worker to work once he/she has been temporarily totally disabled for more than six months. The emphasis within these guidelines is to move patients along a continuum of care and return-to-work within a six-month time frame, whenever possible. It is important to note that time frames may be less pertinent for injuries that do not involve work-time loss or are not occupationally related.

11. **RETURN-TO-WORK** A return-to-work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. The practitioner must provide specific physical limitations and the patient should never be released to non-specific and vague descriptions such as "sedentary" or "light duty." The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated. The practitioner should understand all of the physical demands of the patient's job position before returning the patient to full duty and should request clarification of the patient's job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, an occupational health nurse, occupational therapist, vocational rehabilitation specialist, an industrial hygienist, or another professional.

12. **DELAYED RECOVERY** Strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after initiation of treatment of an injury. Therefore, all chronic pain patients should have a documented psychological evaluation and psychological treatment as appropriate to address issue of chronic pain. It is also appropriate to clinically reassess the patient, function goals, and differential diagnosis. The Division recognizes that 3 to 10% of all industrially injured patients will not recover within the timelines outlined in this document, despite optimal care. Such individuals may require treatments beyond the timelines discussed within this document, but such treatment requires clear documentation by the

authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

13. GUIDELINE RECOMMENDATIONS AND INCLUSION OF MEDICAL EVIDENCE All recommendations are based on available evidence and/or consensus judgment. When possible, guideline recommendations will note the level of evidence supporting the treatment recommendation. It is generally recognized that early reports of a positive treatment effect are frequently weakened or overturned by subsequent research. When interpreting medical evidence statements in the guideline, the following apply:

- Consensus means the judgment of experienced professionals based on general medical principles. Consensus recommendations are designated in the guidelines as "generally well-accepted," "generally accepted," "acceptable/accepted," or "well-established."

- "Some evidence" means the recommendation considered at least one adequate scientific study, which reported that a treatment was effective. The Division recognizes that further research is likely to have an impact on the intervention's effect.

- "Good evidence" means the recommendation considered the availability of multiple adequate scientific studies or at least one relevant high-quality scientific study, which reported that a treatment was effective. The Division recognizes that further research may have an impact on the intervention's effect.

- "Strong evidence" means the recommendation considered the availability of multiple relevant and high-quality scientific studies, which arrived at similar conclusions about the effectiveness of a treatment. The Division recognizes that further research is unlikely to have an important impact on the intervention's effect.

All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, irrespective of the level of evidence or consensus statement attached to them. Those procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as "***not recommended***."

Please refer to the Colorado Department of Labor and Employment's website for evidence tables and study critiques which provide details on the studies used to develop the evidence statements.

14. TREATMENT OF PRE-EXISTING CONDITIONS that preexisted the work injury/disease will need to be managed under two circumstances: (a) A preexisting condition exacerbated by a work injury/disease should be treated until the patient has returned to their objectively verified prior level of functioning or Maximum Medical Improvement (MMI); and (b) A preexisting condition not directly caused by a work injury/disease but which may prevent recovery from that injury should be treated until its objectively verified negative impact has been controlled. The focus of treatment should remain on the work injury/disease.

The remainder of this document should be interpreted within the parameters of these guideline principles that may lead to more optimal medical and functional outcomes for injured workers.

C. INTRODUCTION TO COMPLEX REGIONAL PAIN SYNDROME

Complex Regional Pain Syndrome (CRPS Types I and II) describes painful syndromes, which were formerly referred to as Reflex Sympathetic Dystrophy (RSD) and causalgia. CRPS conditions usually follow injury that appears regionally and have a distal predominance of abnormal findings, exceeding the expected clinical course of the inciting event in both magnitude and duration and often resulting in significant impairment of limb function.

CRPS I (RSD) is a syndrome that usually develops after an initiating noxious event, is not limited to the distribution of a single peripheral nerve, and appears to be disproportionate to the inciting event. It is associated at some point with evidence of edema, changes in skin, blood flow, abnormal sudomotor activity in the region of the pain, allodynia, or hyperalgesia. The site is usually in the distal aspect of an affected extremity or with a distal to proximal gradient. The peripheral nervous system and possibly the central nervous system are involved.

CRPS II (Causalgia) is the presence of burning pain, allodynia, and hyperpathia usually in the hand or foot after partial injury to a nerve or one of its major branches. Pain is within the distribution of the damaged nerve but not generally confined to a single nerve.

Historically, three stages Stage 1- Acute (Hyperemic), Stage 2- Dystrophic (Ischemic), and Stage 3 (Atrophic) were thought to occur. However, the Stages in CRPS I are not absolute and in fact, may not all be observed in any single patient. Signs and symptoms fluctuate over time and are reflective of ongoing dynamic changes in both the peripheral and central nervous systems.

Although there has been some debate regarding both the existence and pathophysiologic basis of CRPS, as with all chronic pain, psychological issues should always be addressed, but there are a number of studies identifying pathological findings.

Historically, the following studies provide further basis for the CRPS pathological model.

In animals, a mice model with tibial fracture and cast immobilization is used to create CRPS. For mice with clinical signs of CRPS, transcriptional changes in gene expression were found. Another study found that patients with CRPS versus those healthy controls perceive their affected hand to be larger than the unaffected hand. The finding corresponded to disease duration, decrease tactile thresholds, and a neglect score. A functional MRI study confirmed an enlarged somatosensory cortex representation of the healthy hand. Other studies have supported a difference in the primary somatosensory cortex or neuroimaging, although the quality of studies is low.

Another small study noted an increase in blood oxygenation level in the cortical representation of the affected hand after a successful sympathetic block indicating clear central involvement for the CRPS pain.

D. DEFINITIONS

1. **AFTER SENSATION**: refers to the abnormal persistence of a sensory perception, provoked by a stimulus even though the stimulus has ceased.

2. **ALLODYNIA**: pain due to a non-noxious stimulus that does not normally provoke pain.

Mechanical Allodynia: refers to the abnormal perception of pain from usually non-painful mechanical stimulation.

Static Mechanical Allodynia: refers to pain obtained by applying a single stimulus such as light pressure to a defined area.

Dynamic Mechanical Allodynia: obtained by moving the stimulus such as a brush or cotton tip across the abnormal hypersensitive area.

Thermal Allodynia: refers to the abnormal sensation of pain from usually non-painful thermal stimulation such as cold or warmth.

3. **CENTRAL PAIN**: pain initiated or caused by a primary lesion or dysfunction in the central nervous system (CNS).

4. **CENTRAL SENSITIZATION:** the experience of pain evoked by the excitation of non-nociceptive neurons or of nerve fibers that normally relay non-painful sensations to the spinal cord. This results when non-nociceptive afferent neurons act on a sensitized central nervous system (CNS). Experimental data suggest that pathways normally carrying pain signals themselves become overstimulated and/or fail to respond to inhibitory influences causing increased pain. An example is 'wind-up' which occurs when cells in the dorsal horn of the spinal cord increase their rate of action potential discharge in response to repeated stimulation by nociceptors.

5. **DYSTONIA**: state of abnormal (hypo or hyper) tonicity in any of the tissues.

6. **HYPERALGESIA**: refers to an exaggerated pain response from a usually painful stimulation.

7. **HYPEREMIA**: presence of increased blood in a part or organ.

8. **HYPERESTHESIA** (Positive Sensory Phenomenon): includes allodynia, hyperalgesia, and hyperpathia. Elicited by light touch, pin-prick, cold, warm vibration, joint position sensation, or two-point discrimination, which is perceived as increased or more.

9. **HYPERPATHIA**: a condition of altered perception such that stimuli which would normally be innocuous, if repeated or prolonged, result in severe explosive persistent pain.

10. **HYPOESTHESIA** (also hypesthesia): diminished sensitivity to stimulation.

11. **PAIN BEHAVIOR**: the nonverbal actions (such as grimacing, groaning, limping, using visible pain relieving or support devices, and requisition of pain medications, among others) that are outward manifestations of pain and through which a person may communicate that pain is being experienced.

12. **SUDOMOTOR CHANGES**: alteration in function of sweat glands. Sweat output may increase or decrease due to changes in autonomic input to the gland.

13. **SYMPATHETICALLY MAINTAINED PAIN (SMP)**: a pain that is maintained by sympathetic efferent innervations or by circulating catecholalmines and which may be a separate condition from CRPS.

14. **TROPHIC CHANGES**: tissue alterations due to interruption of nerve or blood supply; may include changes in hair growth and texture of skin.

15. **VASOMOTOR CHANGES**: alteration in regulation of dilation or constriction of blood vessels.

E. INITIAL EVALUATION

The Division recommends the following diagnostic procedures be considered, at least initially, the responsibility of the workers' compensation carrier to ensure that an accurate diagnosis and treatment plan can be established. Standard procedures that should be utilized when initially diagnosing a work-related chronic pain complaint are listed below. Because CRPS I is commonly associated with other injuries, it is essential that all related diagnoses are defined and treated. These disturbances are typically restricted to one extremity, usually distally, but are variable in their expression.

1. **HISTORY TAKING AND PHYSICAL EXAMINATION (HX & PE):** are generally accepted, well-established, and widely used procedures that establish the foundation/basis for and dictates subsequent stages of diagnostic and therapeutic procedures. When findings of clinical evaluations and those of other diagnostic procedures are not complementing each other, the objective clinical findings should have preference. Before the diagnosis of CRPS I or CRPS II is established, an experienced practitioner must perform a detailed neurological and musculoskeletal exam to exclude other potentially treatable pain generators or neurological lesions. The medical records should reasonably document the following:

a. **Medical History**: As in other fields of medicine, a thorough patient history is an important part of the evaluation of pain. In taking such a history, factors influencing a patient's current status can be made clear and taken into account when planning diagnostic evaluation and treatment. It may be necessary to acquire previous medical records. One efficient manner in which to obtain historical information is by using a questionnaire. The questionnaire may be sent to the patient prior to the initial visit or administered at the time of the office visit. History should ascertain the following elements:

i. General Information: General items requested are name, sex, age, birth date, etc.

ii. Level of Education: The level of patient's education may influence response to treatment.

iii. Work History/Occupation: to include both impact of injury on job duties and impact on ability to perform job duties, work history, job description, mechanical requirements of the job, duration of employment, and job satisfaction.

iv. Current employment status.

v. Marital status.

vi. Family Environment: Is the patient living in a nuclear family or with friends? Is there, or were there, any family members with chronic illness or pain problems? Responses to such questions reveal the nature of the support system or the possibility of conditioning toward chronicity.

vii. Ethnic Origin: Ethnicity of the patient, including any existing language barriers, may influence the patient's perception of and response to pain. Literature indicates that providers may under-treat patients of certain ethnic backgrounds due to underestimation of their pain.

viii. Belief System: Patients should be asked about their value systems, including spiritual and cultural beliefs, in order to determine how these may influence the patient's and family's response to illness and treatment recommendations.

ix. Functional Assessment: Functional ability should be assessed and documented at the beginning of treatment. Periodic assessment should be recorded throughout the course of care to follow the trajectory of recovery. Functional measures are likely to be more reliable over time than pain measures.

Patient-reported outcomes, whether of pain or function, are susceptible to a phenomenon called response shift. This refers to changes in self-evaluation, which may accompany changes in health status. Patient self-reports may not coincide with objective measures of outcome, due to reconceptualization of the impact of pain on daily function and internal recalibration of pain scales. Response shift may obscure treatment effects in clinical trials and clinical practice, and it may lead to apparent discrepancies in patient-reported outcomes following treatment interventions. While methods of measuring and accounting for response shift are not yet fully developed, understanding that the phenomenon exists can help clinicians understand what is happening when some measures of patient progress appear inconsistent with other measures of progress.

x. Activities of Daily Living: Pain has a multidimensional effect on the patient that is reflected in changes in usual daily vocational, social, recreational, and sexual activities.

xi. Past and present psychological problems.

xii. History of abuse: physical, emotional, sexual.

xiii. History of disability in the family.

xiv. Sleep disturbances: Poor sleep has been shown to increase patient's self-perceived pain scores. Pre-injury and post-injury sleep should be recorded.

xv. Causality: How did this injury occur? Was the problem initiated by a work-related injury or exposure? Patient's perception of causality (e.g., was it their fault or the fault of another).

xvi. Presenting symptoms related to CRPS:

A) Severe, generally unremitting burning and/or aching pain and/or allodynia.

B) Swelling of the involved area.

C) Changes in skin color.

D) Asymmetry in nail and/or hair growth.

E) Abnormal sweat patterns of the involved extremity.

F) Motor dysfunction: limited active range-of-motion, atrophy, tremors, dystonia, weakness.

G) Subjective temperature changes of the affected area.

b. **Pain History**: Characterization of the patient's pain and of the patient's response to pain is one of the key elements for CRPS diagnosis.

i. Site of Pain: Localization and distribution of the pain help determine the type of pain the patient has (i.e., central versus peripheral).

ii. Pain Diagram drawing to document the distribution of pain.

iii. Visual Analog Scale (VAS): including a discussion of the range of pain during the day and how activities, use of modalities, and other actions affect the intensity of pain.

iv. Duration: including intermittent pain, activity related pain.

v. Circumstances during which the pain began (e.g., an accident, an illness, a stressful incident, or spontaneous onset).

vi. Pain characteristics: such as burning, shooting, stabbing, aching. Time of pain occurrence as well as intensity, quality, and radiation give clues to the diagnosis and potential treatment. The quality of pain can be helpful in identifying neuropathic pain which is normally present most of the day, at night, and is described as burning.

vii. Response of pain to activity: list of activities which aggravate or exacerbate, ameliorate, or have no effect on the level of pain.

viii. Associated Symptoms: Does the patient have numbness or paresthesia, dysesthesia, weakness, bowel or bladder dysfunction, decreased temperature, increased sweating, cyanosis or edema? Is there local tenderness, allodynia, hyperesthesia or hyperalgesia?

c. **Medical Management History**:

i. History of diagnostic tests and results including but not limited to any response to sympathetic nerve blocks, results of general laboratory studies, EMG and nerve conduction studies, radiological examinations, for demineralization, triple phase bone scan, or thermography with autonomic stress testing, and tests of sudomotor functioning such as Quantitative Sudomotor Axon Reflex Test (QSART).

ii. Prior Treatment: chronological review of medical records including previous medical evaluations and response to treatment interventions. In other words, what has been tried and what has been helpful?

iii. Prior Surgery: If the patient has had prior surgery specifically for the pain, he/she may be less likely to have a positive outcome.

iv. History of and current use of medications, including over-the-counter and herbal/dietary supplements to determine drug usage (or abuse) interactions and efficacy of treatment. Drug allergies and other side effects experienced with previous or current medication therapy and adherence to currently prescribed medications should be documented. Ideally, this includes dosing schedules as reported by the patient or patient representative. Information should be checked against the Colorado Prescription Drug Monitoring Program, offered by the Colorado Pharmacy Board.

v. Review of Systems Check List: Determine if there is any interaction between the pain complaint and other medical conditions.

vi. Psychosocial Functioning: Determine if any of the following are present: current symptoms of depression or anxiety; evidence of stressors in the workplace or at home; and past history of psychological problems or other confounding psychosocial issues may be present, such as the presence of psychiatric disease. Due to the high incidence of co-morbid problems in populations that develop chronic pain, it is recommended that patients diagnosed with CRPS be referred for a full psychosocial evaluation. All patients with CRPS have chronic pain and are likely to suffer psychosocial consequences.

vii. Pre-existing Conditions: Treatment of these conditions is appropriate when the preexisting condition affects recovery from chronic pain.

viii. Family history pertaining to similar disorders.

d. Substance Use/Abuse:

i. Alcohol use.

ii. Smoking history and use of nicotine replacements.

iii. History of current and prior prescription and/or illicit drug use and abuse.

iv. The use of caffeine or caffeine-containing beverages.

v. Substance abuse information may be only fully obtainable from multiple sources over time. Patient self-reports may be unreliable. Patient self-reports should always be checked against medical records.

e. Other Factors Affecting Treatment Outcome:

i. Compensation/Disability/Litigation.

ii. Treatment Expectations: What does the patient expect from treatment: complete relief of pain or reduction to a more tolerable level?

f. **Physical Examination**: should include examination techniques applicable to those portions of the body where the patient is experiencing subjective symptomatology. The following should be documented:

i. Inspection: changes in appearance of the involved area, to include trophic changes, changes in hair and nail growth, muscular atrophy, changes in skin turgor, swelling and color changes.

ii. Temperature Evaluation: Palpable temperature changes may not be detectable in early disease stages, and the examiner will generally only be able to appreciate significant temperature variations. Objective testing is preferred to demonstrate temperature asymmetries. Temperature differences of 1˚C may be significant; however, these differences also occur commonly with other pain conditions.

iii. Edema: is an important finding in CRPS. Its presence should be described in detail by the physician and when possible verified with objective testing such as volumetric testing or bilateral circumference measurements, usually performed by therapists.

iv. Motor Evaluation: involuntary movements, dystonia, muscle weakness, atrophy, or limited range of active motion in the involved limb(s).

v. Sensory Evaluation: A detailed sensory examination is crucial in evaluating a patient with chronic pain complaints, including the presence of allodynia and the anatomic pattern of any associated sensory abnormalities to light touch, deep touch, pain, and thermal stimulation. Quantitative sensory testing may be useful.

vi. Musculoskeletal Evaluation: presence of associated myofascial problems, such as contractures, Range-of-Motion (ROM), or trigger points.

vii. Evaluation of Non-physiologic Findings: Determine the presence of the following: variabilities on formal exam including variable sensory exam; inconsistent tenderness, and/or swelling secondary to extrinsic sources. Inconsistencies between formal exam and observed abilities of range-of-motion, motor strength, gait, and cognitive/emotional state; and/or observation of inconsistencies between pain behaviors, affect and verbal pain rating, and physical re-examination can provide useful information.

F. OVERVIEW OF CARE FOR CRPS OR SYMPATHETICALLY MEDIATED PAIN

[Note: Based primarily on Washington State Guidelines.] Once a patient has met the clinical criteria for CRPS or has disproportionate pain from the initial workers' compensation injury with additional physical findings suggestive of sympathetic involvement, directed care should begin.

Active initial treatment is the keystone to preventing disability. The date of onset of the CRPS symptoms should be documented with the physical exam findings in all of the pertinent areas: sensory, vasomotor, sudomotor and edema, and weakness or trophic changes of hair, nails, or skin.

Measurable goals should then be agreed upon with the patient. Initial treatment begins as quickly as possible with cognitive behavior therapy desensitization, neuromuscular re-education (graded motor imagery and/or mirror box therapy), progressive active therapy, and additional activities aimed at the identified functional goals.

Sympathetic blocks are performed in order to decrease pain and encourage active therapy. Thus, progressive active therapy should take place within 24 hours of an injection.

Medication used for pain relief is primarily based on medications effective for neuropathic pain, although, bisphosphonates may be useful in some cases. Opioids are rarely useful for neuropathic pain and should be used sparingly.

As with all chronic pain patients, psychological consultation and treatment and multidisciplinary treatment is strongly recommended.

G. DIAGNOSTIC CRITERIA AND PROCEDURES

1. **DIAGNOSIS OF CRPS** Diagnosis of CRPS continues to be controversial. The clinical criteria used by the International Association for the Study of Pain is thought to be overly sensitive and unable to differentiate well between those patients with other pain complaints and those with actual CRPS. One study in which different diagnostic sets were reviewed using patient report and physician confirmed signs, the highest specificities were found for the signs of hyperesthesia, allodynia, temperature asymmetry, skin color asymmetry, and edema. This pattern is predominant in the other studies reporting on similar assessed physical findings. Sudomotor/sweating limb differences and atrophic changes, including nail, hair and skin changes, occur in less than half of the clinical CRPS patients; in contrast, verified temperature asymmetry, edema, and decreased motor function are frequently cited as predictive.

Clinical criteria alone are not dependable nor necessarily reliable and require objective testing. One study of interrater reliability for diagnosing CRPS I showed poor reliability for assessment of temperature difference and color difference between the affected limbs. Two other studies compared physician's assessment with actual measured signs of CRPS I. The first study advocated bedside use of infrared thermometer and volume measurements. The study found a volume difference between the hands of 30.4 cc and a dorsal hand temperature difference of at least 0.78°C could be used to help establish the diagnosis. The study also noted frequent decreased mobility in the little finger. This study only included patients known to have CRPS; thus, agreement between the objective measurements and the physicians' observations was good. The second study compared physicians' clinical assessments with measured objective results and found that the clinical establishment of temperature and volume asymmetry was inadequate. It also noted poor to moderate correspondence between patient reported severity of symptoms and the physicians' clinical judgment and actual measurements.

A separate study used skin surface temperature to differentiate between CRPS in patients after a fracture and control patients with other complaints following a fracture. This study also incorporated a control group of healthy patients without complaints. Notably there was significantly more asymmetry between the temperature findings in the CRPS group than in both the control groups, with and without complaints. However, the control group with complaints had greater temperature differences than the otherwise healthy group. The study concluded that the ability of skin surface temperatures under resting conditions to discriminate between CRPS patients and other patients is limited. Historically some authors have used 2°C as a limit for temperature differences and others have used lower cutoffs. This study also applied various temperature asymmetry cut offs and could identify no specific combination resulting in sufficient predictive power. However, the negative predictive power was 84% for resting temperature asymmetry less than 0.7°C. This would seem to suggest that it is unlikely a patient has CRPS if they do not have resting temperature asymmetry; however, resting temperature asymmetry differences may be due to a variety of reasons other than CRPS.

Several studies have assessed skin temperature changes in variable settings. In one study skin temperature measurements were recorded over 5-8 hours and the instruments were able to compare the difference between the limbs with every day activities. Twenty-two patients with CRPS, 18 with limb pain of other origin, and 22 of healthy controls were compared. Examining the asymmetry throughout the time period, a difference of 2°C could differentiate CRPS from patients with other painful disease with specificity of 67% and 79% versus healthy controls. It was noted many patients in all groups had a 2°C difference between the limbs at one time or another. However, the persistence of the difference and the asymmetry was important in the diagnosis. The difference between the limbs could occur in either direction, warmer or cooler, than the unaffected side.

Thermographic imaging has been done in two studies using whole body warming and cooling. The initial study established the fact that in CRPS patients the temperature difference between hands increases significantly when the sympathetic system is provoked with whole body temperature changes. A separate more detailed study induced whole body warming and cooling and compared temperature and blood flow in three sets of patients, one with CRPS, one with patients of extremity pain of other origins, and a third group of healthy volunteers. None of the participants were on medications affecting vascular functions. Three patterns of temperature change were noted for CRPS patients. In some patients with “warm” CRPS, the temperature continually exceeded the temperature of the unaffected limb during the cooling and warming period. In others, where the affected limb was cooler than the unaffected limb, the affected limb may have remained cooler throughout the cooling and warming period. Finally, in a few patients, there was an unusual crossover where initially the patient had a warm or cooler limb compared to the unaffected side and later the affected limb showed temperature differences in the opposite direction. All of these patterns demonstrate an autonomic asymmetry that was not found in healthy volunteers whose limbs temperatures adjust in a symmetrical manner. Previous tests comparing Laser Doppler flow of extremities in healthy controls and patients with distal radius fracture to CRPS I patients showed significant sympathetic changes after contralateral cold exposure. Another study of patients with radius fractures found that non-stress thermography had a sensitivity of 58% and specificity of 66%. Thus, the asymmetry of limb temperature under stress appears to be the most important factor. In this study, the temperature differences needed to exceed 2.2°C to distinguish between the groups.

Another study reviewed skin temperature from thermography, thermoregulatory sweat tests (TST), and quantitative sudomotor axon reflex test (QSART), early and late in patients with clinically diagnosed CRPS. In this study, the differences identified with TST persisted during later testing while QSART differences did not. Skin temperature was asymmetrical between the limbs early and late, although generally in opposite directions. This study describes the dynamic nature of CRPS.

These studies appear to confirm the fact that causing an objectively measured, sympathetically evoked response is likely to be more predictive of CRPS than merely resting temperature differences or resting sudomotor/sweating differences. Temperature testing at any one point in time is probably not sensitive and able to distinguish between patients with pain complaints and those with CRPS. Other review articles have made similar observations regarding the need for dynamic testing.

There is good evidence that CRPS is characterized by inhibition of sympathetic cutaneous responses on the affected side and by blunted sympathetic response to physiologic stimuli. Based on the relatively common finding of temperature discrepancy in non-CRPS patients with chronic pain, a stress test thermogram should be used. Unfortunately, only two studies have been published in this area and neither used a blinded control for comparison. The most commonly reported stress tests consist of contralateral extremity cooling or whole body suit. However, the physiology behind the stress thermography testing is convincing given the prior studies.

In a similar manner, the QSART provides an autonomic stress that is measurable. Perhaps the main issue with the sudomotor test in isolation is that it appears some CRPS patients do not have an abnormal sweat test. To verify the diagnosis, all of these test results need to be compared to other test results, physical exam findings, and symptoms.

Thermal quantitative sensory testing has been used to study neuropathic conditions and CRPS. Components of the test include identification of light touch, warmth, cold, and pain with pressure, cold or heat. The testing relies on patient response to various recordable levels of testing in these areas. Generally, CRPS patients appear to demonstrate

hypoalgesia in both the affected and unaffected limbs when compared to normals; hyperalgesia to thermal pain generators and hyperalgesia to blunt pressure. Findings on the specific TST test components differ according to the CRPS classification of warm or cold. There is also some overlap of findings with other neuropathic conditions. In addition, patient response testing can be problematic in a medical legal setting. Thus, more objective tests are used for confirmation of CRPS. Routine clinical exam techniques should be used to evaluate the patient for hyper- and hypoalgesia and allodynia.

Significant harm can be done to individuals by over-diagnosing CRPS and subjecting patients to the side effects and potential morbidity of multiple sympathetic blocks, invasive procedures, or chronic medications, as well as psychological effects from the diagnosis. In order to safe guard against such harmful outcomes, patients should have objective testing to verify their diagnosis before such procedures are considered and/or are continued after the initial diagnosis. Several reviews on the subject have identified the need for more objective measurements. Therefore, individuals must have a confirmed diagnosis of CRPS to receive these procedures.

Evidence Statements Regarding Diagnosis of CRPS		
Good Evidence	Evidence Statement	Design
	CRPS is characterized by inhibition of sympathetic cutaneous responses on the affected side and by blunted sympathetic response to physiologic stimuli.	Physiology experiment, Basic science (physiologic) study

2. **DIAGNOSTIC COMPONENTS OF CLINICAL CRPS** Patients who meet the following criteria for clinical CRPS, consistent with the Budapest criteria, may begin initial treatment with oral steroids and/or tricyclics, physical therapy, a diagnostic sympathetic block, and other treatments found in the Division's Chronic Pain Disorder Medical Treatment Guideline. All treatment should be periodically evaluated with validated functional measures. Patient completed functional questionnaires such as those recommended by the Division as part of Quality Performance and Outcomes Payments (QPOP, see Rule 18-8) and/or the Patient Specific Functional Scale can provide useful additional confirmation. Further invasive or complex treatment will require a confirmed diagnosis.

Patient must meet the criteria below.

a. Continuing pain, which is disproportionate to any inciting event; and

b. At least one symptom in 3 of the 4 following categories:

- *Sensory:* reports of hyperesthesia and/or allodynia;
- *Vasomotor:* reports of temperature asymmetry and/or skin color changes and/or skin color asymmetry;
- *Sudomotor/edema:* reports of edema and/or sweating changes and/or sweating asymmetry; or
- *Motor/trophic:* reports of decreased range-of-motion and/or motor dysfunction (weakness, tremor, dystonia) and/or trophic changes (hair, nail, skin).

c. At least one sign at time of evaluation in 2 or more of the following categories:

- *Sensory:* evidence of hyperalgesia (to pinprick) and/or allodynia (to light touch and/or deep somatic pressure and/or joint movement);

- *Vasomotor:* evidence of temperature asymmetry and/or skin color changes and/or asymmetry. Temperature asymmetry should ideally be established by infrared thermometer measurements showing at least a 1°C difference between the affected and unaffected extremities;

- *Sudomotor/edema:* evidence of edema and/or sweating changes and/or sweating asymmetry. Upper extremity volumetrics may be performed by therapists that have been trained in the technique to assess edema; or

- *Motor/trophic:* evidence of decreased range-of-motion and/or motor dysfunction (weakness, tremor, dystonia) and/or trophic changes (hair, nail, skin).

d. No other diagnosis that better explains the signs and symptoms. It is essential that other diagnoses which may require more urgent treatment, such as infection, allergy to implants, or other neurologic conditions, are diagnosed expediently before defaulting to CRPS.

e. Psychological evaluation should always be performed as this is necessary for all chronic pain conditions.

3. DIAGNOSTIC COMPONENTS OF CONFIRMED CRPS Patients should have a confirmed diagnosis of CRPS to proceed to other treatment measures in this guideline.

Both CRPS I and II confirmed diagnoses require the same elements. CRPS II is distinguished from CRPS I by the history of a specific peripheral nerve injury as the inciting event.

Patient must meet the below criteria:

a. A clinical diagnosis meeting the above criteria in 2, and

b. At least 2 positive tests from the following categories of diagnostic tests:

i. Trophic tests

- Comparative x-rays of both extremities including the distal phalanges.

- Triple phase bone scan.

ii. Vasomotor/Temperature test: Infrared stress thermography.

iii. Sudomotor test: Autonomic test battery with an emphasis on QSART.

iv. Sensory/ Sympathetic nerve test: Sympathetic blocks.

4. SYMPATHETICALLY MAINTAINED PAIN (SMP) Patients who do not qualify as confirmed CRPS may have SMP. Patients with SMP may use sympathetic blocks and active and passive therapy from this guideline. For all other treatment, refer to the Division's Chronic Pain Disorder Medical Treatment Guideline. Characteristics of SMP are a patient who:

a. Complains of pain;

b. Usually does not have clinically detectable vasomotor or sudomotor signs; and

c. Has significant pain relief with sympathetic blocks.

5. **NOT CRPS OR SMP:** Criteria listed below. Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for treatment.

a. Patient complains of pain;

b. May or may not have vasomotor or sudomotor signs;

c. No relief with sympathetic blocks; and

d. No more than one other diagnostic test procedure is positive.

6. **DIAGNOSTIC IMAGING** is a generally accepted diagnostic procedure for CRPS. Results must be interpreted within the context of a full medical evaluation.

a. **Plain Film Radiography**:

Description: A radiological finding in CRPS may be unilateral osteoporosis; however, osteoporosis may be absent in many cases. In CRPS I, the osteoporosis may be rapid in progression. The disorder typically affects the distal part of an extremity such as a phalanges, hand or foot; however, intermediate joints such as the knee or elbow may be involved. Contralateral x-rays should be taken for comparison and should include the distal phalanges.

Results: The radiological appearance of osteoporosis has been characterized as spotty or patchy. CRPS I may exist in the absence of osteoporosis; the diagnosis of CRPS I cannot be made solely on the basis of radiographic appearance or the osteoporosis alone.

b. **Triple Phase Bone Scan**:

Description: Radionuclide imaging scintigraphy employing radio-pharmaceutical technetium coupled to a phosphate complex has been used to help facilitate the diagnosis of CRPS I. Unfortunately, there are many different types of conditions that also produce osteoporosis, and a triple-phase bone scan does not distinguish between the causes of bone demineralization.

Results: Clinical information may be derived from each of the three phases of the bone scan following injection. In the early course of CRPS I, there is usually an increased uptake seen during Phase 1. However, in the late course of the disease process, there can actually be decreased uptake. In Phase 2, which reflects the soft tissue vascularity, an increased diffuse uptake may be appreciated during the early course of CRPS I. During Phase 3, one may see a diffuse uptake of multiple bone involvement of the involved limb, reflecting the bone turnover secondary to osteoporosis. Negative bone scans may be found in up to 40% of patients clinically diagnosed with CRPS I; however, it may help to confirm the diagnosis of CRPS I when positive.

The physician should consider the risks of medical radiation and whether the diagnostic benefit of a bone scan will outweigh the risk.

7. INJECTIONS – DIAGNOSTIC SYMPATHETIC

Description: Diagnostic sympathetic injections are generally accepted procedures to aid in the diagnosis of CRPS I & II and SMP. Sympathetic blocks lack specificity for CRPS I & II. Each diagnostic injection has inherent risk and risk versus benefit should always be evaluated when considering injection therapy. Since these procedures are invasive, less invasive or non-invasive procedures should be considered first. Selection of patients, choice of procedure, and localization of the level for injection should be determined by clinical information.

Special Considerations: Injections with local anesthetics of differing duration are required to confirm a diagnosis. In some cases, injections at multiple levels may be required to accurately diagnose pain. Refer to Section H.6, Injections – Therapeutic, for information on specific injections.

Since fluoroscopic and/or CT guidance during procedures is recommended to document technique and needle placement, an experienced physician should perform the procedure. In addition, physicians should obtain fluoroscopy training and must also have the appropriate training in radiation safety, usually overseen by a radiation safety officer.

Complications: Complications may include transient neurapraxia, nerve injury, inadvertent spinal injection, infection, venous or arterial vertebral puncture, laryngeal paralysis, respiratory arrest, vasovagal effects, as well as permanent neurological damage.

Contraindications: Absolute contraindications of diagnostic injections include: (a) bacterial infection – systemic or localized to region of injection, (b) bleeding diatheses, (c) hematological conditions, and (d) possible pregnancy.

Relative Contraindications: Relative contraindications of these injections may include: (a) allergy to contrast or shellfish, (b) poorly controlled diabetes mellitus and/or hypertension.

Drugs affecting coagulation, such as aspirin, NSAIDs and other anti-platelets or anti-coagulants require restriction from use. Decisions regarding the number of restricted days should be made in consultation with the prescribing physician and other knowledgeable experts.

Test Results: To confirm the accuracy of the block, there should be a documented temperature difference between the affected and unaffected extremities of at least 1°C. The interpretation of the test result is primarily based upon pain relief of 50% or greater and evidence of functional improvement, for at least the duration of the local anesthetic used. A pain diary must be recorded as part of the medical record that documents response hourly for a minimum requirement of the first 8 hours post injection or until the block has clearly worn off and preferably for the week following an injection. The patient must have minimal sedation from opioids or other medication in order to be conscious and responsive during the procedure. The diagnostic significance of the test result should be evaluated in conjunction with clinical information and further information should be obtained from functional and physical reassessment performed by physical and/or occupational therapy the same day of the block.

Local anesthetics of different durations of action should be considered and could take the place of doing a "placebo" block (i.e., procaine, lidocaine, bupivacaine). Pain relief should be at least 50% or greater for the duration of the local anesthetic accompanied by functional improvement. It should be noted that with CRPS I, it is not unusual for the relief

to last longer than the duration of the local anesthetic. If a placebo block is done, the needle should not be placed down to the sympathetic chain nor should an injection of saline be done around the sympathetic chain. A "sham block" would be preferable to see if the patient is a placebo responder. Contact with the sympathetic nerves by a needle or pressure on the chain by saline can cause a temporary sympathetic block and give a false positive placebo test. Additionally, patients with definite CRPS I can also be placebo responders. The fact that the patient responds positively to a placebo does not mean that he/she does not have CRPS I. It merely means that the patient is a placebo responder. This increases the value of doing another confirmatory test.

a. **Stellate Ganglion Block**: for diagnosis and treatment of sympathetic pain involving the face, head, neck, and upper extremities secondary to CRPS I and II. This block is commonly used for differential diagnosis and is one of the treatments for CRPS I pain involving the upper extremity. For diagnostic testing, use two blocks over a 3-14 day period. For a positive response, pain relief should be 50% or greater for the duration of the local anesthetic and pain relief should be associated with demonstrated functional improvement.

b. **Lumbar Sympathetic Block**: useful for diagnosis and treatment of pain of the pelvis and lower extremity secondary to CRPS I and II. This block is commonly used for differential diagnosis and is the preferred treatment of sympathetic pain involving the lower extremity. For diagnostic testing, use two blocks over a 3-14 day period. For a positive response, pain relief should be 50% or greater for the duration of the local anesthetic and pain relief should be associated with demonstrated functional improvement.

c. **Phentolamine Infusion Test**: are ***not recommended*** for diagnosis or treatment due to lack of effect on sudomotor testing, pain, regional blood flow, or hyperalgesia.

8. THERMOGRAPHY (INFRARED STRESS THERMOGRAPHY):

Description: There is good evidence that CRPS is characterized by inhibition of sympathetic cutaneous responses on the affected side and by blunted sympathetic response to physiologic stimuli. Based on the relatively common finding of temperature discrepancy in non-CRPS patients with chronic pain, a stress test thermogram should be used. Infrared thermography may be useful for patients with suspected CRPS I and II and SMP. Thermography can distinguish abnormal thermal asymmetry of 1.0°C which is not distinguishable upon physical examination. It may also be useful in cases, to differentiate, of suspected small caliber fiber neuropathy and to evaluate patient response to sympatholytic interventions.

Special Considerations: The practitioner who supervises and interprets the thermographic evaluation shall follow recognized protocols and be board certified by one of the examining boards of the American Academy of Medical Infrared Imaging, American Academy of Thermology, or American Chiropractic College of Thermology, or have equivalent documented training.

Medications with anticholinergic activity (tricyclics, cyclobenzaprine, antiemetics, antipsychotics) may interfere with autonomic testing. The pre-testing protocol which includes cessation of specific medication therapy must be followed for accurate test results. Results of autonomic testing may be affected by peripheral polyneuropathy, radiculopathy or peripheral nerve injury, peripheral vascular disease, generalized autonomic failure, or by Shy-Drager syndrome.

Thermographic Tests: Functional autonomic stress testing may include the following methods:

a. **Cold Water Stress Test (Cold Pressor Test)**: Paroxysmal response in the affected upper extremity is strongly suggestive of vasomotor instability.

b. **Warm Water Stress Test**: Paroxysmal response in the affected upper extremity is strongly suggestive of vasomotor instability.

c. **Whole Body Thermal Stress**: Analysis of persistent non-dermal temperature anomalies in response to whole body thermal stress from a cooling and/or warming suit.

9. AUTONOMIC TEST BATTERY:

Description: Resting skin temperature (RST), resting sweat output (RSO), and quantitative sudomotor axon reflex test (QSART) are a generally accepted test battery. There is good evidence that CRPS is characterized by inhibition of sympathetic cutaneous responses on the affected side and by blunted sympathetic response to physiologic stimuli. The tests can provide additional information regarding malfunction of the sympathetic system and the diagnosis of CRPS. Prior authorization is required. As with all diagnostic testing, the results must be interpreted in relationship to the patient's signs and symptoms.

Special Considerations: Medications with anticholinergic activity (tricyclics, cyclobenzaprine, antiemetics, anti-psychotics) may interfere with autonomic testing. Results of autonomic testing may be affected by peripheral polyneuropathy, radiculopathy or peripheral nerve injury, peripheral vascular disease, generalized autonomic failure, or by Shy-Drager syndrome.

Test Battery: These tests measure asymmetries in physiologic manifestations of autonomic activity between an affected limb and an unaffected contralateral limb. Skin temperature reflects vasomotor activity and sweat output measures sudomotor activity. The results of the three test components must be combined and scored. The battery of tests must include a measurement of each component (RST, RSO, and QSART).

a. **Infrared Resting Skin Temperature (RST)**: provides thermographic measurements between the affected and unaffected limb. Generally, a 1° Celsius difference is significant. Given the previous discussion regarding differences in resting temperature between the affected and unaffected limbs in non-CRPS patients, the temperature findings may need to be interpreted cautiously as they do not reflect a stress on the sympathetic system.

b. **Resting Sweat Output (RSO)**: measures an increase or reduction of 50% between the affected and unaffected limb.

c. **Quantitative Sudomotor Axon Reflex Test (QSART)**: measures the sweat output elicited by iontophoretic application of acetylcholine. An increase or reduction of 50% between the affected and unaffected limb is significant.

The results of these tests should be recorded separately as abnormal or within the normal range.

A further assessment can then be done by the clinician when this information is collaborated with clinical findings. However clinical analysis is separate from the strict interpretation of each of the above three tests.

10. **OTHER DIAGNOSTIC TESTS NOT SPECIFIC FOR CRPS:** The following tests and procedures are not used to establish the diagnosis of CRPS but may provide additional information. The following are listed in alphabetical order.

a. **Electrodiagnostic Procedures**: Electromyography (EMG) and Nerve Conduction Studies (NCS) are generally accepted, well-established, and widely used for localizing the source of the neurological symptoms and establishing the diagnosis of focal nerve entrapments, such as carpal tunnel syndrome or radiculopathy, which may contribute to or coexist with CRPS II (causalgia). Traditional electrodiagnosis includes nerve conduction studies, late responses (F-Wave, H-reflex), and electromyographic assessment of muscles with needle electrode examination. As CRPS II occurs after partial injury to a nerve, the diagnosis of the initial nerve injury can be made by electrodiagnostic studies. However, the later development of sympathetically mediated symptomatology has no pathognomonic pattern of abnormality on EMG/NCS. When issues of diagnosis are in doubt, a referral or consultation with a physiatrist or neurologist trained in electrodiagnosis is appropriate.

b. **Laboratory Tests**: Laboratory tests are generally accepted, well-established, and widely used procedures. Patients should be carefully screened at the initial exam for signs or symptoms of diabetes, hypothyroidism, arthritis, and related inflammatory diseases. The presence of concurrent disease does not refute work-relatedness of any specific case. This frequently requires laboratory testing. When a patient's history and physical examination suggest infection, metabolic or endocrinologic disorders, tumorous conditions, systemic musculoskeletal disorders (e.g., rheumatoid arthritis or ankylosing spondylitis), or problems potentially related to medication (e.g., renal disease and NSAIDs), then laboratory tests, including, but not limited to the following can provide useful diagnostic information:

i. Thyroid stimulating hormone (TSH) for hypothyroidism;

ii. Diabetic screening: recommended for men and women with a BMI over 30, patients with a family history of diabetes, those from high risk ethnic groups, and patients with a previous history of impaired glucose tolerance. There is some evidence that diabetic patients with upper extremity disorders have sub-optimal control of their diabetes;

iii. Serum protein electrophoresis;

iv. Sedimentation rate and C-reactive protein (CRP) are nonspecific but elevated in infection, neoplastic conditions, and rheumatoid arthritis. Other screening tests to rule out inflammatory or autoimmune disease may be added when appropriate;

v. Serum calcium, phosphorus, uric acid, alkaline, and acid phosphatase for metabolic, endocrine and neo-plastic conditions;

vi. Complete blood count (CBC), liver, and kidney function profiles for metabolic or endocrine disorders or for adverse effects of various medications; and/or

vii. Bacteriological (microorganism) work-up for wound, blood, and tissue.

The Division recommends that the workers' compensation carrier cover initial lab diagnostic procedures to ensure that an accurate diagnosis and treatment plan is established. When an authorized treating provider has justification for the test, insurers should cover the costs. Laboratory testing may be required periodically to monitor patients on chronic medications.

c. **Peripheral Blood Flow (Laser Doppler or Xenon Clearance Techniques)**: This is currently being evaluated as a diagnostic procedure in CRPS I and is ***not recommended*** at this time.

11. **PERSONALITY/ PSYCHOLOGICAL/PSYCHOSOCIAL EVALUATIONS FOR PAIN MANAGEMENT:** are generally accepted, well-established, and widely used diagnostic procedures not only with selected use in acute pain problems but also with more widespread use in subacute and chronic pain populations. Diagnostic evaluations should distinguish between conditions that are pre-existing, aggravated by the current injury, or work related.

Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for more information on clinical evaluation, a list and description of psychological functioning tests, and evidence.

12. **SPECIAL TESTS:** are generally well-accepted tests and are performed as part of a skilled assessment of the patient's capacity to return to work, his/her strength capacities, and/or physical work demand classifications and tolerance.

Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for indications, evidence, and time frames for the following procedures: computer-enhanced evaluations, functional capacity evaluations, jobsite evaluations and alterations, vocational assessment, and work tolerance screening (fitness for duty).

H. THERAPEUTIC PROCEDURES – NON-OPERATIVE

Non-operative therapeutic rehabilitation is applied to patients with Complex Regional Pain Syndrome (CRPS) or Sympathetically Mediated Pain (SMP) who experience chronic and complex problems of de-conditioning and functional disability. Treatment modalities may be utilized sequentially or concomitantly depending on chronicity and complexity of the problem, and treatment plans should always be based on a diagnosis utilizing appropriate diagnostic procedures.

Before initiation of any therapeutic procedure, the authorized treating physician, employer, and insurer must consider these important issues in the care of the injured worker:

- Patients undergoing therapeutic procedure(s) should be released or returned to modified or restricted duty during their rehabilitation at the earliest appropriate time. Refer to Section H.14, Return-to-Work, for detailed information.

- Reassessment of the patient's status in terms of functional improvement should be documented after each treatment. If patients are not responding within the recommended time periods, alternative treatment interventions, further diagnostic studies, or consultations should be pursued. Continued treatment should be monitored using objective measures such as:

    - Return to work or maintaining work status;

    - Fewer restrictions at work or performing activities of daily living (ADLs);

    - Decrease in usage of medications related to the work injury; and

    - Measurable functional gains, such as increased range-of-motion or documented increase in strength.

- Clinicians should provide and document education to the patient. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms.

- Psychological or psychosocial screening should be performed on all chronic pain patients.

The following procedures are listed in alphabetical order:

1. ACUPUNCTURE

Acupuncture for the treatment of CRPS is thought to work by promoting relaxation and allowing chemicals and blood within the body to flow properly. Acupuncture may not be well tolerated by CRPS patients, but some have reported relief of pain that is immediate, but temporary, lasting only 1 or 2 hours. Acupuncture is recommended for subacute or chronic pain patients who are trying to increase function and/or decrease medication usage and have an expressed interest in this modality. It is also recommended for subacute or acute pain for patients who cannot tolerate NSAIDs or other medications, and it should generally be used in conjunction with manipulative and physical therapy/rehabilitation. Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for indications, evidence, and time frames.

2. BIOFEEDBACK

Biofeedback is a form of behavioral medicine that helps patients learn self-awareness and self-regulation skills for the purpose of gaining greater control of their physiology, such as muscle activity, brain waves, and measures of autonomic nervous system activity. Stress-related psycho-physiological reactions may arise as a reaction to organic pain and in some cases may cause pain. Electronic instrumentation is used to monitor the targeted physiology and then displayed or fed back to the patient visually, auditorily, or tactilely, with coaching by a biofeedback specialist.

Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for indications, evidence, and time frames.

3. COMPLEMENTARY MEDICINE

Complementary Medicine, termed Complementary Alternative Medicine (CAM) in some systems, is a term used to describe a broad range of treatment modalities, a number of which are generally accepted and supported by some scientific literature and others which still remain outside the generally accepted practice of conventional Western Medicine. In many of these approaches, there is attention given to the relationship between physical, emotional, and spiritual well-being. While CAM may be performed by a myriad of both licensed and non-licensed health practitioners with training in one or more forms of therapy, credentialed practitioners should be used when available or applicable.

All CAM treatments require prior authorization and must include agreed upon number of visits for time to produce functional effects.

Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for indications, evidence, and time frames.

4. DISTURBANCES OF SLEEP

Disturbances of sleep are common in chronic pain. An essential element of chronic pain treatment is restoration of normal sleep cycles. Although primary insomnia may accompany pain as an independent co-morbid condition, it more commonly occurs secondary to the pain condition itself. Exacerbations of pain often are accompanied by exacerbations of insomnia; the reverse can also occur. Sleep laboratory studies have shown disturbances of sleep architecture in pain patients. Loss of deep slow-wave sleep and an increase in light sleep occur. Sleep efficiency, the proportion of time in bed spent asleep, is also decreased. These changes are associated with patient reports of non-restorative sleep. Sleep apnea may also occur as a primary diagnosis or be caused or exacerbated by opioid and hypnotic use.

Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for more information on behavioral modifications to address sleep disturbances.

5. EDUCATION/INFORMED/SHARED DECISION MAKING

of the patient and family, as well as the employer, insurer, policy makers, and the community should be the primary emphasis to prevent disability. Unfortunately, practitioners often think of education and informed decision making last, after medications, manual therapy, and surgery.

Informed decision making is the hallmark of a successful treatment plan. In most cases, the continuum of treatment from the least invasive to the most invasive (e.g., surgery) should be discussed. The intention is to find the treatment along this continuum which most completely addresses the condition. Patients should identify their personal values and functional goals of treatment at the first visit. It is recommended that specific

individual goals are articulated at the beginning of treatment as this is likely to lead to increased patient satisfaction above that achieved from improvement in pain or other physical function. Progress toward the individual functional goals identified should be addressed at follow-up visits and throughout treatment by other members of the health care team as well as an authorized physician.

Documentation of the informed decision process should occur whenever diagnostic tests or referrals from an authorized treating physician are contemplated. The informed decision making process asks the patients to set their personal functional goals of treatment and describe their current health status and any concerns they have regarding adhering to the diagnostic or treatment plan proposed. The provider should clearly describe the following:

a. The expected functional outcomes from the proposed treatment or the expected results and plan of action if diagnostic tests are involved.

b. Expected course of illness/injury without the proposed intervention.

c. Any side effects and risks to the patient.

d. Required post-treatment rehabilitation time and impact on work, if any.

e. Alternative therapies or diagnostic testing.

Before diagnostic tests or referrals for invasive treatment take place, the patient should be able to clearly articulate the goals of the intervention, the general side effects and risks associated with it, and his/her decision regarding compliance with the suggested plan. There is some evidence that information provided only by video is not sufficient education.

Practitioners must develop and implement an effective strategy and skills to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with providing reassuring information to the patient and informed decision making. More in-depth education currently exists within a treatment regimen employing functional restoration, prevention, and cognitive behavioral techniques. Patient education and informed decision making should facilitate self-management of symptoms and prevention.

Evidence Statements Regarding Education / Informed Decision Making		
Some Evidence	Evidence Statement	Design
	Information provided only by video is not sufficient education.	Prospective randomized controlled trial

Time Frames for Education / Informed Decision Making	
Time to Produce Effect	Varies with individual patient
Frequency	Should occur at every visit.

6. **INJECTIONS – THERAPEUTIC:** When considering the use of injections in CRPS management, the treating physician must carefully consider the inherent risks and benefits. First, it is understood that these injections are seldom meant to be "curative" and when used for therapeutic purposes they are employed in conjunction with other treatment modalities for maximum benefit.

Second, education of the patient should include the proposed goals of the injections, expected gains, risks or complications, and alternative treatment.

Lastly, reassessment of the patient's status in terms of functional improvement should be documented after each injection and/or series of injections. Any continued use of injections should be monitored using objective measures such as:

- Return to work or maintaining work status.
- Fewer restrictions at work or when performing activities of daily living (ADLs).
- Decrease in usage of medications related to the work injury.
- Measurable functional gains, such as increased range-of-motion or documented increase in strength.

Visual analog scales (VAS) provide important subjective data but cannot be used to measure function.

The physician must be aware of the possible placebo effect as well as the long-term effects of injections related to the patient's physical and mental status. Strict adherence to contraindications, both absolute and relative, may prevent potential complications. Subjecting the patient to potential risks (i.e., needle trauma, infection, nerve injury, or systemic effects of local anesthetics and corticosteroids) must be considered before the patient consents to such procedures.

For post-MMI care, refer to Section J.4, Maintenance Management, Injection Therapy, in this guideline.

a. **Sympathetic Injections**:

Description: Sympathetic injections are generally accepted, well-established procedures. They include stellate ganglion blocks and lumbar sympathetic blocks. Unfortunately, there are no high quality randomized controlled trials in this area. It is recommended that all patients receiving therapeutic blocks participate in an appropriate exercise program that may include a functionally directed rehabilitation program. However, a recent Cochrane review did not find intravenous regional blockade with guanethidine effective in CRPS, and the procedure appears to be associated with the risk of significant adverse events.

Indications: greater than 50% pain relief and demonstrated functional improvement from previous diagnostic or therapeutic blocks. Range-of-motion or increased strength are examples of objective gains that can be documented for most CRPS patients.

Special Considerations: Except for Bier blocks, fluoroscopic and/or CT guidance during procedures is recommended to document technique and needle placement; an experienced physician should perform the procedure. The physician should participate in ongoing injection training workshops provided by

organizations such as the Spine Intervention Society (SIS), formerly known as the International Spine Intervention Society. Physicians should obtain fluoroscopy training and must also have the appropriate training in radiation safety, usually overseen by a radiation safety officer.

Complications: Complications may include transient neurapraxia, nerve injury, inadvertent spinal injection, infection, venous or arterial vertebral puncture, laryngeal paralysis, respiratory arrest, vasovagal effects, as well as permanent neurologic damage.

Contraindications: Absolute contraindications of therapeutic injections include: (a) bacterial infection – systemic or localized to region of injection, (b) bleeding diatheses, (c) hematological conditions, and (d) possible pregnancy.

Relative Contraindications: Relative contraindications of these injections may include: (a) allergy to contrast or shellfish, (b) poorly controlled diabetes mellitus and/or hypertension.

Drugs affecting coagulation, such as aspirin, NSAIDs, and other anti-platelets or anti-coagulants require restriction from use. Decisions regarding the number of restricted days should be made in consultation with the prescribing physician and other knowledgeable experts.

Treatment Parameters: To be effective as a treatment modality, the patient should be making measurable progress in their rehabilitation program and should be achieving an increasing or sustained duration of relief between blocks. If appropriate outcomes are not achieved, changes in treatment should be undertaken.

Time Frames for Sympathetic Injections	
Time to Produce Effect	1 to 2 blocks. Demonstrated greater than 50% pain relief and objective/functional gains as noted under treatment parameters.
Frequency	Variable, depending upon duration of pain relief and functional gains. During the first 2 weeks of treatment, blocks may be provided every 3 to 5 days, based on patient response meeting above criteria. The blocks must be combined with active therapy. After the first 2 weeks, blocks may be given weekly with tapering for a maximum of 7 -10.
Optimum Duration	10 over a period of 6 months with documentation of progressive functional gain verified by therapist or increased work capability after each injection.
Maximum Duration	If sympathetic and functional benefits are documented with the blocks, refer to Section J, Maintenance Management, for information on further blocks.

b. **Peripheral Nerve Blocks**: These are diagnostic injections that may be used for specific nerve injury or entrapment syndromes. Not all peripheral nerve blocks require fluoroscopy. On occasion they are used for treatment in chronic pain or CRPS. Repeat injection for treatment should be based on functional changes. These injections are usually limited to 3 injections per site per year.

c. **Other Intravenous Medications and Regional Blocks**: Only low quality evidence is available regarding the use of local anesthetic blockade for treating

complex regional pain syndrome. There is some evidence that there is little advantage of IV regional block with guanethidine over saline blocks with respect to the resolution of tenderness in the affected hand, but the resolution of vasomotor instability may be delayed by guanethidine. It is possible that it assists with rehabilitative therapy.

In addition, regional blocks given by the Bier block method have the potential of aggravating CRPS due to the constriction of the extremity required for the procedure. Another inadequately powered study found no advantage from Bier blocks of lidocaine and methylprednisolone.

It is unlikely that either type of block provides a significant clinical advantage to the patient; therefore, they are ***not recommended***. Intravenous blocks with guanethidine, ketanserin, bertyllium phentolamin, reserpine, droperidol and atropine are also ***not recommended*** due to lack of effect in small studies.

In rare cases where repeat sympathetic blocks are contraindicated or ineffective, Bier blocks (usually alpha sympathetic blocking agent with lidocaine) may be useful when the patient has peripheral findings (CRPS II) and demonstrates functional gains. The number of blocks should not exceed those done for sympathetic blocks and active therapy must be done at the same time.

Evidence Statements Regarding Other Intravenous Medications and Regional Blocks		
Some Evidence	Evidence Statement	Design
	There is little advantage of IV regional block with guanethidine over saline blocks with respect to the resolution of tenderness in the affected hand, but the resolution of vasomotor instability may be delayed by guanethidine.	Randomized clinical trial

d. **Continuous Brachial Plexus Infusions**: are ***not recommended*** due to possible complications of bleeding, infection, pneumothoracic, phrenic nerve paralysis, lack of literature documenting effectiveness and cost.

e. **Epidural Infusions**: These are ***not recommended***. Literature on epidural clonidine treatment is not adequate to support their long term benefit. There is some evidence of a high rate of infection (33%), which can include meningitis.

Evidence Statements Regarding Epidural Infusions		
Some Evidence	Evidence Statement	Design
	There is high rate of infection (33%), which can include meningitis.	Crossover randomized clinical trial

f. **Ketamine:** is referenced in this guideline in Section G, Therapeutic Procedures, Non-Operative, CRPS-Specific Medications.

7. INTERDISCIPLINARY REHABILITATION PROGRAMS

a. Overview:

Interdisciplinary Rehabilitation Programs are the gold standard of treatment for individuals who have not responded to less intensive modes of treatment. There is good evidence that interdisciplinary programs that include screening for psychological issues, identification of fear-avoidance beliefs and treatment barriers, and establishment of individual functional and work goals will improve function and decrease disability. There is good evidence that multidisciplinary rehabilitation (physical therapy and either psychological, social, or occupational therapy) shows small effects in reducing pain and improving disability compared to usual care and that multidisciplinary biopsychosocial rehabilitation is more effective than physical treatment for disability improvement after 12 months of treatment in patients with chronic low back pain. Patients with a significant psychosocial impact are most likely to benefit. The Agency for Healthcare Research and Quality (AHRQ) supports multidisciplinary rehabilitation as effective for chronic low back pain. These programs should assess the impact of pain and suffering on the patient's medical, physical, psychological, social, and/or vocational functioning.

The International Classification of Functioning, Disability and Health (ICF) model should be considered in patient program planning. The following factors should be addressed: body function and structures, activity expectations, participation barriers, and environmental and personal factors. In general, interdisciplinary programs evaluate and treat multiple and sometimes irreversible conditions, including but not limited to: painful musculoskeletal, neurological, and other chronic pain conditions and psychological issues; drug dependence, abuse, or addiction; high levels of stress and anxiety; failed surgery; and pre-existing or latent psychopathology. The number of professions involved on the team in a chronic pain program may vary due to the complexity of the needs of the person served. The Division recommends consideration of referral to an interdisciplinary program within 6 months post-injury in patients with delayed recovery, unless successful surgical interventions or other medical and/or psychological treatment complications intervene.

Chronic pain patients need to be treated as outpatients within a continuum of treatment intensity. Outpatient chronic pain programs are available with services provided by a coordinated interdisciplinary team within the same facility (formal) or as coordinated among practices by an authorized treating physician (informal). Formal programs are able to provide a coordinated, high-intensity level of services and are recommended for most chronic pain patients who have received multiple therapies during acute management.

Patients with addiction problems, high-dose opioid use, or abuse of other drugs may require inpatient and/or outpatient chemical dependency treatment programs before or in conjunction with other interdisciplinary rehabilitation. Guidelines from the American Society of Addiction Medicine are available and may be consulted relating to the intensity of services required for different classes of patients in order to achieve successful treatment.

There is some evidence that a telephone-delivered collaborative care management intervention for primary care veteran patients produced clinically meaningful improvements in pain at 12-month follow-up compared with usual care by increasing non-opioid analgesic medications and without changing opioid usage for the management of chronic musculoskeletal pain. The management

was directed by nurse case managers. Because the control group was usual care rather than an attention control, the non-specific effects of attention received in the intervention group could have contributed to the effectiveness of the intervention. If an attention control had been used as the control group, the effect size observed for improvement in pain in the intervention group may have been smaller. It is unknown how successful this would be with injured workers.

Informal interdisciplinary pain programs may be considered for patients who are currently employed, those who cannot attend all-day programs, those with language barriers, or those living in areas not offering formal programs. Before treatment has been initiated, the patient, physician, and insurer should agree on treatment approach, methods, and goals. Generally, the type of outpatient program needed will depend on the degree of impact the pain has had on the patient's medical, physical, psychological, social, and/or vocational functioning.

When referring a patient for formal outpatient interdisciplinary pain rehabilitation, an occupational rehabilitation program, or an opioid treatment program, the Division recommends the program meets the criteria of the Commission on Accreditation of Rehabilitation Facilities (CARF).

Inpatient pain rehabilitation programs are rarely needed but may be necessary for patients with any of the following conditions: (a) high risk for medical instability, (b) moderate-to-severe impairment of physical/functional status, (c) moderate-to-severe pain behaviors, (d) moderate impairment of cognitive and/or emotional status, (e) dependence on medications from which he/she needs to be withdrawn, and (f) the need for 24-hour supervised nursing. Whether formal or informal programs, they should be comprised of the following dimensions:

- Communication: To ensure positive functional outcomes, communication between the patient, insurer, and all professionals involved must be coordinated and consistent. Any exchange of information must be provided to all parties, including the patient. Care decisions should be communicated to all parties and should include the family and/or support system.

- Documentation: Thorough documentation by all professionals involved and/or discussions with the patient. It should be clear that functional goals are being actively pursued and measured on a regular basis to determine their achievement or need for modification. It is advisable to have the patient undergo objective functional measures.

- Risk assessments: The following should be incorporated into the overall assessment process, individual program planning, and discharge planning: aberrant medication related behavior, addiction, suicide, and other maladaptive behavior.

- Treatment Modalities: Use of modalities may be necessary early in the process to facilitate compliance with and tolerance to therapeutic exercise, physical conditioning, and increasing functional activities. Active treatments should be emphasized over passive treatments. Active and self-monitored passive treatments should encourage self-coping skills and management of pain, which can be continued independently at home or at work. Treatments that can foster a sense of dependency by the patient on the caregiver should be avoided. Treatment length should be decided based upon observed functional improvement. For a

complete list of active and passive therapies, refer to Section H.15, Therapy – Active, and Section H.16, Therapy – Passive. All treatment time frames may be extended based on the patient's positive functional improvement.

- Therapeutic Exercise Programs: A therapeutic exercise program should be initiated at the start of any treatment rehabilitation. Such programs should emphasize education, independence, and the importance of an on-going exercise regimen. There is good evidence that exercise alone or as part of a multi-disciplinary program results in decreased disability for workers with non-acute low back pain. There is not sufficient evidence to support the recommendation of any particular exercise regimen over another exercise regimen.

- Return-to-Work: An authorized treating physician should continually evaluate the patients for their potential to return to work. For patients who are currently employed, efforts should be aimed at keeping them employed. Formal rehabilitation programs should provide assistance in creating work profiles. For more specific information regarding return to work, refer to Section H.14, Return-to-Work.

- Patient Education: Patients with pain need to re-establish a healthy balance in lifestyle. All providers should educate patients on how to overcome barriers to resuming daily activity, including pain management, decreased energy levels, financial constraints, decreased physical ability, and change in family dynamics.

- Psychosocial Evaluation and Treatment: Psychosocial evaluation should be initiated, if not previously done. Providers should have a thorough understanding of the patient's personality profile, especially if dependency issues are involved. Psychosocial treatment may enhance the patient's ability to participate in pain treatment rehabilitation, manage stress, and increase their problem-solving and self-management skills.

- Family/Support System Services as appropriate: The following should be considered in the initial assessment and program planning for the individual: ability and willingness to participate in the plan, coping, expectations, educational needs, insight, interpersonal dynamics, learning style, problem solving, responsibilities, and cultural and financial factors. Support would include counseling, education, assistive technology, and ongoing communication.

- Vocational Assistance: Vocational assistance can define future employment opportunities or assist patients in obtaining future employment. Refer to Section H.14, Return-to-Work, for detailed information.

- Discharge Planning: Follow-up visits will be necessary to assure adherence to treatment plan. Programs should have community and/or patient support networks available to patients on discharge.

- Interdisciplinary Teams: Interdisciplinary programs are characterized by a variety of disciplines that participate in the assessment, planning, and/or implementation of the treatment program. These programs are for patients with greater levels of perceived disability, dysfunction, de-

conditioning, and psychological involvement. Programs should have sufficient personnel to work with the individual in the following areas: behavioral, functional, medical, cognitive, communication, pain management, physical, psychological, social, spiritual, recreation and leisure, and vocational. Services should address impairments, activity limitations, participation restrictions, environmental needs, and personal preferences of the worker.

b. Formal Interdisciplinary Rehabilitation Programs:

i. Interdisciplinary Pain Rehabilitation: An Interdisciplinary Pain Rehabilitation Program provides outcome-focused, coordinated, goal-oriented interdisciplinary team services to measure and improve the functioning of persons with pain and encourage their appropriate use of health care system and services. The program can benefit persons who have limitations that interfere with their physical, psychological, social, and/or vocational functioning. The program shares information about the scope of the services and the outcomes achieved with patients, authorized providers, and insurers.

The interdisciplinary team maintains consistent integration and communication to ensure that all interdisciplinary team members are aware of the plan of care for the patient, are exchanging information, and are implementing the plan of care. The team members make interdisciplinary team decisions with the patient and then ensure that decisions are communicated to the entire care team.

Teams that assist in the accomplishment of functional, physical, psychological, social, and vocational goals must include: a medical director, pain team physician(s) who should preferably be board certified in an appropriate specialty, and a pain team psychologist. The Medical Director of the pain program and each pain team physician should be board certified in pain management or be board certified in his/her specialty area and have one of the following: 1) completed a one-year fellowship in interdisciplinary pain medicine or palliative care recognized by a national board, 2) two years of experience in an interdisciplinary pain rehabilitation program, or 3) if less than 2 years of experience, participate in a mentorship program with an experienced pain team physician. The pain team psychologist should have 1) one year's full-time experience in an interdisciplinary pain program, or 2) if less than 2 years of experience, participate in a mentorship program with an experienced pain team psychologist. Professionals from other disciplines on the team may include but are not limited to: a biofeedback therapist, an occupational therapist, a physical therapist, a registered nurse (RN), a case manager, an exercise physiologist, a psychologist, a psychiatrist, and/or a nutritionist. A recent French interdisciplinary functional spine restoration program demonstrated increased return to work at 12 months.

Time Frames for Interdisciplinary Pain Rehabilitation	
Time to Produce Effect	3 to 4 weeks.
Frequency	Full time programs – No less than 5 hours per day, 5 days per week; part-time programs – 4 hours per day, 2–3 days per week.
Optimum Duration	3 to 12 weeks at least 2–3 times a week. Follow-up visits weekly or every other week during the first 1 to 2 months after the initial program is completed.
Maximum Duration	4 months for full-time programs and up to 6 months for part-time programs. Periodic review and monitoring thereafter for 1 year, and additional follow-up based on the documented maintenance of functional gains.

ii. Occupational Rehabilitation: This is a formal interdisciplinary program addressing a patient's employability and return to work. It includes a progressive increase in the number of hours per day in which a patient completes work simulation tasks until the patient can tolerate a full work day. A full work day is case specific and is defined by the previous employment of the patient. Safe workplace practices and education of the employer and family and/or social support system regarding the person's status should be included. This is accomplished by addressing the medical, psychological, behavioral, physical, functional, and vocational components of employability and return to work.

The following are best practice recommendations for an occupational rehabilitation program:

A) Work assessments including a work-site evaluation when possible (Refer to Section H.14, Return-To-Work).

B) Practice of component tasks with modifications as needed.

C) Development of strength and endurance for work tasks.

D) Education on safe work practices.

E) Education of the employer regarding functional implications of the worker when possible.

F) Involvement of family members and/or support system for the worker.

G) Promotion of responsibility and self-management.

H) Assessment of the worker in relationship to productivity, safety, and worker behaviors.

I) Identification of transferable skills of the worker.

J) Development of behaviors to improve the ability of the worker to return to work or benefit from other rehabilitation.

K) Discharge includes functional/work status, functional abilities as related to available jobs in the community, and a progressive plan for return to work if needed.

There is some evidence that an integrated care program, consisting of workplace interventions and graded activity teaching that pain need not limit activity, is effective in returning patients with chronic low back pain to work, even with minimal reported reduction of pain. The occupational medicine rehabilitation interdisciplinary team should, at a minimum, be comprised of a qualified medical director who is board certified with documented training in occupational rehabilitation, team physicians having experience in occupational rehabilitation, an occupational therapist, and a physical therapist. As appropriate, the team may also include any of the following: a chiropractor, an RN, a case manager, a psychologist, a vocational specialist, or a certified biofeedback therapist.

Time Frames for Occupational Rehabilitation	
Time to Produce Effect	2 weeks.
Frequency	2 to 5 visits per week, up to 8 hours per day.
Optimum Duration	2 to 4 weeks.
Maximum Duration	6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic and functional gains.

iii. Opioid/Chemical Treatment Programs: Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline. Recent programs which incorporate both weaning from opioids and interdisciplinary therapy appear to demonstrate positive long-term results.

c. Informal Interdisciplinary Rehabilitation Program:

A coordinated interdisciplinary pain rehabilitation program is one in which an authorized treating physician coordinates all aspects of care. This type of program is similar to the formal programs in that it is goal-oriented and provides interdisciplinary rehabilitation services to manage the needs of the patient in the following areas: (a) functional, (b) medical, (c) physical, (d) psychological, (e) social, and (f) vocational.

This program is different from a formal program in that it involves lower frequency and intensity of services/treatment. Informal rehabilitation is geared toward those patients who do not need the intensity of service offered in a formal program or who cannot attend an all-day program due to employment, daycare, language, or other barriers.

Patients should be referred to professionals experienced in outpatient treatment of chronic pain. The Division recommends an authorized treating physician consult with physicians experienced in the treatment of chronic pain to develop the plan of care. Communication among care providers regarding clear objective goals and progress toward the goals is essential. Employers should be involved in return to work and work restrictions, and the family and/or social support system should be included in the treatment plan. Professionals from other disciplines likely to be involved include: a biofeedback therapist, an occupational therapist, a physical therapist, an RN, a psychologist, a case manager, an exercise physiologist, a psychiatrist, and/or a nutritionist.

Time Frames for Informal Interdisciplinary Rehabilitation Program	
Time to Produce Effect	3 to 4 weeks.
Frequency	Full-time programs – No less than 5 hours per day, 5 days per week; Part-time programs – 4 hours per day for 2–3 days per week.
Optimum Duration	3 to 12 weeks at least 2–3 times a week. Follow-up visits weekly or every other week during the first 1 to 2 months after the initial program is completed.
Maximum Duration	4 months for full-time programs and up to 6 months for part-time programs. Periodic review and monitoring thereafter for 1 year, and additional follow-up based upon the documented maintenance of functional gains.

Evidence Statements Regarding Interdisciplinary Rehabilitation Programs		
Good Evidence	Evidence Statement	Design
	Interdisciplinary programs that include screening for psychological issues, identification of fear-avoidance beliefs and treatment barriers, and establishment of individual functional and work goals will improve function and decrease disability.	Cluster randomized trial, Randomized clinical trial
	Multidisciplinary rehabilitation (physical therapy and either psychological, social, or occupational therapy) shows small effects in reducing pain and improving disability compared to usual care, and multidisciplinary biopsychosocial rehabilitation is more effective than physical treatment for disability improvement after 12 months of treatment in patients with chronic low back pain. Patients with a significant psychosocial impact are most likely to benefit.	Meta-analyses of randomized clinical trials
	Exercise alone or as part of a multi-disciplinary program results in decreased disability for workers with non-acute low back pain.	Meta-analysis of randomized clinical trials

Evidence Statements Regarding Interdisciplinary Rehabilitation Programs		
Some Evidence	Evidence Statement	Design
	Telephone-delivered collaborative care management intervention for primary care veteran patients produced clinically meaningful improvements in pain at 12-month follow-up compared with usual care by increasing non-opioid analgesic medications and without changing opioid usage for the management of chronic musculoskeletal pain. The management was directed by nurse case managers. Because the control group was usual care rather than an attention control, the non-specific effects of attention received in the intervention group could have contributed to the effectiveness of the intervention. If an attention control had been used as the control group, the effect size observed for improvement in pain in the intervention group may have been smaller. It is unknown how successful this would be with injured workers.	Single-blind randomized clinical trial
	An integrated care program, consisting of workplace interventions and graded activity teaching that pain need not limit activity, is effective in returning patients with chronic low back pain to work, even with minimal reported reduction of pain.	Randomized clinical trial

8. MEDICATIONS AND MEDICAL MANAGEMENT

a. General Chronic Pain Medication Management:

There is no single formula for pharmacological treatment of patients with chronic nonmalignant pain. A thorough medication history, including use of alternative and over-the-counter medications, should be performed at the time of the initial visit and updated periodically. The medication history may consist of evaluating patient refill records through pharmacies and the Physician Drug Monitoring Program (PDMP) to determine if the patient is receiving their prescribed regimen. Appropriate application of pharmacological agents depends on the patient's age, past history (including history of substance abuse), drug allergies, and the nature of all medical problems. It is incumbent upon the healthcare provider to thoroughly understand pharmacological principles when dealing with the different drug families, their respective side effects, drug interactions**,** and primary reason for each medication's usage. Patients should be aware that medications alone are unlikely to provide complete pain relief. In addition to pain relief, a primary goal of drug treatment is to improve the patient's function as measured behaviorally. Besides taking medications, continuing participation in exercise programs and using self-management techniques such as biofeedback, cognitive behavioral therapy, and other individualized physical and psychological practices are required elements for successful chronic pain management. Management must begin with establishing goals and expectations, including shared decision making about risks and benefits of medications.

Medication reconciliation is the process of comparing the medications that the patient is currently taking with those for which the patient has orders. This needs

to include drug name, dosage, frequency, and route. The reconciliation can assist in avoiding medications errors such as omissions, duplications, dosing errors, or drug interactions. The results can also be used to assist discussion with the patient regarding prescribing or changing medications and the likelihood of side effects, drug interactions, and achieving expected goals. At a minimum, medication reconciliation should be performed for all patients upon the initial visit and whenever refilling or prescribing new medications.

Control of chronic non-malignant pain is expected to frequently involve the use of medication. Strategies for pharmacological control of pain cannot be precisely specified in advance. Rather, drug treatment requires close monitoring of the patient's response to therapy, flexibility on the part of the prescriber, and a willingness to change treatment when circumstances change. Many of the drugs discussed in the medication section were originally licensed for indications other than analgesia but are effective in the control of some types of chronic pain.

It is generally wise to begin management with lower cost non-opioid medications whose efficacy equals higher cost medications and medications with a greater safety profile. Decisions to progress to more expensive, non-generic, and/or riskier products are made based on the drug profile, patient feedback, and improvement in function. The provider must carefully balance the untoward side effects of the different drugs with therapeutic benefits, as well as monitor for any drug interactions.

All medications should be given an appropriate trial in order to test for therapeutic effect. The length of an appropriate trial varies widely depending on the individual drug. Certain medications may take several months to determine the efficacy, while others require only a few doses. It is recommended that patients with chronic nonmalignant pain be maintained on drugs that have the least serious side effects. For example, patients need to be tried or continued on acetaminophen and/or low dose generic antidepressant medications whenever feasible, as part of their overall treatment for chronic pain. Patients with renal or hepatic disease may need increased dosing intervals with chronic acetaminophen use. Chronic use of NSAIDs is generally ***not recommended*** due to increased risk of cardiovascular events and GI bleeding.

Opioid analgesics and other drugs of potential abuse such as sedative hypnotics or benzodiazepines may be used in properly selected cases for CRPS patients, with total elimination desirable whenever clinically feasible. It is strongly recommended that such pharmacological management be monitored or managed by an experienced pain medicine physician. Multimodal therapy is the preferred mode of treatment for chronic pain patients whether or not these drugs were used acutely or sub-acutely.

Pharmaceutical neuropathic pain studies are limited. Diabetic peripheral neuropathy (DPN) and post-herpetic neuralgia (PHN) are the two most frequently studied noncancer neuropathic pain conditions in randomized clinical trials of drug treatment. Some studies enroll only DPN or PHN patients, while other studies may enroll both kinds of patients. There appear to be consistent differences between DPN and PHN with respect to placebo responses, with DPN showing greater placebo response than PHC. Thus, there is an increased likelihood of a "positive" trial result for clinical trials of drug treatment for PHN than for DPN.

Although many studies focus on mean change in pain, this may not be the most reliable result. It does not necessarily allow for subgroups that may have

improved significantly. Furthermore, the DPN and PHN studies do not represent the type of neurologic pain usually seen in workers' compensation.

For these reasons, few pharmaceutical agents listed in this Guideline are supported by high levels of evidence, but the paucity of evidence statements should not be construed as meaning that medication is not to be encouraged in managing chronic pain patients.

General Order for Trial of Neuropathic Pain Medications

Treating physician are encouraged to follow this sequence taking into consideration the patient's individual tolerance for types of medications, their side effects, and their other medical conditions will guide pharmaceutical choices.

1. Tricyclic anti-depressants.
2. Gabapentin or pregabalin and/or serotonin norepinephrine reuptake inhibitors.
3. Other anticonvulsants as listed.
4. Opioids low dose including, tramadol, tapentadol.

It is advisable to begin with the lowest effective dose proven to be useful for neuropathic pain in the literature. If the patient is tolerating the medication and clinical benefit is appreciated, maximize the dose for that medication or add another second line medication with another mechanism of action. If a medication is not effective, taper off the medication and start another agent. Maintain goal dosing for up to 8 weeks before determining its effectiveness. Many patients will utilize several medications from different classes to achieve maximum benefit.

It is also useful to remember that there is some evidence that in the setting of uncomplicated low back pain lasting longer than 3 months, patients who were willing to participate in a trial of capsules clearly labelled as placebo experienced short-term reductions in pain and disability after the principles of the placebo effect had been explained to them.

The preceding principles do not apply to chronic headache or trigeminal neuralgia patients. These patients should be referred to a physician specializing in the diagnosis and treatment of headache and facial pain (refer to the Division's Traumatic Brain Injury Medical Treatment Guideline).

For the clinician to interpret the following material, it should be noted that: (1) drug profiles listed are not complete; (2) dosing of drugs will depend upon the specific drug, especially for off-label use; and (3) not all drugs within each class are listed, and other drugs within the class may be appropriate for individual cases. Clinicians should refer to informational texts or consult a pharmacist before prescribing unfamiliar medications or when there is a concern for drug interactions.

Evidence Statements Regarding Medication Management		
Some Evidence	Evidence Statement	Design
	In the setting of uncomplicated low back pain lasting longer than 3 months, patients who were willing to participate in a trial of capsules clearly labelled as placebo experienced short-term reductions in pain and disability after the principles of the placebo effect had been explained to them.	Randomized clinical trial

b. **CRPS Specific Medication Management**:

For CRPS management, a burst of oral steroids is usually prescribed initially followed by tricyclics. Bisphosphonates are used when osteotrophic changes are present. Neuropathic pain can be treated with a variety of medications; however, all have specific side effects and other interactions that clinicians must be mindful of. It is suggested that patients with significant peripheral neuropathic pain be trialed with a tricyclic medication initially, as low dose medication in this category frequently is tolerated and performs sufficiently to decrease pain 30 to 50%. When these fail, side effects are not tolerated, or a patient has medical issues precluding the use of this class of drugs, other appropriate medications can be tried. Second-line drugs include the anti-convulsants gabapentin (Fanatrex, Gabarone, Gralise, Horizant, Neurontin) and pregabalin (Lyrica). Comparison studies of amitriptyline (Elavil, Endep, Vanatrip) and gabapentin or carbamazepine (Carbatrol, Epitol, Equetro, Tegretol) have shown no appreciable difference between the drugs; thus, there is good evidence that there is little clinical outcome difference between the medications, although gabapentin may be better tolerated. Third line drugs are the SNRIs, which have demonstrated some effectiveness for treating neuropathic pain, and topical lidocaine. The SNRI duloxetine (Cymbalta) has not been shown to be superior to the tricyclic amitriptyline, and there is no reason to prefer duloxetine in patients who have not been treated with a tricyclic. However, it may be preferable when the patient requires concomitant treatment of CRPS and depression as tricyclics are not well tolerated at doses therapeutic for depression. Fourth line drugs are opioids and tramadol (Rybix, Ryzolt, Ultram). Other medications have few clinical trials to support them but may be helpful in some patients.

For the clinician to interpret the following material, it should be noted that: (1) drug profiles listed are not complete; (2) dosing of drugs will depend upon the specific drug, especially for off-label use; and (3) not all drugs within each class are listed, and other drugs within the class may be appropriate for individual cases. Clinicians should refer to informational texts or consult a pharmacist before prescribing unfamiliar medications or when there is a concern for drug interactions.

Evidence Statements Regarding CRPS Specific Medication Management		
Good Evidence	Evidence Statement	Design
	There is little clinical outcome difference between amitriptyline (Elavil, Endep, Vanatrip) and gabapentin or carbamazepine (Carbatrol, Epitol, Equetro, Tegretol), although gabapentin may be better tolerated.	Randomized crossover trial, Randomized clinical trial, Meta-analysis of randomized trials

The following drug classes are outlined for CRPS specific neuropathic pain:

c. CRPS-Specific Medications:

i. Oral Steroids:

Inflammation is thought to be one of the first physiological changes in CRPS; therefore, strong anti-inflammatories should provide some relief especially if provided early. There is good evidence to support oral steroid use early in the course of CRPS. The strongest study was performed on patients with CRPS of the shoulder and hand following a stroke. Forty milligrams of prednisone (Deltasone, Liquid Pred, Medicorten, Orasone, Prednicen-M, Prednicot, Sterapred, Sterapred DS) were given for 14 days and then tapered by 10 mg per week while physical therapy was provided.

This early treatment may be trialed on patients who meet the clinical diagnostic criteria for CRPS and do not have contraindications to steroid use. Side effects in some patients include mood changes, fluid retention, hyperglycemia, gastric irritation and ulcers, aseptic necrosis, and others.

ii. Bisphosphonates: are potent inhibitors of bone resorption. There is good evidence that their use effectively decreases pain and some evidence it increases joint motion in patients with CRPS. One study used alendronate (Fosamax) 40 mg orally for 8 weeks and another used IV clodronate 300 mg daily for 10 days. Several other studies that did not meet evidence criteria used different medications and dosages. It should not be used in those with severe renal dysfunction. Osteonecrosis of the jaw has been reported and there may be an association with atypical subtrochanter femoral fractures especially with long term use. The FDA recently approved Neridronate for use in the CRPS population. It may be used for qualified patients.

iii. Vitamin C: There is some evidence that Vitamin C 500mg to 2 grams taken for 50 days after a wrist fracture may help to prevent CRPS. It may be useful to prescribe Vitamin C to patients who historically have had or currently have CRPS if they suffer a fracture in order to prevent exacerbation of CRPS.

iv. Ketamine Hydrochloride:

Description: An N-methyl-D-aspartate (NMDA) receptor antagonist. Proponents of using NMDA receptor antagonists in CRPS suspect that prolonged and high intensity pain induces the NMDA receptors which trigger inflammation and central sensitization of pain leading to abnormal pain manifestations such as allodynia and hyperalgesia.

Indications: As of the time of this guideline writing, formulations of ketamine hydrochloride have been FDA approved for injection as the sole anesthetic agent for diagnostic and surgical procedures that do not require skeletal muscle relaxation. There is some evidence that in CRPS I patients, low dose daily infusions of ketamine can provide pain relief compared to placebo. The relief, however, faded within a few weeks. Studies have not shown any functional improvements in patients with CRPS treated with ketamine infusions. Because their potential harm, as described below, outweighs evidence of limited short-term benefit in patients with CRPS, NMDA receptor antagonists are not recommended. Less harmful therapies with longer term effects are available.

Contraindications: can cause significant elevations in blood pressure.

Side Effects: known to cause emergence reactions in anesthetic doses in 12% of patients. These reactions range from pleasant dream-like states to delirium accompanied by irrational behavior. Repeated prolonged injections have resulted in drug-induced liver damage that resolved when treatment was stopped. Respiratory depression, apnea, and laryngospasm have occurred in anesthetic doses. Patients treated for CRPS with ketamine infusions up to 18% have had hallucinations. Ketamine is also an abused drug.

Drug interactions: When given with barbiturates or opioids, patients may have a prolonged recovery time.

Due to the potential harm and limited short-term benefit in patients with CRPS, NMDA receptor antagonists are not recommended since less harmful therapies are available.

v. Calcitonin: has been described in two low quality studies and was not shown to benefit CRPS patients. It was thought to provide analgesic properties through release of b-endorphin and the inhibition of bone resorption. It is not approved by the FDA for use with CRPS. Some patients have GI side effects and hyperglycemia has been reported. Rare cases of neurological side effects have been reported. It is not recommended.

Evidence Statements Regarding CRPS-Specific Medications: Oral Steroids		
Good Evidence	Evidence Statement	Design
	There is good evidence to support oral steroid use early in the course of CRPS.	Randomized clinical trials

Evidence Statements Regarding CRPS-Specific Medications: Bisphosphonates		
Good Evidence	Evidence Statement	Design
	Use of bisphosphonates effectively decreases pain.	Randomized clinical trial
Some Evidence	Evidence Statement	Design
	Use of bisphosphonates increases joint motion in patients with CRPS.	Randomized clinical trial

Evidence Statements Regarding CRPS-Specific Medications: Vitamin C		
Some Evidence	Evidence Statement	Design
	Vitamin C 500mg to 2 grams taken for 50 days after a wrist fracture may help to prevent CRPS.	Randomized clinical trial

Evidence Statements Regarding CRPS-Specific Medications: Ketamine Hydrochloride		
Some Evidence	Evidence Statement	Design
	In CRPS I patients, low dose daily infusions of ketamine can provide pain relief compared to placebo. The relief, however, faded within a few weeks.	Randomized clinical trial

Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for a list of drug classes to address neuropathic pain, including evidence and time frames for alpha-acting agents, anticonvulsants, antidepressants, cannabinoid products, hypnotics and sedatives, NSAIDs, post-operative pain management, skeletal muscle relaxants, smoking cessation medications and treatment, topical drug delivery, and other agents.

d. **Opioids**: Opioids are the most powerful analgesics. Their use in acute pain and moderate-to-severe cancer pain is well accepted. Their use in chronic nonmalignant pain, however, is fraught with controversy and lack of scientific research. Deaths in the United States from opioids have escalated in the last 15 years. The CDC states the following in their 2016 guideline for prescribing opioids: Opioid pain medication use presents serious risk, including overdose and opioid use disorder. From 1999 to 2014, more than 165,000 persons died from overdose related to opioid pain medication in the United States. In the past decade, while the death rates for the top leading causes of death such as heart disease and cancer have decreased substantially, the death rate associated with opioid pain medication has increased markedly. Sales of opioid pain medication have increased in parallel with opioid-related overdose deaths. The Drug Abuse Warning Network estimated that >420,000 emergency department visits were related to the misuse or abuse of narcotic pain relievers in 2011, the most recent year for which data are available.

Effectiveness and Side Effects: Opioids include some of the oldest and most

effective drugs used in the control of severe pain. The discovery of opioid receptors and their endogenous peptide ligands has led to an understanding of effects at the binding sites of these naturally occurring substances. Most of their analgesic effects have been attributed to their modification of activity in pain pathways within the central nervous system; however, it has become evident that they also are active in the peripheral nervous system. Activation of receptors on the peripheral terminals of primary afferent nerves can mediate anti-nociceptive effects, including inhibition of neuronal excitability and release of inflammatory peptides. Some of their undesirable effects on inhibiting GI motility are peripherally mediated by receptors in the bowel wall.

Most studies show that only around 50% of patients tolerate opioid side effects and receive an acceptable level of pain relief. Depending on the diagnosis and other agents available for treatment, the incremental benefit can be small.

There is strong evidence that in the setting of chronic nonspecific low back pain, the short and intermediate term reduction in pain intensity of opioids, compared with placebo, falls short of a clinically important level of effectiveness. There is an absence of evidence that opioids have any beneficial effects on function or reduction of disability in the setting of chronic nonspecific low back pain. AHRQ found that opioids are effective for treating chronic low back pain. However, the report noted no evidence regarding the long-term effectiveness or safety for chronic opioids.

There is good evidence that opioids are more efficient than placebo in reducing neuropathic pain by clinically significant amounts. There is a lack of evidence that opioids improve function and quality of life more effectively than placebo. There is good evidence that opioids produce significantly more adverse effects than placebo such as constipation, drowsiness, dizziness, nausea, and vomiting. There is a lack of evidence that they are superior to gabapentin or nortriptyline for neuropathic pain reduction.

Patients should have a thorough understanding of the need to pursue many other pain management techniques in addition to medication use in order to function with chronic pain. They should also be thoroughly aware of the side effects and how to manage them. There is strong evidence that adverse events such as constipation, dizziness, and drowsiness are more frequent with opioids than with placebo. Common side effects are drowsiness, constipation, nausea, and possible testosterone decrease with longer term use.

There is some evidence that in the setting of chronic low back pain with disc pathology, a high degree of anxiety or depressive symptomatology is associated with relatively less pain relief in spite of higher opioid dosage than when these symptoms are absent. A study comparing Arkansas Medicaid and a national commercial insurance population found that the top 5% of opioid users accounted for 48-70% of total opioid use. Utilization was increased among those with mental health and substance use disorders and those with multiple pain conditions. Psychological issues should always be screened for and treated in chronic pain patients. Therefore, for the majority of chronic pain patients, chronic opioids are unlikely to provide meaningful increase in function in daily activities. However, a subpopulation of patients may benefit from chronic opioids when properly prescribed and all requirements from medical management are followed.

Hyperalgesia: Administration of opioid analgesics leads not only to analgesia, but may also lead to a paradoxical sensitization to noxious stimuli. Opioid induced hyperalgesia has been demonstrated in animals and humans using electrical or

mechanical pain stimuli. This increased sensitivity to mildly painful stimuli does not occur in all patients and appears to be less likely in those with cancer, clear inflammatory pathology, or clear neuropathic pain. When hyperalgesia is suspected, opioid tapering is appropriate.

Opioid Induced Constipation (OIC): Some level of constipation is likely ubiquitous among chronic opioid users. An observational study of chronic opioid users who also used some type of laxative at least 4 times per week noted that approximately 50% of the patients were dissatisfied and they continue to report stool symptoms. 71% used a combination of natural and dietary treatment, 64.3% used over-the-counter laxatives, and 30% used prescription laxatives. Other studies report similar percentages. There are insufficient quality studies to recommend one specific type of laxative over others.

The easiest method for identifying constipation, which is also recommended by a consensus, multidisciplinary group, is the Bowel Function Index. It assesses the patient's impression over the last 7 days for ease of defecation, feeling of incomplete bowel evacuation, and personal judgment re-constipation.

Stepwise treatment for OIC is recommended, and all patients on chronic opioids should receive information on treatment for constipation. Dietary changes increasing soluble fibers are less likely to decrease OIC and may cause further problems if GI motility is decreased. Stool softeners may be tried, but stimulant and osmotic laxatives are likely to be more successful. Osmotic laxatives include lactulose and polyethylene glycol. Stimulants include bisacodyl, sennosides, and sodium picosulfate, although there may be some concern regarding use of stimulants on a regular basis.

Opioid rotation or change in opioids may be helpful for some patients. It is possible that sustained release opioid products cause more constipation than short acting agents due to their prolonged effect on the bowel opioid receptors. Tapentadol is a u-opioid agonist and norepinephrine reuptake inhibitor. It is expected to cause less bowel impairment then oxycodone or other traditional opioids. Tapentadol may be the preferred opioid choice for patients with OIC.

Other prescription medications may be used if constipation cannot adequately be controlled with the previous measures. Naloxegol is a pegylaped naloxone molecule that does not pass the blood brain barrier and thus can be given with opioid therapy. There is good evidence that it can alleviate OIC and that 12.5 mg starting dose has an acceptable side effect profile.

Methylnaltrexone does not cross the blood brain barrier and can be given subcutaneously or orally. It is specifically recommended for opioid induced constipation for patients with chronic non-cancer pain.

Misoprostol is a synthetic prostaglandin E1 agonist and has the side effect of diarrhea in some patients. It also has been tried for opioid induced constipation, although it is not FDA approved for this use.

Lubiprostone is a prostaglandin E1 approved for use in opioid constipation.

Most patients will require some therapeutic control for their constipation. The stepwise treatment discussed should be followed initially. If that has failed and the patient continues to have recurrent problems with experiencing severe straining, hard or lumpy stool with incomplete evacuation, or infrequent stools for

25% of the time despite the more conservative measures, it may be appropriate to use a pharmaceutical agent.

Evidence Statements Regarding Effectiveness and Side Effects of Opioids		
Strong Evidence	Evidence Statement	Design
	In the setting of chronic nonspecific low back pain, the short and intermediate term reduction in pain intensity of opioids, compared with placebo, falls short of a clinically important level of effectiveness.	Systematic review and meta-analysis
	Adverse events such as constipation, dizziness, and drowsiness are more frequent with opioids than with placebo.	
Good Evidence	Evidence Statement	Design
	Opioids are more efficient than placebo in reducing neuropathic pain by clinically significant amounts.	Systematic review and meta-analysis of randomized clinical trials
	Opioids produce significantly more adverse effects than placebo such as constipation, drowsiness, dizziness, nausea, and vomiting.	
	There is good evidence that Naloxegol can alleviate opioid induced constipation and that 12.5 mg starting dose has an acceptable side effect profile.	Two identical and simultaneous multicenter randomized double-blind studies
Some Evidence	Evidence Statement	Design
	In the setting of chronic low back pain with disc pathology, a high degree of anxiety or depressive symptomatology is associated with relatively less pain relief in spite of higher opioid dosage than when these symptoms are absent.	Prospective cohort study

Physiologic Responses to Opioids: Physiologic responses to opioids are influenced by variations in genes which code for opiate receptors, cytochrome P450 enzymes, and catecholamine metabolism. Interactions between these gene products significantly affect opiate absorption, distribution, and excretion. Hydromorphone, oxymorphone, and morphine are metabolized through the glucuronide system. Other opioids generally use the cytochrome P450 system. Allelic variants in the mu opiate receptor may cause increased analgesic responsiveness to lower drug doses in some patients. The genetic type can predict either lower or higher needs for opioids. For example, at least 10% of Caucasians lack the CYP450 2D6 enzyme that converts codeine to morphine. In some cases genetic testing for cytochrome P450 type may be helpful. When switching patients from codeine to other medications, assume the patient has little or no tolerance to opioids. Many gene-drug associations are poorly understood and of uncertain clinical significance. The treating physician needs to be aware of the fact that the patient's genetic makeup may influence both the therapeutic response to drugs and the occurrence of adverse effects.

Adverse Events: Physicians should be aware that deaths from unintentional drug overdoses exceed the number of deaths from motor vehicle accidents in the US. Most of these deaths are due to the use of opioids, usually in combination with other respiratory depressants such as alcohol or benzodiazepines. The risk for out of hospital deaths not involving suicide was also high. The prevalence of drug abuse in the population of patients undergoing pain management varies according to region and other issues. One study indicated that ¼ of patients being monitored for chronic opioid use have abused drugs occasionally, and ½ of those have frequent episodes of drug abuse. 80% of patients admitted to a large addiction program reported that their first use of opioids was from prescribed medication.

There is good evidence that in generally healthy patients with chronic musculoskeletal pain, treatment with long-acting opioids, compared to treatments with anticonvulsants or antidepressants, is associated with an increased risk of death of approximately 69%, most of which arises from non-overdose causes, principally cardiovascular in nature. The excess cardiovascular mortality principally occurs in the first 180 days from starting opioid treatment.

There is some evidence that compared to an opioid dose under 20 MME per day, a dose of 20-50 mg nearly doubles the risk of death, a dose of 50 to 100 mg may increase the risk more than fourfold, and a dose greater than 100 mg per day may increase the risk as much as sevenfold. However, the absolute risk of fatal overdose in chronic pain patients is fairly low and may be as low as 0.04%. There is good evidence that prescription opioids in excess of 200 MME average daily doses are associated with a near tripling of the risk of opioid-related death, compared to average daily doses of 20 MME. Average daily doses of 100-200 mg and doses of 50-99 mg per day may be associated with a doubling of mortality risk, but these risk estimates need to be replicated with larger studies.

Doses of opioids in excess of 120 MME have been observed to be associated with increased duration of disability, even when adjusted for injury severity in injured workers with acute low back pain. Higher doses are more likely to be associated with hypo-gonadism, and the patient should be informed of this risk. Higher doses of opioids also appear to contribute to the euphoric effect. The CDC recommends limiting to 90 MME per day to avoid increasing risk of overdose.

In summary, there is strong evidence that any dose above 50 MME per day is associated with a higher risk of death and 100 mg or greater appears to significantly increase the risk.

Workers who eventually are diagnosed with opioid abuse after an injury are also more likely to have higher claims cost. A retrospective observational cohort study of workers' compensation and short-term disability cases found that those with at least one diagnosis of opioid abuse cost significantly more in days lost from work for both groups and in overall healthcare costs for the short-term disability groups. About 0.5% of eligible workers were diagnosed with opioid abuse.

Evidence Statements Regarding Opioids and Adverse Events		
Good Evidence	Evidence Statement	Design
	In generally healthy patients with chronic musculoskeletal pain, treatment with long-acting opioids, compared to treatments with anticonvulsants or antidepressants, is associated with an increased risk of death of approximately 69%, most of which arises from non-overdose causes, principally cardiovascular in nature. The excess cardiovascular mortality principally occurs in the first 180 days from starting opioid treatment.	Retrospective matched cohort study
	Prescription opioids in excess of 200 MME average daily doses are associated with a near tripling of the risk of opioid-related death, compared to average daily doses of 20 MME. Average daily doses of 100-200 mg and doses of 50-99 mg per day may be associated with a doubling of mortality risk, but these risk estimates need to be replicated with larger studies.	Nested case-control study with incidence density sampling
Some Evidence	Evidence Statement	Design
	Compared to an opioid dose under 20 MME per day, a dose of 20-50 mg nearly doubles the risk of death, a dose of 50 to 100 mg may increase the risk more than fourfold, and a dose greater than 100 mg per day may increase the risk as much as sevenfold. However, the absolute risk of fatal overdose of in chronic pain patients is fairly low, and may be as low as 0.04%.	Case-cohort study

Dependence versus Addiction: The central nervous system actions of these drugs account for much of their analgesic effect and for many of their other actions, such as respiratory depression, drowsiness, mental clouding, reward effects, and habit formation. With respect to the latter, it is crucial to distinguish between two distinct phenomena: dependence and addiction.

- Dependence is a physiological tolerance and refers to a set of disturbances in body homeostasis that leads to withdrawal symptoms, which can be produced with abrupt discontinuation, rapid reduction, decreasing blood levels, and/or by administration of an antagonist.

- Addiction is a primary, chronic, neurobiological disease, with genetic, psychological, and environmental factors influencing its development and manifestations. It is a behavioral pattern of drug craving and seeking which leads to a preoccupation with drug procurement and an aberrant pattern of use. The drug use is frequently associated with negative consequences.

Dependence is a physiological phenomenon, which is expected with the continued administration of opioids, and need not deter physicians from their appropriate use. Before increasing the opioid dose, the physician should review other possible causes for the decline in analgesic effect. Increasing the dose may not result in improved function or decreased pain. Remember that it is

recommended for total morphine milligram equivalents (MME) per day to remain at 50 or below. Consideration should be given to possible new psychological stressors or an increase in the activity of the nociceptive pathways. Other possibilities include new pathology, low testosterone level that impedes delivery of opioids to the central nervous system, drug diversion, hyperalgesia, or abusive use of the medication.

Choice of Opioids: No long-term studies establish the efficacy of opioids over one year of use or superior performance by one type. There is no evidence that one long-acting opioid is more effective than another, or more effective than other types of medications, in improving function or pain. There is some evidence that long-acting oxycodone (Dazidox, Endocodone, ETH-oxydose, Oxycontin, Oxyfast, OxyIR, Percolone, Roxicodone) and oxymorphone have equal analgesic effects and side effects, although the milligram dose of oxymorphone (Opana) is ½ that of oxycodone. There is no evidence that long-acting opioids are superior to short-acting opioids for improving function or pain or causing less addiction. A number of studies have been done assessing relief of pain in cancer patients. A recent systematic review concludes that oxycodone does not result in better pain relief than other strong opioids including morphine and oxymorphone. It also found no difference between controlled release and immediate release oxycodone. There is some evidence that extended release hydrocodone has a small and clinically unimportant advantage over placebo for relief of chronic low back pain among patients who are able to tolerate the drug and that 40% of patients who begin taking the drug do not attain a dose which provides pain relief without unacceptable adverse effects. Hydrocodone ER does not appear to improve function in comparison with placebo. A Cochrane review of oxycodone in cancer pain also found no evidence in favor of the longer acting opioid. There does not appear to be any significant difference in efficacy between once daily hydromorphone and sustained release oxycodone. Nausea and constipation are common for both medications between 26-32%.

There is some evidence that in the setting of neuropathic pain, a combination of morphine plus nortriptyline produces better pain relief than either monotherapy alone, but morphine monotherapy is not superior to nortriptyline monotherapy, and it is possible that it is actually less effective than nortriptyline.

Long-acting opioids should not be used for the treatment of acute, sub-acute, or post-operative pain, as this is likely to lead to drug dependence and difficulty tapering the medication. Additionally, there is a potential for respiratory depression to occur. The FDA requires that manufacturers develop Risk Evaluation and Mitigation Strategies (REMS) for most opioids. Physicians should carefully review the plans or educational materials provided under this program. Clinical considerations should determine the need for long-acting opioids given their lack of evidence noted above.

Addiction and abuse potentials of commonly prescribed opioid drugs may be estimated in a variety of ways, and their relative ranking may depend on the measure which is used. One systematic study of prescribed opioids estimated rates of drug misuse were estimated at 21-29% and addiction at 8-12%. There is good evidence that in the setting of new onset chronic non-cancer pain, there is a clinically important relationship between opioid prescription and subsequent opioid use disorder. Compared to no opioid use, short-term opioid use approximately triples the risk of opioid use disorder in the next 18 months. Use of opioids for over 90 days is associated with very pronounced increased risks of the subsequent development of an opioid use disorder, which may be as much as one hundredfold when doses greater than 120 MME are taken for more than

90 days. The absolute risk of these disorders is very uncertain but is likely to be greater than 6.1% for long duration treatment with a high opioid dose.

Hydrocodone is the most commonly prescribed opioid in the general population and is one of the most commonly abused opioids in the population. However, the abuse rate per 1000 prescriptions is lower than the corresponding rates for extended release oxycodone, hydromorphone (Dilaudid, Palladone), and methadone. Extended release oxycodone appears to be the most commonly abused opioid, both in the general population and in the abuse rate per 1000 prescriptions. Tramadol, by contrast, appears to have a lower abuse rate than for other opioids. Newer drug formulations such as oxymorphone, have been assumed to be relatively abuse-resistant, but their abuse potential is unknown and safety cannot be assumed in the absence of sound data.

Types of opioids are listed below:

i. Buprenorphine: (various formulations) is prescribed as an intravenous injection, transdermal patch, buccal film, or sublingual tablet due to lack of bioavailability of oral agents. Depending upon the formulation, buprenorphine may be indicated for the treatment of pain or for the treatment of opioid dependence (addiction).

   Buprenorphine for Opioid Dependence (addiction): FDA has approved a number of buccal films including those with naloxone and a sublingual tablet to treat opioid dependence (addiction).

   Buprenorphine for Pain: The FDA has approved specific forms of an intravenous and subcutaneous injectable, transdermal patch, and a buprenorphine buccal film to treat pain. However, by law, the transdermal patch and the injectable forms cannot be used to treat opioid dependence (addiction), even by DATA-2000 waivered physicians authorized to prescribe buprenorphine for addiction. Transdermal forms may cause significant skin reaction. Buprenorphine is ***not recommended*** for most chronic pain patients due to methods of administration, reports of euphoria in some patients, and lack of proof for improved efficacy in comparison with other opioids.

   There is insufficient evidence to support or refute the suggestion that buprenorphine has any efficacy in any neuropathic pain condition.
   There is good evidence transdermal buprenorphine is noninferior to oral tramadol in the treatment of moderate to severe musculoskeletal pain arising from conditions like osteoarthritis and low back pain. The population of patients for whom it is more appropriate than tramadol is not established but would need to be determined on an individual patient basis if there are clear reasons not to use oral tramadol.

   In a well done study, 63% of those on buccal buprenorphine achieved a 30% or more decrease in pain at 12 weeks compared to a 47% placebo response. Approximately 40% of the initial groups eligible for the study dropped out during the initial phase when all patients received the drug to test for incompatibility.

There is strong evidence that in patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine. There is strong evidence that buprenorphine is superior to placebo with respect to retention in treatment, and good evidence that buprenorphine is superior to placebo with respect to positive urine testing for opiates.

There is an adequate meta-analysis supporting good evidence that transdermal fentanyl and transdermal buprenorphine are similar with respect to analgesia and sleep quality, and they are similar with respect to some common adverse effects such as constipation and discontinuation due to lack of effect. However, buprenorphine probably causes significantly less nausea than fentanyl, and it probably carries a lower risk of treatment discontinuation due to adverse events. It is also likely that both transdermal medications cause less constipation than oral morphine.

Overall, due to cost and lack of superiority, buprenorphine is not a front line opioid choice. However, it may be used in those with a history of addiction or at high risk for addiction who otherwise qualify for chronic opioid use. It is also appropriate to consider buprenorphine products for tapering strategies and those on high dose morphine 90 MME

ii. Codeine with Acetaminophen: Some patients cannot genetically metabolize codeine and therefore have no response. Codeine is not generally used on a daily basis for chronic pain. Acetaminophen dose per day should be limited to 2 grams.

iii. Fentanyl (Actiq, Duragesic, Fentora, Sublimaze): is ***not recommended*** for use with musculoskeletal chronic pain patients. It has been associated with a number of deaths and has high addiction potential. Fentanyl should never be used transbuccally in this population. If it is being considered for a very specific patient population, it requires support from a pain specialist.

iv. Meperidine (Demerol): is ***not recommended*** for chronic pain. It and its active metabolite, normeperidine, present a serious risk of seizure and hallucinations. It is not a preferred medication for acute pain as its analgesic effect is similar to codeine.

v. Methadone: requires special precautions given its unpredictably long half-life and non-linear conversion from other opioids such as morphine. It may also cause cardiac arrhythmias due to QT prolongation and has been linked with a greater number of deaths due to its prolonged half-life. No conclusions can be made regarding differences in efficacy or safety between methadone and placebo, other opioids, or other treatments. There is strong evidence that in patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine. Methadone should only be prescribed by those with

experience in managing this medication. Conversion from another opioid to methadone (or the other way around) can be very challenging, and dosing titration must be done very slowly (no more than every 7 days). Unlike many other opioids, it should not be used on an “as needed” basis, as decreased respiratory drive may occur before the full analgesic effect of methadone is appreciated. If methadone is being considered, genetic screening is appropriate. CYP2B6 polymorphism appears to metabolize methadone more slowly than the usual population and may cause more frequent deaths.

vi. Morphine: may be used in the non-cancer pain population. A study in chronic low back pain suggested that individuals with a greater amount of endogenous opioids will have a lower pain relief response to morphine.

vii. Oxycodone and Hydromorphone: There is no evidence that oxycodone (as oxycodone CR) is of value in treating people with painful diabetic neuropathy, postherpetic neuralgia, or other neuropathic conditions. There was insufficient evidence to support or refute the suggestion that hydromorphone has any efficacy in any neuropathic pain condition. Oxycodone was not associated with greater pain relief in cancer patients when compared to morphine or oxymorphone.

viii. Propoxyphene (Darvon, Davon-N, PP-Cap): has been withdrawn from the market due to cardiac effects including arrhythmias.

ix. Tapentadol (Nucynta): is a mu opioid agonist which also inhibits serotonin and norepinephrine reuptake activity. It is currently available in an intermediate release formulation and may be available as extended release if FDA approved. Due to its dual activity, it can cause seizures or serotonin syndrome, particularly when taken with other SSRIs, SNRIs, tricyclics, or MAO inhibitors. It has not been tested in patients with severe renal or hepatic damage. It has similar opioid abuse issues as other opioid medication; however, it is promoted as having fewer GI side effects, such as constipation. There is good evidence that extended release tapentadol is more effective than placebo and comparable to oxycodone. In that study, the percent of patients who achieved 50% or greater pain relief was: placebo, 18.9%, tapentadol, 27.0%, and oxycodone, 23.3%. There is some evidence that tapentadol can reduce pain to a moderate degree in diabetic neuropathy, average difference 1.4/10 pain scale, with tolerable adverse effects. However, a high quality systematic review found inadequate evidence to support tapentadol to treat chronic pain. Tapentadol is ***not recommended*** as a first line opioid for chronic, subacute, or acute pain due to the cost and lack of superiority over other analgesics. There is some evidence that tapentadol causes less constipation than oxycodone. Therefore, it may be appropriate for patients who cannot tolerate other opioids due to GI side effects.

x. Tramadol (Rybix, Ryzolt, Ultram):

A) Description: an opioid partial agonist that does not cause GI ulceration or exacerbate hypertension or congestive heart failure. It also inhibits the reuptake of norepinephrine and serotonin which may contribute to its pain relief mechanism. There are side

effects similar to opioid side effects and may limit its use. They include nausea, sedation, and dry mouth.

B) Indications: mild to moderate pain relief. As of the time of this guideline writing, formulations of tramadol has been FDA approved for management of moderate to moderately severe pain in adults. This drug has been shown to provide pain relief equivalent to that of commonly prescribed NSAIDs. Unlike other pure opioids agonists, there is a ceiling dose to tramadol due to its serotonin activity (usually 300-400 mg per day). There is some evidence that it alleviates neuropathic pain following spinal cord injury. There is inadequate evidence that extended-release tramadol/acetaminophen in a fixed-dose combination of 75mg/650 mg is more effective than placebo in relieving chronic low back pain; it is not more effective in improving function compared to placebo. There is some evidence that tramadol yields a short-term analgesic response of little clinical importance relative to placebo in post-herpetic neuralgia which has been symptomatic for approximately 6 months. However, given the effectiveness of other drug classes for neuropathic pain, tramadol should not be considered a first line medication. It may be useful for patients who cannot tolerate tricyclic antidepressants or other medications.

C) Contraindications: use cautiously in patients who have a history of seizures, who are taking medication that may lower the seizure threshold, or taking medications that impact serotonin reuptake and could increase the risk for serotonin syndrome, such as monoamine oxidase inhibitors (MAO) inhibitors, SSRIs, TCAs, and alcohol. Use with caution in patients taking other potential QT prolonging agents. Not recommended in those with prior opioid addiction. Has been associated with deaths in those with an emotional disturbance or concurrent use of alcohol or other opioids. Significant renal and hepatic dysfunction requires dosage adjustment.

D) Side Effects: may cause impaired alertness or nausea. This medication has physically addictive properties, and withdrawal may follow abrupt discontinuation.

E) Drug Interactions: opioids, sedating medications, any drug that affects serotonin and/or norepinephrine (e.g., SNRIs, SSRIs, MAOs, and TCAs).

F) Laboratory Monitoring: renal and hepatic function.

Health care professionals and their patients must be particularly conscientious regarding the potential dangers of combining over-the-counter acetaminophen with prescription medications that also contain acetaminophen. Opioid and acetaminophen combination medication are limited due to the acetaminophen component. Total acetaminophen dose per day should not exceed 4 grams per any 24-hour period and is preferably limited to 2 grams per day to avoid possible liver damage.

Indications: The use of opioids is well accepted in treating cancer pain, where nociceptive mechanisms are generally present due to ongoing tissue destruction,

expected survival may be short, and symptomatic relief is emphasized more than functional outcomes. In chronic non-malignant pain, by contrast, tissue destruction has generally ceased, meaning that central and neuropathic mechanisms frequently overshadow nociceptive processes. Expected survival in chronic pain is relatively long, and return to a high-level of function is a major goal of treatment. Therefore, approaches to pain developed in the context of malignant pain may not be transferable to chronic non-malignant pain. Opioids are generally not the best choice of medication for controlling neuropathic pain. Tricyclics, SNRIs, and anticonvulsants should be tried before considering opioids for neuropathic pain.

In most cases, analgesic treatment should begin with acetaminophen, aspirin, and NSAIDs. While maximum efficacy is modest, they may reduce pain sufficiently to permit adequate function. When these drugs do not satisfactorily reduce pain, medications specific to the diagnosis should be used (e.g., neuropathic pain medications as outlined in Section G.10, Medications).

There is good evidence from a prospective cohort study that in the setting of common low back injuries, when baseline pain and injury severity are taken into account, a prescription for more than 7 days of opioids in the first 6 weeks is associated with an approximate doubling of disability one year after the injury. Therefore, prescribing after 2 weeks in a non-surgical case requires a risk assessment. If prescribing beyond 4 weeks, a full opioid trial is suggested including toxicology screen. **Best practice suggests that whenever there is use of opioids for more than 7 days, providers should follow all recommendations for screening and follow-ups of chronic pain use.**

Consultation or referral to a pain specialist behavioral therapist should be considered when the pain persists but the underlying tissue pathology is minimal or absent and correlation between the original injury and the severity of impairment is not clear. Consider consultation if suffering and pain behaviors are present and the patient manifests risk behaviors described below, or when standard treatment measures have not been successful or are not indicated.

A psychological consultation including psychological testing (with validity measures) is indicated for all chronic pain patients as these patients are at high risk for unnecessary procedures and treatment and prolonged recovery.

Many behaviors have been found related to prescription-drug abuse patients. None of these are predictive alone, and some can be seen in patients whose pain is not under reasonable control; however, the behaviors should be considered warning signs for higher risk of abuse or addiction by physicians prescribing chronic opioids. Refer to subsection v, on High Risk Behavior, below.

Recommendations for Opioid Use: When considering opioid use for moderate to moderately severe chronic pain, a trial of opioids must be accomplished as described below and the patient must have failed other chronic pain management regimes. Physicians should complete the education recommended by the FDA, risk evaluation and mitigation strategies (REMS) provided by drug manufacturing companies.

i. General Indications: There must be a clear understanding that opioids are to be used for a limited term as a trial (see trial indications below). The patient should have a thorough understanding of all of the expectations for opioid use. The level of pain relief is expected to be relatively small, 2 to 3 points on a

VAS pain scale, although in some individual patients it may be higher. For patients with a high response to opioid use, care should be taken to assure that there is no abuse or diversion occurring. The physician and patient must agree upon defined functional goals as well as pain goals. If functional goals are not being met, the opioid trial should be reassessed. The full spectrum of side effects should be reviewed. The shared decision making agreement signed by the patient must clarify under what term the opioids will be tapered. Refer to subsection iii.E, on the shared decision making agreement, below.

ii. Therapeutic Trial Indications: A therapeutic trial of opioids should not be employed unless the patient has begun multi-disciplinary pain management. The trial shall last one month. If there is no functional effect, the drug should be tapered.

Chronic use of opioids should not be prescribed until the following have been met:

A) The failure of pain management alternatives by a motivated patient including active therapies, cognitive behavioral therapy, pain self-management techniques, and other appropriate medical techniques.

B) Physical and psychological and/or psychiatric assessment including a full evaluation for alcohol or drug addiction, dependence or abuse, performed by two specialists including the authorized treating physician and a physician or psychologist specialist with expertise in chronic pain. The patient should be stratified as to low, medium, or high risk for abuse based on behaviors and prior history of abuse. High risk patients are those with active substance abuse of any type or a history of opioid abuse. These patients should generally not be placed on chronic opioids. If it is deemed appropriate to do so, physician addiction specialists should be monitoring the care. Moderate risk factors include a history of non-opioid substance abuse disorder, prior trauma particularly sexual abuse, tobacco use, widespread pain, poor pain coping, depression, and dysfunctional cognitions about pain and analgesic medications (see below). Pre-existing respiratory or memory problems should also be considered. Patients with a past history of substance abuse or other psychosocial risk factors should be co-managed with a physician addiction specialist.

C) Risk Factors to Consider:

History of severe post-operative pain
Opioid analgesic tolerance (daily use for months)
Current mixed opioid agonist/antagonist treatment (e.g., buprenorphine, naltrexone)
Chronic pain (either related or unrelated to the surgical site)

Psychological comorbidities (e.g., depression, anxiety, catastrophizing)
History of substance use disorder
History of “all over body pain”
History of significant opioid sensitivities (e.g., nausea, sedation)
History of intrathecal pump use or nerve stimulator implanted for pain control

D) Employment requirements are outlined. The patient’s employment requirements should also be discussed as well as the need to drive. It is generally not recommended to allow workers in safety sensitive positions to take opioids. Opioid naïve patients or those changing doses are likely to have decreased driving ability. Some patients on chronic opioids may have nominal interference with driving ability; however, effects are specific to individuals. Providers may choose to order certified driver rehabilitation assessment.

E) Urine drug screening for substances of abuse and substances currently prescribed. Clinicians should keep in mind that there are an increasing number of deaths due to the toxic misuse of opioids with other medications and alcohol. Drug screening is a mandatory component of chronic opioid management. It is appropriate to screen for alcohol and marijuana use and have a contractual policy regarding both alcohol and marijuana use during chronic opioid management. Alcohol use in combination with opioids is likely to contribute to death.

F) Review of the Physician Prescription Drug Monitoring Program.

G) Informed, written, witnessed consent by the patient including the aspects noted above. Patients should also be counseled on safe storage and disposal of opioids.

The trial, with a short-acting agent, should document sustained improvement of pain control, at least a 30% reduction, and of functional status, including return-to-work and/or increase in activities of daily living. It is necessary to establish goals which are specific, measurable, achievable, and relevant prior to opioid trial or adjustment to measure changes in activity/function. Measurement of functional goals may include patient completed validated functional tools such as those recommended by the Division as part of Quality Performance and Outcomes Payments (QPOP, see Rule 18-8) and/or the Patient Specific Functional Scale can provide useful additional confirmation. Frequent follow-up at least every 2 to 4 weeks may be necessary to titrate dosage and assess clinical efficacy.

iii. On-Going, Long-Term Management after a successful trial should include:

A) Prescriptions from a single practitioner;

B) Ongoing review and documentation of pain relief, functional status, appropriate medication use, and side effects; full review at least every 3 months;

C) Ongoing effort to gain improvement of social and physical function as a result of pain relief;

D) Review of the Physician Drug Monitoring Program (PDMP);

E) Shared decision making agreement detailing the following:

- Side effects anticipated from the medication;
- Requirement to continue active therapy;
- Need to achieve functional goals including return to work for most cases;
- Reasons for termination of opioid management, referral to addiction treatment, or for tapering opioids (tapering is usually for use longer than 30 days). Examples to be included in the contract include, but are not limited to:
  - Diversion of medication
  - Lack of functional effect at higher doses
  - Non-compliance with other drug use
  - Drug screening showing use of drugs outside of the prescribed treatment or evidence of non-compliant use of prescribed medication
  - Requests for prescriptions outside of the defined time frames
  - Lack of adherence identified by pill count, excessive sedation, or lack of functional gains
  - Excessive dose escalation with no decrease in use of short-term medications
  - Apparent hyperalgesia
  - Shows signs of substance use disorder (including but not limited to work or family problems related to opioid use, difficulty controlling use, craving)
  - Experiences overdose or other serious adverse event
  - Shows warning signs for overdose risk such as

confusion, sedation, or slurred speech

Patient Agreements should be written at a 6th grade reading level to accommodate the majority of patients.

F) Use of drug screening initially, randomly at least once a year and as deemed appropriate by the prescribing physician. Drug screening is suggested for any patients who have been receiving opioids for 8 to 90 days. A discussion regarding how screens positive for marijuana or alcohol will be handled should be included in the opioid contract. The concept of opioid misuse encompasses a variety of problems distinct from the development of addiction, such as nonmedical use, diversion, consultation with multiple prescribers, and unintentional overdose. In office only drug screening is insufficient as it does not identify metabolites of drugs prescribed.

Urine testing, when included as one part of a structured program for pain management, has been observed to reduce abuse behaviors in patients with a history of drug misuse. Clinicians should keep in mind that there are an increasing number of deaths due to the toxic misuse of opioids with other medications and alcohol. Drug screening is a mandatory component of chronic opioid management. Clinicians should determine before drug screening how they will use knowledge of marijuana use. It is appropriate to screen for alcohol and marijuana use and have a contractual policy regarding both alcohol and marijuana use during chronic opioid management. Alcohol use in combination with opioids is likely to contribute to death. From a safety standpoint, it is more important to screen for alcohol use than marijuana use as alcohol is more likely to contribute to unintended overdose.

Physicians should recognize that occasionally patients may use non-prescribed substances because they have not obtained sufficient relief on the prescribed regime.

Although drug screens done for chronic pain management should not be routinely available to employers, as screens are part of the treatment record to which employers have limited access, patients should be aware that employers might obtain the records through attorneys or the insurer.

G) Chronic use limited to 2 oral opioids.

H) Transdermal medication use, other than buprenorphine, is generally not recommended.

I) Use of acetaminophen-containing medications in patients with liver disease should be limited, including over-the-counter medications. Acetaminophen dose should not exceed 4 grams per day for short-term use or 2-3 grams/day for long-term use in healthy patients. A safer chronic dose may be 1800mg/day.

J) Continuing review of overall therapy plan with regard to non-opioid means of pain control and functional status.

K) Tapering of opioids may be necessary for many reasons including the development of hyperalgesia, decreased effects from an opioid, lack of compliance with the opioid contract, or intolerance of side effects. Some patients appear to experience allodynia or hyperalgesia on chronic opioids. This premise is supported by a study of normal volunteers who received opioid infusions and demonstrated an increase in secondary hyperalgesia. Options for treating hyperalgesia include withdrawing the patient from opioids and reassessing their condition. In some cases, the patient will improve when off of the opioid. In other cases, another opioid may be substituted.

Tapering may also be appropriate by patient choice, to accommodate “fit-for-duty” demands, prior to major surgery to assist with post-operative pain control, to alleviate the effects of chronic use including hypogonadism, medication side effects, or in the instance of a breach of drug agreement, overdose, other drug use aberrancies, or lack of functional benefit. It is also appropriate for any of the tapering criteria listed in section E above.

Generally tapering can be accomplished by decreasing the dose 10% per week. This will generally take 6 to 12 weeks and may need to be done one drug class at a time. Behavioral support is required during this service. Tapering may occur prior to MMI or in some cases during maintenance treatment.

L) Medication assisted treatment with buprenorphine or methadone may be considered for opioid abuse disorder, in addition to behavioral therapy. Refer to Section H.9. Opioid Addiction Treatment.

M) Inpatient treatment may be required for addiction or opioid tapering in complex cases. Refer to Section H.7, Interdisciplinary Rehabilitation Programs, for detailed information on inpatient criteria.

iv. Relative Contraindications: Extreme caution should be used in prescribing controlled substances for workers with one or more “relative contraindications.” Consultation with a pain or addiction specialist may be useful in these cases.

A) History of alcohol or other substance abuse, or a history of chronic, benzodiazepine use.

B) Sleep apnea: If patient has symptoms of sleep apnea, diagnostic tests should be pursued prior to chronic opioid use.

C) Off work for more than 6 months with minimal improvement in function from other active therapy.

D) Severe personality disorder or other known severe psychiatric disease per psychiatrist or psychologist.

E) Monitoring of behavior for signs of possible substance abuse indicating an increased risk for addiction and possible need for consultation with an addiction specialist.

v. High Risk Behavior: The following are high risk warning signs for possible drug abuse or addiction. Patients with these findings may need a consultation by a physician experienced in pain management and/or addiction. Behaviors in the left hand column are warning signs, not automatic grounds for dismissal, and should be followed up by a reevaluation with the provider. Repeated behaviors in the left hand column may be more indicative of addiction. Behaviors in the right hand column should be followed by a substance abuse evaluation.

Less suggestive for addiction but are increased in depressed patients	More suggestive of addiction and are more prevalent in patients with substance use disorder
• Frequent requests for early refills; claiming lost or stolen prescriptions • Opioid(s) used more frequently, or at higher doses than prescribed • Using opioids to treat non-pain symptoms • Borrowing or hoarding opioids • Using alcohol or tobacco to relieve pain • Requesting more or specific opioids • Recurring emergency room visits for pain • Concerns expressed by family member(s) • Unexpected drug test results • Inconsistencies in the patient's history	• Buying opioids on the street; stealing or selling drugs • Multiple prescribers ("doctor shopping") • Trading sex for opioids • Using illicit drugs, + urine drug tests for illicit drugs • Forging prescriptions • Aggressive demands for opioids • Injecting oral/topical opioids • Signs of intoxication (ETOH odor, sedation, slurred speech, motor instability, etc.)

Both daily and monthly users of nicotine were at least 3 times more likely to report non-medical use of opioid in the prior year. At least one study has demonstrated a prevalence of smokers and former smokers among

those using opioids and at higher doses compared to the general population. It also appeared that smokers and former smokers used opioids more frequently and in higher doses than never smokers. Thus, tobacco use history may be a helpful prognosticator.

In one study, four specific behaviors appeared to identify patients at risk for current substance abuse: increasing doses on their own, feeling intoxicated, early refills, and oversedating oneself. A positive test for cocaine also appeared to be related.

One study found that half of patients receiving 90 days of continuous opioids remained on opioids several years later and that factors associated with continual use included daily opioid greater than 120 MME prior opioid exposure, and likely opioid misuse.

One study suggested that those scoring at higher risk on the Screener and Opioid Assessment for Patients with Pain-Revised (SOAPP-R) also had greater reductions in sensory low back pain and a greater desire to take morphine. It is unclear how this should be viewed in practice.

vi. Dosing and Time to Therapeutic Effect: Oral route is the preferred route of analgesic administration because it is the most convenient and cost-effective method of administration. Transbuccal administration should be avoided other than for buprenorphine. When patient's dosage exceeds 50 MME per day and/or the patient is sedentary with minimal function, consideration should be given to lowering the dosage. If the patient reaches a dose above 90 MME per day, it is appropriate to taper or refer to a pain or addiction specialist. In some cases buprenorphine may be a preferred medication for pain control in those patients. Consultation may be necessary.

vii. Major Side Effects: There is great individual variation in susceptibility to opioid-induced side effects and clinicians should monitor for these potential side effects. Common initial side-effects include nausea, vomiting, drowsiness, unsteadiness, and confusion. Occasional side-effects include dry mouth, sweating, pruritus, hallucinations, and myoclonus. Rare side effects include respiratory depression and psychological dependence. Constipation and nausea/vomiting are common problems associated with long-term opioid administration and should be anticipated, treated prophylactically, and monitored constantly. Stool softeners, laxatives, and increased dietary fluid may be prescribed. Refer to Section H.8.d, Opioid Induced Constipation. Chronic sustained release opioid use is associated with decreased testosterone in males and females and estradiol in pre-menopausal females. Patients should be asked about changes in libido, sexual function, and fatigue.

viii. Naloxone: may be prescribed when any risk factors are present. The correct use of Naloxone should be discussed with the patient and family.

ix. Benzodiazepines: should not be prescribed when opioids are used. Refer to Section G.10.e, Hypnotics and Sedatives, in the Division's Chronic Pain Disorder Medical Treatment Guideline for more information.

x. Sedation: driving and other tasks – Although some studies have shown that patients on chronic opioids do not function worse than patients not on medication, caution should be exerted, and patients should be

counseled never to mix opioids with the use of alcohol or other sedating medication. When medication is increased or trials are begun, patients should not drive for at least 5 days. Chronic untreated pain and disordered sleep can also impair driving abilities.

xi. Drug Interactions: Patients receiving opioid agonists should not be given a mixed agonist-antagonist such as pentazocine (Talacen, Talwin) or butorphanol (Stadol) because doing so may precipitate a withdrawal syndrome and increase pain.

All sedating medication, especially benzodiazepines, should be avoided or limited to very low doses. Over-the-counter medications such as antihistamines, diphenhydramine, and prescription medications such as hydroxyzine (Anx, Atarax, Atazine, Hypam, Rezine, Vistaril) should be avoided except when being used to manage withdrawal during tapering of opioids. Alcohol should not be used.

xii. Recommended Laboratory Monitoring: Primary laboratory monitoring is recommended for acetaminophen/aspirin/NSAIDs combinations (renal and liver function, blood dyscrasia), although combination opioids are ***not recommended*** for long-term use. Morphine and other medication may require renal testing and other screening.

xiii. Sleep Apnea Testing: Both obstructive and central sleep apnea are likely to be exaggerated by opioid use or may occur secondary to higher dose chronic opioid use and combination medication use, especially benzodiazepines and sedative hypnotics. Patients should be questioned about sleep disturbance and family members or sleeping partners questioned about loud snoring or gasping during sleep. If present, qualified sleep studies and sleep medicine consultation should be obtained. Portable sleep monitoring units are generally not acceptable for diagnosing primary central sleep apnea. Type 3 portable units with 2 airflow samples and an 0^2 saturation device may be useful for monitoring respiratory depression secondary to opioids, although there are no studies on this topic.

xiv. Regular consultation of the Prescription Drug Monitoring Program (PDMP): Physicians should review their patients on the system whenever drug screens are done. This information should be used in combination with the drug screening results, functional status of the patient, and other laboratory findings to review the need for treatment and level of treatment appropriate for the patient. There is a separate billing code created by the DOWC to cover this service. Refer to Rule 18, Medical Fee Schedule.

xv. Addiction: If addiction occurs, patients will require treatment. Refer to Section H.9, Opioid Addiction Treatment. After detoxification, they may need long-term treatment with naltrexone (Depade, ReVia), an antagonist which can be administered in a long-acting form or buprenorphine which requires specific education per the Drug Enforcement Agency (DEA).

xvi. Potentiating Agents: There is some evidence that dextromethorphan does not potentiate the effect of morphine opioids and therefore is ***not recommended*** to be used with opioids.

Evidence Statements Regarding Choice of Opioids, Indications, and Recommendations for Use		
Strong Evidence	Evidence Statement	Design
	In patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine.	Meta-analysis of randomized clinical trials
	Buprenorphine is superior to placebo with respect to retention in treatment.	
Good Evidence	Evidence Statement	Design
	Buprenorphine is superior to placebo with respect to positive urine testing for opiates.	Meta-analysis of randomized clinical trials
	In the setting of new onset chronic noncancer pain, there is a clinically important relationship between opioid prescription and subsequent opioid use disorder. Compared to no opioid use, short-term opioid use approximately triples the risk of opioid use disorder in the next 18 months. Use of opioids for over 90 days is associated with very pronounced increased risks of the subsequent development of an opioid use disorder, which may be as much as one hundredfold when doses greater than 120 MME are taken for more than 90 days. The absolute risk of these disorders is very uncertain but is likely to be greater than 6.1% for long duration treatment with a high opioid dose.	Retrospective cohort study using claims data from a large health care database
	Extended release tapentadol is more effective than placebo and comparable to oxycodone. The percent of patients who achieved 50% or greater pain relief was: placebo, 18.9%, tapentadol, 27.0%, and oxycodone, 23.3%.	Randomized clinical trial
	Transdermal buprenorphine is noninferior to oral tramadol in the treatment of moderate to severe musculoskeletal pain arising from conditions like osteoarthritis and low back pain. The population of patients for whom it is more appropriate than tramadol is not established but would need to be determined on an individual patient basis if there are clear reasons not to use oral tramadol.	Phase III noninferiority trial
	Transdermal fentanyl and transdermal buprenorphine are similar with respect to analgesia and sleep quality, and they are similar with respect to some common adverse effects such as constipation and discontinuation due to lack of effect. However, buprenorphine probably causes significantly less nausea than fentanyl, and it probably carries a lower risk of treatment discontinuation due to	Network meta-analysis of randomized clinical trials

Evidence Statements Regarding Choice of Opioids, Indications, and Recommendations for Use		
	adverse events. It is also likely that both transdermal medications cause less constipation than oral morphine.	
Good Evidence, continued	In the setting of common low back injuries, when baseline pain and injury severity are taken into account, a prescription for more than seven days of opioids in the first 6 weeks is associated with an approximate doubling of disability one year after the injury.	Prospective cohort study
Some Evidence	Evidence Statement	Design
	Long-acting oxycodone (Dazidox, Endocodone, ETH-oxydose, Oxycontin, Oxyfast, OxyIR, Percolone, Roxicodone) and oxymorphone have equal analgesic effects and side effects, although the milligram dose of oxymorphone (Opana) is ½ that of oxycodone.	Randomized clinical trial
	Extended release hydrocodone has a small and clinically unimportant advantage over placebo for relief of chronic low back pain among patients who are able to tolerate the drug and that 40% of patients who begin taking the drug do not attain a dose which provides pain relief without unacceptable adverse effects. Hydrocodone ER does not appear to improve function in comparison with placebo.	Randomized trial with a screening period of 7-14 days followed by an open-label titration period of up to 6 weeks followed by a double blind treatment period of up to 12 weeks
	In the setting of neuropathic pain, a combination of morphine plus nortriptyline produces better pain relief than either monotherapy alone, but morphine monotherapy is not superior to nortriptyline monotherapy, and it is possible that it is actually less effective than nortriptyline.	Crossover randomized trial
	Tapentadol can reduce pain to a moderate degree in diabetic neuropathy, average difference 1.4/10 pain scale, with tolerable adverse effects.	Randomized clinical trial
	Tapentadol causes less constipation than oxycodone.	Meta-analysis of randomized clinical trials
	Dextromethorphan does not potentiate the effect of morphine opioids and therefore is ***not recommended*** to be used with opioids.	Three randomized clinical trials
	Tramadol alleviates neuropathic pain following spinal cord injury.	Randomized clinical trial
	Tramadol yields a short-term analgesic response of little clinical importance relative to placebo in postherpetic neuralgia which has been symptomatic for approximately 6 months.	Randomized clinical trial

9. OPIOID ADDICTION TREATMENT:

The DSM-V renames opioid addiction as substance use disorder (SUD) and classifies opioid use disorder according to categories defined as mild (2 – 3 features of stated criteria), moderate (4 – 5 features of stated criteria), or severe (6 – 7 features of stated criteria).

Definitions:

- Opioid physical dependence: opioid withdrawal symptoms (withdrawals) which occur as a result of abrupt discontinuation of an opioid in an individual who became habituated to the medication or through administration of an antagonist. Opioid physical dependency is not in and of itself consistent with the diagnosis of addiction/substance use disorder.

- Tolerance: a physiologic state caused by the regular use of an opioid in which increasing doses are needed to maintain the same affect. In patients with "analgesic tolerance," increased doses of the opioid may be needed to maintain pain relief.

- Opioid misuse: the utilization of opioid medications outside of the prescribing instructions for which it was originally prescribed. Misuse may be as innocuous as taking slightly more or less medications than prescribed to crushing or snorting an opioid.

- Opioid abuse: the use of any substance for a non-therapeutic purpose or the use of a medication for purposes other than those for which the agent is prescribed. Abuse includes intentional use for altering a state of consciousness. Abuse frequently affects the individual's ability to fulfill normal societal roles, resulting in difficulty with employment, or legal, or interpersonal problems.

- Pseudo-addiction: addiction-like behaviors consistent with overutilization of medications outside of the prescribing provider's instructions and recommendations for the express purpose of improved pain management. This occurs when a patient believes there is insufficient pain relief. Once pain is adequately managed with a higher dose of medications than initially prescribed or with improved therapy, the behaviors consistent with addiction are discontinued.

- Addiction: a primary chronic neurobiological disease influenced by genetic, psychosocial, and/or environmental factors. It is characterized by impaired control over drug use, compulsive drug use, and continued drug use despite harm and because of craving.

Substance use disorder/addiction in the workers' compensation system can be encountered in three ways. First, the individual has an active substance use disorder at the time of injury. The party responsible for treatment of the substance use disorder may be outside of the workers' compensation system. However, if there is no other paying party and the treatment is necessary in order to recover from the current workers' compensation injury, treatment may be covered by the workers' compensation payor. The second possibility is that a patient with a substance use disorder, who is currently in recovery at the time of the workers' compensation injury, relapses as a result of the medications which are prescribed by the treating provider. This patient may become re-addicted and will manifest substance use disorder characteristics and symptoms consistent with the diagnosis. The third possibility is an individual with no history of

substance use disorder who is injured as a result of an occupational accident. This particular individual becomes "addicted" to the medications as a result of the medications being prescribed. This is most likely to occur with the use of opioids but could possibly occur with use of other medications such as benzodiazepines or specific muscle relaxants such as carisoprodol.

If the treating provider is suspicious of a patient exhibiting opioid misuse, abuse, or addiction, the patient should preferably be evaluated by a specialist in the field of addiction medicine. It would be the responsibility of the specialist to identify medication misuse, abuse, addiction, or pseudo-addiction and to determine what additional treatment, if any, needs to be implemented.

During the initial injury evaluation, an authorized treating provider should obtain an addiction history as part of a complete history and physical. If it is determined at the time of the initial evaluation by the treating provider that there is the pre-existing condition of active SUD or history of opioid addiction/SUD, then it is prudent to consider an evaluation with an addiction medicine physician prior to issuing opioid treatments if possible. The addiction medication specialist will be able to counsel the patient accordingly, determine medication needs, and determine the appropriate follow-up to hopefully avoid aggravation or relapse of substance abuse disorders which will complicate the recovery process. Many patients exhibit opioid misuse, opioid abuse, and pseudo-addictive behaviors. These issues can be managed once the problem is identified and a discussion is carried out with the patient regarding these abnormal behaviors.

Once the diagnosis of SUD is confirmed, an addiction medicine specialist familiar with addiction treatment should assist in co-managing the patient's care and the problematic drug prescriptions. This co-management technique is critical for the injured worker with a SUD diagnosis during the initial injury phase, recovery, and stabilization phase until he/she has reached MMI. If it is determined during the active treatment and recovery phase that there is no longer a need for opioids, then the addiction medicine specialist will be in charge of the transition from use of opioids to safe taper/discontinuation of the opioids while monitoring for relapse of addiction.

Co-management is equally important for managing the chronic pain patient that has a concomitant opioid addiction/SUD with a legitimate need for analgesic medications. The addiction medicine specialist in all likelihood will monitor the patient more closely including judicious prescribing, PDMP reviews, urine drug testing, drug counts, and clarifying functional improvement as a result of the medications prescribed and frequent follow-ups which may initially seem excessive.

All abstinence addiction treatment begins with a discontinuation of the addicting substance; this is referred to as the detox phase of the treatment and can be performed in a number of ways. However, detoxification alone is not considered adequate addiction treatment. Detoxification is simply a method of discontinuing the medications in an effort to stabilize the patient prior to more extensive treatment.

Phase 1:

The methods of detoxification can include 1) abrupt discontinuation – ***not recommended*** due to high rate of relapse due to craving and withdrawal symptoms, 2) slow but progressive taper – 10% of total dosage per week as an outpatient treatment, 3) conversion to a different medication opioid (buprenorphine/naloxone) to enable a more stable and comfortable taper occasionally done as an outpatient but commonly done as part of a more comprehensive treatment program, and 4) rapid detox under anesthesia – ***not recommended*** due to relatively high incidence of complications and high expense. The methodology chosen for phase 1 detoxification is left up to the specialist and is

simply the initial phase of stabilization prior to considering the need for a phase 2 of addiction treatment program.

Phase 2:

Once a patient is safely through the detoxification phase and the condition is stabilized regardless of the method chosen, then successful addiction treatment begins generally utilizing a number of techniques to prevent the return to active substance use and addiction. This phase of treatment generally involves teaching the patient to develop control over the compulsions, psychosocial factors, and associated mental health issues which are critical to maintain abstinence. This phase of treatment is generally managed in a 30 – 90 day non-hospital residential treatment program. The treatment prescribed in a residential treatment program generally includes individual and group therapy with certified addiction counselors and psychologists. Phase 2 of treatment may or may not be combined with opioid substitution therapy with medications such as buprenorphine/naloxone (partial agonist of the opioid receptor), methadone, or naltrexone. Injectable depot naltrexone may be used.

Buprenorphine/naloxone therapy utilizes a sublingual partial opioid receptor agonist which binds to the opioid receptor, reducing craving and resulting in analgesia when necessary. Due to its high affinity to the opioid receptor, it blocks the effect of non-approved additional opioid use. The buprenorphine is administered either sublingually or, when FDA approved, as a subcutaneous implant. Naloxone was added to the sublingual drug formulation to discourage using this medication intravenously. With intravenous administration of buprenorphine/naloxone, the naloxone becomes absorbed neutralizing the effects of opioids. Buprenorphine/naloxone can be an excellent option in patients requiring analgesic medications with a prior history of opioid addiction because buprenorphine results in less sedation and euphoria then the other standard schedule II opioid medications. Prescribing Suboxone film (buprenorphine/naloxone) for addiction purposes can only be done by a physician and requires special training and certification. Once special training is completed, an application is filed with the DEA to obtain a special DEA license referred to as an X-DEA number. This X–DEA number needs to accompany all prescription for Suboxone when delivered to the pharmacy and identifies the prescription is being issued specifically for the treatment of addiction/SUD.

Methadone may be an option if the patient is admitted to a federally licensed methadone treatment facility where a daily dose of medication is administered and the patient continues to utilize therapeutic treatments/cognitive behavioral therapies as noted above. There is strong evidence that in patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine. The methodology and rationale for methadone treatment is to saturate the opioid receptors with methadone (a slow onset and prolonged duration opioid), reducing the opioid craving. The majority of the opioid receptors are bound by the methadone leaving very few unbound opioid receptors available in the event additional opioids are utilized in an attempt to achieve the euphoric effect. When the patient is stabilized on a methadone dose determined by the federally licensed methadone clinic and their associated physicians, the patient's drug-seeking, craving, legal issues, and attempts to utilize non-approved medications is reduced. Patients will frequently return to more productive lives free of the compulsions, cravings, and legal issues and are usually able to maintain jobs and improve family dynamics.

Other medications which may be useful and can be utilized during the phase 2 and 3 treatment include opioid receptor antagonists such as naltrexone (ReVia, Vivitrol) which produces no euphoria. The purpose of naltrexone therapy is to add an additional layer of protection and treatment for the patients by allowing them to receive a daily oral dose of

naltrexone (ReVia) or a monthly injection of naltrexone (Vivitrol). Administration of naltrexone will bind with very high affinity to the opioid receptor resulting in the opioid receptors being non-responsive to other opioid utilization thereby preventing any euphoric response or reinforcement with unsanctioned opioid use. This treatment method can be problematic in an individual receiving intramuscular naltrexone therapy especially if that individual requires surgery and post-operative pain management because the analgesics needed for post-operative pain management will be significantly less effective because of the prolonged opioid antagonist properties of the naltrexone.

In Summary:

Medication assisted treatment for patients addicted to opioids is the treatment recommended by most experts. A Canadian evidence-based guideline recommends long-term treatment with buprenorphine/naloxone, or methadone for some patients, based on the high relapse rate without medication assistance. The likelihood of relapse in the workers' compensation population for individuals who have become addicted through prescription drug use is unknown. Buprenorphine implants are likely equally effective as sublingual buprenorphine for preventing illicit opioid use. Implants are significantly more costly. Naltrexone treatment, an opioid agonist, has also been used to maintain abstinence. It can be provided in monthly injections or orally 3 times per week. Choice of these medications should be made by the addiction specialist.

Phase 3:

Aftercare begins after discharge from the non-hospital residential treatment program and is designed for long-term management of addiction. This phase is potentially the time when relapse is most likely to occur if the patient has not developed significant skills necessary to deal with the compulsions, cravings, and associated psychosocial factors contributing to SUD. Long-term strategies include 1) intense outpatient programs (IOP), 2) group therapy/meetings such as Narcotics Anonymous, and 3) residential communities (RC) which are groups of patients living together in a community for up to 6 months for the express purpose of maintaining abstinence from their drug of choice but at the same time transitioning and learning how to live in the general community. Residential communities are extremely useful to give patients an opportunity to be reintroduced to employment and psychosocial interactions with family and friends while maintaining contact with the community supporting their addiction recovery. In addition, phase 3 medication treatment may include utilization of opioid substitution therapy (buprenorphine/naloxone) or opioid receptor antagonist therapy as noted above.

It must be noted that relapse is common despite the utilization of intense cognitive behavioral therapy, addiction treatment strategies, and long-term phase 3 treatment and medication. Risk monitoring should be continued, including checking for behavioral aberrancies, checking the PDMP, and drug testing,. Additional treatment or readmission for repeat treatment is not uncommon.

Evidence Statements Regarding Opioid Addiction Treatment		
Strong Evidence	Evidence Statement	Design
	In patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine.	Meta-analysis of randomized clinical trials

10. OPIOID/CHEMICAL TREATMENT PROGRAMS:

Chemical dependency for workers' compensation issues will usually be related to opioids, anxiolytics, or hypnotics as prescribed for the original workers' compensation injury. Chemical dependency should be treated with specific programs providing medical and psychological assessment, treatment planning, and individual as well as group counseling and education. Established functional goals which are measurable, achievable, and time specific are required.

Inpatient or outpatient programs may be used, depending upon the level of intensity of services required. Formal inpatient treatment programs are appropriate for patients who have more intense (e.g., use extraordinarily excessive doses of prescription drugs to which they have developed tolerance) or multiple drug abuse issues (e.g., benzodiazepines and/or alcohol) and those with complex medical conditions or psychiatric issues related to drug misuse. A medical physician with appropriate training and preferably board certified in addiction medicine should provide the initial evaluation and oversee the program. Full primary assessment should include behavioral health assessment; medical history; physical examination; mental status; current level of functioning; employment history; legal history; history of abuse, violence, and risk taking behavior; education level; use of alcohol, tobacco and other drugs; and social support system. The initial medical exam should include appropriate laboratory testing such as liver function, screening for sexual diseases, etc.

Addiction specialists, alcohol and drug counselors, psychologists, psychiatrists, and other trained health care providers as needed, are involved in the program. Peer and group support is an integral part of the program and families are encouraged to attend. Peer support specialists should receive competency based training. A designated individual is assigned to each worker to assist in coordinating care. There should be good communication between the program and other external services, external health care providers, Al-Anon, Alcoholics Anonymous (AA), and pain medicine providers. Drug screening should be performed as appropriate for the individual, at least weekly during the initial detoxification and intensive treatment phases. At least 8 random drug screens per year should be completed for those on medication assisted treatment and drug diversion control methods should be in place.

Clear withdrawal procedures are delineated for voluntary, against medical advice, and involuntary withdrawal. Withdrawal programs must have a clear treatment plan and include description of symptoms of medical and emotional distress, significant signs of opioid withdrawal, and actions taken. All programs should have clear direction on how to deal with violence in order to assure safety for all participants. Transition and discharge should be carefully planned with full communication to outside resources. Duration of inpatient programs are usually 4 weeks while outpatient programs may take 12 weeks.

Drug detoxification may be performed on an outpatient or inpatient basis. Detoxification is unlikely to succeed in isolation when not followed by prolonged chemical dependency treatment. Isolated detoxification is usually doomed to failure with very high recidivism rates.

Both ultra-rapid and rapid-detoxification are ***not recommended*** due to possible respiratory depression and death and the lack of evidence for long range treatment success. Refer to Section H.9, Opioid Addiction Treatment, for more specific details on treatment plans.

Tapering opioids on an outpatient basis requires a highly motivated patient and diligent treatment team and may be accomplished by decreasing the current dose 10% per day or per week. Tapering programs under the supervision of physicians with pain expertise

may proceed more aggressively. Tapering should be accompanied by addiction counseling. Failing a trial of tapering, a patient should be sent to a formal addiction program. When the dose has reached 1/3 of the original dose, the taper should proceed at half or less of the initial rate. Doses should be held or possibly increased if severe withdrawal symptoms, pain, or reduced treatment failure otherwise occurs. This method is tedious, time consuming, and more likely to fail than more rapid and formalized treatment programs.

Time Frames for Opioid / Chemical Treatment Programs	
Time to Produce Effect	3 to 4 weeks
Frequency	Full time programs - no less than 5 hours/day, 5 days/week; part time programs - 4 hours/day for 2-3 days per week.
Optimum Duration	2 to 12 weeks at least 2-3 times a week. With follow-up visits weekly or every other week during the first 1 to 2 months after the initial program is completed.
Maximum Duration	4 months for full time programs and up to 6 months for part-time programs. Periodic review and monitoring thereafter for 1 year, additional follow-up based upon the documented maintenance of functional gains.

11. ORTHOTICS/PROSTHETICS/EQUIPMENT: Devices and adaptive equipment are rarely necessary for CRPS patients as motion is to be encouraged. Specific devices may be useful in rare cases to aid in return to work duties.

12. PERSONALITY/PSYCHOLOGICAL/PSYCHOSOCIAL/PSYCHIATRIC INTERVENTION:

Psychosocial treatment is a well-established therapeutic and diagnostic intervention with selected use in acute pain problems and more widespread use in sub-acute and chronic pain populations. Psychosocial treatment is recommended as an important component in the total management of a patient with chronic pain and should be implemented as soon as the problem is identified.

Refer the Division's Chronic Pain Disorder Medical Treatment Guideline for indications, evidence, and time frames.

13. RESTRICTION OF ACTIVITIES: Continuation of normal daily activities is the recommendation for most patients since immobility will negatively affect rehabilitation. Prolonged immobility results in a wide range of deleterious effects, such as a reduction in aerobic capacity and conditioning, loss of muscle strength and flexibility, increased segmental stiffness, promotion of bone demineralization, impaired disc nutrition, and the facilitation of the illness role.

Some level of immobility may occasionally be appropriate which could include splinting/casting or as part of a structured schedule that includes energy conservation or intentional rest breaks between activities. While these interventions may occasionally have been ordered in the acute phase, the provider should be aware of their impact on the patient's ability to adequately comply with and successfully complete rehabilitation. Activity should be increased based on the improvement of core strengthening.

Patients should be educated regarding the detrimental effects of immobility versus the

efficacious use of limited rest periods. Adequate rest allows the patient to comply with active treatment and benefit from the rehabilitation program. In addition, complete work cessation should be avoided, if possible, since it often further aggravates the pain presentation and promotes disability. Modified return to work is almost always more efficacious and rarely contraindicated in the vast majority of injured workers.

14. **RETURN-TO-WORK:** Return-to-work and/or work-related activities whenever possible is one of the major components in treatment and rehabilitation. Return-to-work is a subject that should be addressed by each workers' compensation provider at the first meeting with the injured employee and updated at each additional visit. A return-to-work format should be part of a company's health plan, knowing that return to work can decrease anxiety, reduce the possibility of depression, and reconnect the worker with society.

A prolonged time off work is likely to lead to chronic disability. In complex cases, experienced nurse case managers may be required to assist in return to work. Other services, including psychological evaluation and/or treatment, jobsite analysis, and vocational assistance, may be employed.

Refer the Division's Chronic Pain Disorder Medical Treatment Guideline for considerations and recommendations.

15. **THERAPY- ACTIVE:** The following active therapies are widely used and accepted methods of care for a variety of work-related injuries. Active therapy is based on the philosophy that therapeutic exercise and/or activity can alleviate discomfort and are beneficial for restoring flexibility, strength, endurance, function, and range-of-motion. All active therapy plans should be made directly with patients in the interest of achieving long-term individualized goals.

Active therapy requires an internal effort by the individual to complete a specific exercise or task. This form of therapy requires supervision from a therapist or medical provider such as verbal, visual, and/or tactile instruction(s). Active therapy is intended to promote independence and self-reliance in managing the physical pain as well as to improve functional status in regard to the specific diagnosis, general conditioning, and well-being. At times, a provider may help stabilize the patient or guide the movement pattern but the energy required to complete the task is predominately executed by the patient. Therapy in this section should not be merely a repeat of previous therapy but should focus specifically on the individual goals and abilities of the patient with CRPS.

The goal of active therapy is to teach the patient exercises that they can perform regularly on their own. Patients should be instructed to continue active therapies at home as an extension of the treatment process in order to maintain improvement levels. Follow-up visits to reinforce and monitor progress and proper technique are recommended. Home exercise can include exercise with or without mechanical assistance or resistance and functional activities with assistive devices.

On occasion, specific diagnoses and post-surgical conditions may warrant durations of treatment beyond those listed as "maximum." Factors such as exacerbation of symptoms, re-injury, interrupted continuity of care, need for post-operative therapy, and co-morbidities may also extend durations of care. Specific goals with objectively measured functional improvement during treatment must be cited to justify extended durations of care. It is recommended that, if no functional gain is observed after the number of treatments under "time to produce effect" has been completed, then alternative treatment interventions, further diagnostic studies, or further consultations should be pursued.

Pain Neuroscience Education (PNE): PNE is an educational strategy used by physical therapists and other practitioners that focuses on teaching people in pain more about the

neurobiological and neurophysiological processes involved in their pain experience, versus a focus on anatomical and pathoanatomical education. PNE helps patients develop an understanding of various pain processes including central sensitization, peripheral sensitization, inhibition, facilitation, the brain's processing of threat appraisal, and various biological systems involved in a pain experience. This reconceptualization of pain via PNE is then combined with various behavioral strategies including aerobic exercise, pacing, graded exposure, graded activity, and goal setting. PNE is likely to positively influence pain ratings, disability, fear-avoidance behaviors, pain catastrophization, limitations in movement, pain knowledge, and healthcare utilization. PNE is recommended with active therapy for chronic pain patients.

Evidence Statements Regarding Patient Education		
Good Evidence	Evidence Statement	Design
	Pain neuroscience education combined with a physical intervention is more effective in reducing pain, improving disability, and reducing healthcare utilization compared with either usual care, exercise, other education or another control group for the treatment of patients with chronic musculoskeletal pain.	Narrative systematic review of randomized clinical trials
Some Evidence	Evidence Statement	Design
	A cognitive intervention consisting of 2 consultations lasting 1 hour each with a physical medicine specialist and a physical therapist covering coping strategies and patient education on motion produces short-term reductions in sub-acute back disability.	Randomized clinical trial
	In the setting of non-specific chronic low back pain, patient-centered cognitive functional therapy from physical therapists produced superior outcomes for pain reduction and functional improvement compared with traditional manual therapy and exercise at post-intervention and at 12-month follow-up.	Single-blind randomized clinical trial

Since CRPS and SMP patients frequently have additional myofascial pain generators, other active therapies not listed may be used in treatment. Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for therapies and timeframe parameters not listed.

The following active therapies are listed in alphabetical order:

a. **Activities of Daily Living (ADL)**: instruction, active-assisted training, and/or adaptation of activities or equipment to improve a person's capacity in normal daily activities such as self-care, work re-integration training, homemaking, and driving.

Time Frames for Activities of Daily Living	
Time to Produce Effect	4 to 5 treatments.

Frequency	1 to 5 times per week.
Optimum Duration	4 to 6 weeks.
Maximum Duration	6 weeks.

b. **Aquatic Therapy**: is a well-accepted treatment which consists of the therapeutic use of aquatic immersion for therapeutic exercise to promote strengthening, core stabilization, endurance, range-of-motion, flexibility, body mechanics, and pain management. Aquatic therapy is the implementation of active therapeutic procedures (individual or group) in a swimming or therapeutic pool heated to 88 to 92°F. The pool should be large enough to allow full extremity range-of-motion and fully erect posture. Aquatic vests, belts, and other devices can be used to provide stability, balance, buoyancy, and resistance. The water provides a buoyancy force that lessens the amount of force of gravity applied to the body. The decreased gravity effect allows the patient to have a mechanical advantage and more likely have a successful trial of therapeutic exercise. In addition, the compression of the water against the affected extremity and ability to move easier with decreased gravity allow for resulting muscular compression against vessels improving lymphatic drainage resulting in decreased edema. Aquatic therapy may also provide an additional stimulus to assist with desensitization.

There is good evidence that aquatic exercise and land-based exercise show comparable outcomes for function and mobility among people with symptomatic osteoarthritis of the knee or hip.

Indications: The therapy may be indicated for individuals who:

- Cannot tolerate active land-based or full-weight bearing therapeutic procedures;
- Require increased support in the presence of proprioceptive deficit;
- Are at risk of compression fracture due to decreased bone density;
- Have symptoms that are exacerbated in a dry environment;
- Have a higher probability of meeting active therapeutic goals than in a dry environment.

After the supervised aquatics program has been established, either a self-directed aquatic program or a transition to a self-directed dry environment exercise program is recommended.

Evidence Statements Regarding Aquatic Therapy		
Good Evidence	Evidence Statement	Design
	Aquatic exercise and land-based exercise show comparable outcomes for function and mobility among people with symptomatic osteoarthritis of the knee or hip.	Systematic Review and meta-analysis of randomized clinical trials

Time Frames for Aquatic Therapy	
Time to Produce Effect	4 to 5 treatments.
Frequency	3 to 5 times per week.
Optimum Duration	4 to 6 weeks.
Maximum Duration	6 weeks.

c. **Functional Activities**: are well-established interventions which involve the use of therapeutic activity to enhance mobility, body mechanics, employability, coordination, and sensory motor integration.

Time Frames for Functional Activities	
Time to Produce Effect	4 to 5 treatments.
Frequency	1 to 5 times per week.
Optimum Duration	4 to 6 weeks.
Maximum Duration	8 weeks.

d. **Gait Training**: indications include the need to promote normal gait pattern with assistive devices and/or to reduce risk of fall or loss of balance. This may include instruction in safety and proper use of assistive devices and gait instruction on uneven surfaces and steps (with or without railings).

Time Frames for Gait Training	
Time to Produce Effect	1 to 6 sessions.
Frequency	1 to 3 times per week.
Optimum Duration	2 weeks. Could be needed intermittently as changes in functional status occur.
Maximum Duration	1 month.

e. **Mirror Therapy - Graded Motor Imagery**: is a several week program that is accomplished through patient participation. It usually begins with limb laterality recognition, imagined motion, and mirror movements. Each phase gradually increases the number of repetitions. Therapy visits are once a week in the last phases, and the treatment is performed at home at least 30 minutes per day. There is some evidence that mirror box therapy 30 minutes per day for 4 weeks is likely to reduce pain in CRPS. Therapy usually lasts 4-6 weeks for training and oversight. Most of the program is accomplished through patient participation at home. Time to produce effect is not known.

Evidence Statements Regarding Mirror Therapy - Graded Motor Imagery		
Some Evidence	Evidence Statement	Design
	Mirror box therapy 30 minutes per day for 4 weeks is likely to reduce pain in CRPS.	Randomized clinical trial, Systematic Review and Meta-Analysis

Time Frames for Mirror Therapy – Graded Motor Imagery	
Training period	4 to 8 lessons.
Optimum Duration	4-6 weeks with 2 follow-up visits.

f. **Neuromuscular Re-education**: is a generally accepted treatment. It is the skilled application of exercise with manual, mechanical, or electrical facilitation to enhance strength; movement patterns, neuromuscular response, proprioception, kinesthetic sense, coordination; education of movement, balance, and posture.

There is some evidence that there is a modest benefit from adding a back school to other treatments such as NSAIDs, massage, transcutaneous electrical nerve stimulation (TENS), and other physical therapy modalities. However, a recent adequate quality systematic review found no evidence for the effectiveness of back schools for treating chronic low back pain.

Indications include the need to promote neuromuscular responses through carefully timed proprioceptive stimuli, to elicit and improve motor activity in patterns similar to normal neurologically developed sequences, and to improve neuromotor response with independent control.

Evidence Statements Regarding Neuromuscular Re-education		
Some Evidence	Evidence Statement	Design
	There is a modest benefit from adding a back school to other treatments such as NSAIDs, massage, transcutaneous electrical nerve stimulation (TENS), and other physical therapy modalities.	Systematic review of randomized clinical trials

Time Frames for Neuromuscular Re-education	
Time to Produce Effect	2 to 6 treatments.
Frequency	1 to 3 times per week.
Optimum Duration	4 to 8 weeks.
Maximum Duration	8 weeks.

g. **Stress Loading**: is a generally accepted reflex and sensory integration technique involving the application of a compressive load and a carry load. It is carried out in a consistent, progressive manner and integrated as part of a home program. Use of this technique may increase symptoms initially, but symptoms generally subside with program consistency. This technique is used for upper as well as lower extremities

Time Frames for Stress Loading	
Time to Produce Effect	3 weeks.
Frequency	2 to 3 times per week.
Optimum Duration	4 to 6 weeks and concurrent with an active daily home exercise program
Maximum Duration	6 to 10 weeks.

h. **Therapeutic Exercise**: with or without mechanical assistance or resistance, may include isoinertial, isotonic, isometric, and isokinetic types of exercises. May also include alternative/complementary exercise movement therapy (with oversight of a physician or appropriate healthcare professional).

Indications include the need for cardiovascular fitness, reduced edema, improved muscle strength; improved connective tissue strength and integrity, increased bone density, promotion of circulation to enhance soft tissue healing, improvement of muscle recruitment, improved proprioception, and coordination, and increased range-of-motion are used to promote normal movement patterns.

Yoga may be an option for motivated patients with appropriate diagnoses.

Therapeutic exercise programs should be tissue specific to the injury and address general functional deficits as identified in the diagnosis and clinical assessment. Patients should be instructed in and receive a home exercise program that is progressed as their functional status improves. Upon discharge, the patient would be independent in the performance of the home exercise program and would have been educated in the importance of continuing such a program. Educational goals would be to maintain or further improve function and to minimize the risk for aggravation of symptoms in the future.

Available evidence supporting therapy mainly exists in the chronic low back literature.

Evidence Statements Regarding Therapeutic Exercise		
Strong Evidence	Evidence Statement	Design
	In the short, intermediate, and long-term, motor control exercises that emphasize the transversus abdominis and multifidi are at least as effective as other forms of exercise and manual therapy. They are possibly more effective than other minimal interventions in reducing pain and improving disability in patients for the treatment of chronic non-specific low back pain.	Meta-analyses of randomized clinical trials
Good Evidence	Evidence Statement	Design
	A 12 week course of treatment in the McKenzie method is at most modestly more effective than spinal manipulation of similar duration in reducing disability in patients with persistent (more than 6 weeks duration, mean = 95 weeks) nonspecific low back pain, although a clinically relevant difference was not apparent. The McKenzie method should not be utilized if there is severe nerve root involvement with motor, sensory, or reflex abnormality.	Randomized clinical trial
	Pilates is more effective in reducing pain and improving disability compared with a minimal intervention at intermediate term follow-up, but Pilates is equally as effective as other forms of exercise in improving disability at short- or intermediate-term follow-up for the treatment of patients with chronic non-specific low back pain.	Meta-analyses of randomized clinical trials
	Exercise alone or part of a multi-disciplinary program results in decreased disability for workers with non-acute low back pain.	Meta-analysis of randomized clinical trials
Some Evidence	Evidence Statement	Design
	An unsupervised 12-week, periodized musculoskeletal rehabilitation program of weight training conducted 2, 3, or 4 days a week is effective at improving musculoskeletal strength and quality of life and at reducing pain and disability in untrained persons with chronic low back pain. The 4 days a week training volume is most effective. The volume (total number of reps) of PMR exercise prescribed is important.	Randomized clinical trial
	Trunk balance exercises combined with flexibility exercises are more effective than a combination of strength and flexibility exercises in reducing disability and improving physical function in patients with chronic low back pain.	Single-blind randomized clinical trial
	An exercise program which includes resistance training of the cervical and scapulothoracic muscles, combined with stretching of the same muscles, is likely to be beneficial for mechanical neck pain.	Meta-analysis of randomized clinical trials

Some Evidence, continued	Cervicolscapular endurance exercises are beneficial for chronic cervicogenic headache. General fitness exercises and upper extremity exercises are unlikely by themselves to be beneficial for mechanical neck pain and are therefore ***not recommended***.	
	There is no significant difference in the effectiveness of an 12-week, 20 session comprehensive supervised exercise program and an unsupervised simple exercise program with advice for improvement in average pain intensity in the preceding week in people with a mild chronic whiplash-associated disorder even though both interventions resulted in small reductions of pain over 12 months.	Assessor single-blind randomized clinical trial
	A 4-month intervention for chronic neck pain patients containing pain education, specific exercises and graded activity training shows a significant effect, although clinically small, on improved physical and mental health related quality of life compared with controls receiving pain education alone. Good adherence increased the effect in favor of the exercise group.	Assessor single-blind randomized controlled superiority multicenter clinical trial
	12 weeks of supervised high-dose exercise, spinal manipulative therapy, or low-dose home exercise with advice are all equally effective for reducing pain in the short- and long-term (one year) in those who have chronic low back pain.	Assessor single-blinded randomized controlled trial
	Intensive exercise coupled with cognitive behavioral therapy is as effective for chronic un-operated low back pain as posterolateral fusion.	Randomized clinical trial
	In the setting of non-specific chronic low back pain, patient-centered cognitive functional therapy from physical therapists produced superior outcomes for pain reduction and functional improvement compared with traditional manual therapy and exercise at post-intervention and at 12-month follow-up.	Single-blind randomized clinical trial
	There is no significant difference in the effectiveness of an 8-week supervised walking program, an evidence-based group exercise class, and usual physiotherapy for improvement in functional disability after 6 months for people with chronic low back pain even though all 3 interventions resulted in small, significant improvements in physical function, reduction of pain, quality of life, and fear avoidance over time.	Assessor single-blind randomized clinical trial

Evidence Statements Regarding Yoga		
Strong Evidence	Evidence Statement	Design
	Yoga has small to moderate advantages over providing only a booklet in reducing low back pain and back-specific disability, but there is no evidence that yoga is superior to stretching and strengthening classes led by a licensed physical therapist.	Meta-analysis of randomized clinical trials
Good Evidence	Evidence Statement	Design
	In the setting of chronic low back pain, 8 weeks of 2 hour weekly group sessions of either mindfulness based stress reduction meditation program with yoga or Cognitive Behavioral Therapy results in small, significant improvements in physical function and reduction in pain compared to usual care at 26 weeks with no significant differences in outcomes between the 2 treatments.	Single-blind randomized clinical trial
Some Evidence	Evidence Statement	Design
	Iyengar yoga, which avoids back bending, results in improved function and decreased chronic mechanical low back pain for up to 6 months. Instruction occurred 2 times per week for 24 weeks and was coupled with home exercise. One quarter of the participants dropped out.	Randomized clinical trial
	In the setting of chronic pain, both an 8-week mindfulness based stress reduction meditation program with yoga and an 8-week multidisciplinary pain intervention program with exercise resulted in small, significant reductions in pain intensity and pain-related distress post intervention but with no significant differences in outcomes between the 2 programs.	Single-blind randomized clinical trial

Time Frames for Therapeutic Exercise	
Time to Produce Effect	2 to 6 treatments.
Frequency	2 to 5 times per week.
Optimum Duration	4 to 8 weeks and concurrent with an active daily home exercise program.
Maximum Duration	8 to 12 weeks of therapist oversight. Home exercise should continue indefinitely. Additional sessions may be warranted during periods of exacerbation of symptoms

Yoga may be an option for motivated patients.

Time Frames for Yoga	
Time to Produce Effect	8 sessions
Maximum Duration	48 sessions is the maximum expected duration

i. **Work Conditioning**: This program is a work-related, outcome-focused, individualized treatment program. Objectives of the program include, but are not limited to, improvement of cardiopulmonary and neuromusculoskeletal functions (strength, endurance, movement, flexibility, postural control, and motor control functions), patient education, and symptom relief. The goal is for patients to gain full- or optimal-function and return-to-work. The service may include the time-limited use of modalities, both active and passive, in conjunction with therapeutic exercise, functional activities, general conditioning body mechanics, and lifting techniques re-training.

This program is usually initiated once re-conditioning has been completed but may be offered at any time throughout the recovery phase. It should be initiated when imminent return of a patient to modified- or full-duty is not an option, but the prognosis for returning the patient to work at completion of the program is at least fair to good.

Time Frames for Work Conditioning	
Time to Produce Effect	1 to 2 hours per day.
Frequency	2 to 5 visits per week.
Optimum Duration	2 to 4 weeks.
Maximum Duration	6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic and functional gains.

j. **Work Simulation**: is a program where an individual completes specific work-related tasks for a particular job and return to work. Use of this program is appropriate when modified duty can only be partially accommodated in the work place, when modified duty in the work place is unavailable, or when the patient requires more structured supervision. The need for work place simulation should be based upon the results of a functional capacity evaluation and/or jobsite analysis.

Time Frames for Work Simulation	
Time to Produce Effect	2 to 6 hours per day.
Frequency	2 to 5 visits per week.
Optimum Duration	2 to 4 weeks.

Time Frames for Work Simulation	
Maximum Duration	6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic and functional gains.

16. **THERAPY—PASSIVE:** Most of the following passive therapies and modalities are generally accepted methods (unless otherwise noted) of care for a variety of work-related injuries. Passive therapy includes those treatment modalities that do not require energy expenditure on the part of the patient. They are principally effective during the early phases of treatment and are directed at controlling symptoms such as pain, inflammation and swelling and to improve the rate of healing soft tissue injuries. They should be used adjunctively with active therapies such as postural stabilization and exercise programs to help control swelling, pain, and inflammation during the active rehabilitation process. Please refer to Section B.5, General Guideline Principles, Active Interventions. Passive therapies may be used intermittently as a practitioner deems appropriate or regularly if there are specific goals with objectively measured functional improvements during treatment; or if there are episodes of acute pain superimposed upon a chronic pain problem.

On occasion, specific diagnoses and post-surgical conditions may warrant durations of treatment beyond those listed as "maximum". Factors such as exacerbation of symptoms, re-injury, interrupted continuity of care and co-morbidities may extend durations of care. Having specific goals with objectively measured functional improvement during treatment can support extended durations of care. It is recommended that if after 6 to 8 visits no treatment effect is observed, alternative treatment interventions, further diagnostic studies or further consultations should be pursued.

The following passive therapies are listed in alphabetical order:

a. **Continuous Passive Motion (CPM)**: is rarely indicated in CRPS but may occasionally be warranted if the patient shows signs of contracture despite active therapy.

Time Frames for Continuous Passive Motion	
Time to Produce Effect	4 to 6 treatments.
Frequency	Varies, between 2 to 3 times per day and 1 time per week.
Optimum Duration	4 treatments.
Maximum Duration	6 treatments. Provide home unit with improvement.

b. **Desensitization**: is accomplished through sensory integration techniques. Concurrent desensitization techniques are generally accepted as a treatment for CRPS. Home techniques using soft cloths of various textures, massage, and vibrators may be beneficial in reducing allodynia and similar sensory abnormalities.

Time Frames for Desensitization	
Time to Produce Effect	6 treatments.
Frequency	3 times per week and concurrent with home exercise program.
Optimum Duration	3 weeks with reinforcement of home program.
Maximum Duration	1 month.

c. **Fluidotherapy**: used primarily for desensitization and to facilitate increased active range-of-motion. Thermal heat conduction and convection is advantageous for vasodilation, muscle relaxation, and preparation for stress and activity (exercise).

Time Frames for Fluidotherapy	
Time to Produce Effect	3 treatments.
Frequency	3 times per week.
Optimum Duration	2 months.
Maximum Duration	2 months as a primary therapy or intermittently as an adjunct therapy to other procedures.

d. **Paraffin Bath**: Indications include the need to enhance collagen extensibility before stretching, reduce muscle guarding, and to prepare for functional restoration activities.

Time Frames for Paraffin Bath	
Time to Produce Effect	1 to 2 treatments.
Frequency	1 to 3 times per week as an adjunct treatment to other procedures. May use daily if available at home.
Optimum Duration	2 weeks.
Maximum Duration	3 to 4 weeks. If effective, purchase a home unit.

e. **Superficial Heat Therapy**: Superficial heat is a thermal agent applied to raise the body tissue temperature. It is indicated before exercise to elevate the pain threshold, alleviate muscle spasm, and promote increased movement. Heat packs can be used at home as an extension of therapy in the clinic setting.

Time Frames for Superficial Heat Therapy	
Time to Produce Effect	Immediate.
Frequency	1 to 3 times per week.
Optimum Duration	2 weeks as primary or intermittently as an adjunct to other therapeutic procedures.
Maximum Duration	2 weeks. Home use as a primary modality may continue at the providers' discretion.

I. THERAPEUTIC PROCEDURES – OPERATIVE

When considering operative intervention in CRPS management, the treating physician must carefully consider the inherent risk and benefit of the procedure. All operative intervention should be based on a positive correlation with clinical findings, the clinical course, and diagnostic tests. A comprehensive assessment of these factors should have led to a specific diagnosis of confirmed CRPS with positive identification of the pathologic condition. Operative treatment is indicated when the natural history of surgically treated lesions is better than the natural history for non-operatively treated lesions.

Surgical procedures are seldom meant to be curative and should be employed in conjunction with other treatment modalities for maximum functional benefit. Functional benefit should be objectively measured and includes the following:

- Return-to-work or maintaining work status.
- Fewer restrictions at work or performing activities of daily living.
- Decrease in usage of medications prescribed for the work-related injury.
- Measurable functional gains, such as increased range-of-motion or a documented increase in strength.

Education of the patient should include the proposed goals of the surgery, expected gains, risks or complications, and alternative treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Similarly, patients with uncontrolled diabetes are at increased risk of post-operative infection and poor wound healing. It is recommended that routine lab work prior to any surgical intervention include a hemoglobin A1c. If it is higher than the recommended range, the surgery should be postponed until optimization of blood sugars has been achieved.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work activities, and the patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

1. NEUROSTIMULATION:

Spinal cord stimulation (SCS) is the delivery of low-voltage electrical stimulation to the spinal cord or peripheral nerves to inhibit or block the sensation of pain. The system uses implanted electrical leads and a battery powered implanted pulse generator (IPG).

Refer the Division's Chronic Pain Disorder Medical Treatment Guideline for indications and evidence.

2. DORSAL ROOT GANGLION STIMULATOR:

Description: neurostimulator device implanted in the epidural space near to dorsal root ganglion – up to 4 leads may be placed. It is used for lower extremity CRPS pain.

There is good evidence that dorsal root ganglion (DRG) stimulation is non-inferior to conventional SCS with respect to pain relief for CRPS patients with lower extremity pain. There is some evidence that DRG stimulation is superior to SCS with respect to pain relief for up to 12 months after implantation. Neurological deficits related to stimulation with either device appear to be rare. 46% of the DRG patients had more serious complications compared to 26% for SCS.

Particular technical expertise is required to perform this procedure and is available in some neurosurgical, rehabilitation, and anesthesiology training programs and fellowships. Physicians performing this procedure must be trained in neurostimulation implantation and participate in ongoing training workshops on this subject, such as those sponsored by the Spine Intervention Society (SIS), North American Neuromodulation Society (NANS), or as sponsored by implant manufacturers.

Complications: Serious, extremely rare complications include spinal cord compression, paraplegia, epidural hematoma, and epidural hemorrhage. Other less serious complications / undesirable side effects include undesirable change in stimulation, seroma, CSF leakage, infection, erosion, allergic response, accidental dural puncture, hardware malfunction or equipment migration, pain at implantation site, loss of pain relief, chest wall stimulation, and other surgical risks. Neurological deficits related to stimulation with either device appear to be rare. 46% of the DRG patients had complications (mostly technical issues) compared to 26% for SCS.

Surgical Indications: Patients with established CRPS I or II with persistent, functionally limiting lower extremity pain. Candidates must have failed full conservative therapy including active therapy, medical management with at least 2 medications, and therapeutic injections. They must also have completed psychological treatment and evaluation and have a successful stimulator trial. Prior authorization is required. Habituation to opioid analgesics in the absence of a history of addictive behavior does not preclude the use of SCS. Patients with severe psychiatric disorders and issues of secondary gain or one or more primary risk factors are not candidates for the procedure, and the prognosis worsens as the number of secondary risk factors increases. Approximately, one third to one half of patients who qualify for SCS can expect a substantial reduction in pain relief; however, it may not influence allodynia and hypesthesia. Patients' expectations need to be realistic, and therefore, patients should understand that the intervention is not a cure for their pain but rather a masking of their symptomatology which might regress over time. Historically, there appears to be a likely benefit of up to 3 years with spinal cord stimulator. It may be similar with the DRG.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work, as well as possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without

invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically, the patient should show some progress toward cessation at about 6 weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section G.10.j, Smoking Cessation Medications and Treatment, in the Division's Chronic Pain Disorder Medical Treatment Guideline for further details.

DRG may be indicated in a subset of patients who have confirmed CRPS, have burning pain in a distribution amenable to stimulation coverage, and have pain at night not relieved by position. The extremity pain should account for at least 50% or greater of the overall leg and back pain experienced by the patient.

Prior to the stimulator trial, a comprehensive psychiatric or psychological evaluation, for a chronic pain evaluation. Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for more information. This evaluation should include a standardized detailed personality inventory with validity scales (e.g., MMPI-2, MMPI-2-RF, or PAI); pain inventory with validity measures (e.g., BHI 2, MBMD); clinical interview and complete review of the medical records. The psychologist or psychiatrist performing these evaluations should not be an employee of the physician performing the implantation. This evaluation must be completed, with favorable findings, before the screening trial is scheduled. Before proceeding to a spinal stimulator trial, the evaluation should find the following:

- No indication of falsifying information;
- No indication of invalid results on testing;
- No primary psychiatric risk factors or "red flags" (e.g., psychosis, active suicidality, severe depression, or addiction). (Note that tolerance and dependence to opioid analgesics are not addictive behaviors and do not preclude implantation);
- A level of secondary risk actors or "yellow flags" (e.g., moderate depression, job dissatisfaction, dysfunctional pain conditions) judged to be below the threshold for compromising the patient's ability to benefit from neurostimulation.
- The patient is cognitively capable of understanding and operating the neurostimulation control device;
- The patient is cognitively capable of understanding and appreciating the risks and benefits of the procedure;
- The patient is familiar with the implications of having an implant, can accept the complications, potential disfigurement, and effort it takes to maintain the device;
- The patient is cognitively capable of understanding the course of injury both with and without neurostimulation;

- The patient has demonstrated a history of motivation in and adherence to prescribed treatments;
- The patient understands the work related restrictions that may occur with placement of the stimulator. All reasonable surgical and non-surgical treatment has been exhausted;
- The topography of pain and its underlying pathophysiology are amenable to stimulation coverage (the entire painful area has been covered); and
- A successful neurostimulation screening test of at least 5 to 7 days.

For a neurostimulation screening test, a temporary lead is implanted at the level of pain and attached to an external source to validate therapy effectiveness. A screening test is considered successful if the patient meets both of the following criteria: (a) experiences a 50% decrease radicular or CRPS in pain, which may be confirmed by visual analogue scale (VAS) or Numerical Rating Scale (NRS), and (b) demonstrates objective functional gains or decreased utilization of pain medications.

Objective, measurable, functional gains must be evaluated by an independent occupational therapist, not affiliated with the physician performing the screening or the implant of the stimulator, and/or physical therapist and the primary treating physician prior to and before discontinuation of the trial. Functional gains may include: standing, walking, positional tolerance, upper extremity activities, increased social participation, or decreased medication use.

Contraindications:

- Unsuccessful trial: inability to obtain objective, documented, functional improvement, or reduction of pain.
- Those with cardiac pacemakers should be evaluated on an individual basis as some may qualify for surgery.
- Patients who are unable to properly operate the system.
- Patients who are anti-coagulated and cannot be without anticoagulation for a few days (e.g., patients with artificial heart valves).
- Patients with frequent severe infections.
- Patients for whom a future MRI is likely.

Operative Treatment: Implantation of stimulating leads connected by extensions to either an implanted neurostimulator or an implanted receiver powered by an external transmitter. The procedure may be performed either as an open or a percutaneous procedure, depending on the presence of epidural fibrosis and the anatomical placement required for optimal efficacy. During the final procedure, the patient must be awakened to establish full coverage from the placement of the lead. One of the most common failures is misplaced leads. Functional improvement is anticipated for up to 3 years or longer when objective functional improvement has been observed during the time of neurostimulation screening exam based on spinal cord stimulator studies.

Post-operative Considerations: MRI may be contraindicated depending on the model and implant location.

Work restrictions postplacement include no driving when active paresthesias are present. Thus, use of potentially dangerous or heavy equipment while the simulator is active is prohibited. The physician may also limit heavy physical labor.

Post-operative Therapy: Active and/or passive therapy should be employed to improve function. Implantable stimulators will require frequent monitoring such as adjustment of the unit and replacement of batteries. Estimated battery life of SCS implantable devices is usually 3 years; however, newer systems may last longer. For the DRG system, expected duration of the implanted batter is about 5 years.

Evidence Statements Regarding Dorsal Root Ganglion Stimulator		
Good Evidence	Evidence Statement	Design
	Dorsal root ganglion stimulation is non-inferior to conventional spinal cord stimulation with respect to pain relief for CRPS patients with lower extremity pain.	Randomized non-inferiority clinical trial
Some Evidence	Evidence Statement	Design
	Dorsal root ganglion stimulation is superior to spinal cord stimulation with respect to pain relief for up to 12 months after implantation. Neurological deficits related to stimulation with either device appear to be rare. 46% of the DRG patients had more serious complications compared to 26% for SCS.	Randomized non-inferiority clinical trial

3. PERIPHERAL NERVE STIMULATION:

There are no randomized controlled studies for this treatment. This modality should only be employed with a clear nerve injury or when the majority of pain is clearly in a nerve distribution in patients who have completed 6 months of other appropriate therapy including the same pre-trial psychosocial evaluation and treatment as are recommended for spinal cord stimulation. A screening trial should take place over 3 to 7 days and is considered successful if the patient meets both of the following criteria: (a) experiences a 50% decrease in pain, which may be confirmed by Visual Analogue Scale (VAS) or Numerical Rating Scale (NRS) and (b) demonstrates objective functional gains or decreased utilization of pain medications. Objective, measurable, functional gains must be evaluated by an independent occupational therapist and/or physical therapist and the primary treating physician (who did not place the nerve stimulator) prior to and before discontinuation of the trial. It may be used for proven occipital, ulnar, median, and other isolated nerve injuries.

4. INTRATHECAL DRUG DELIVERY:

Not generally recommended. Requires prior authorization. Due to conflicting studies in this population and complication rate for long-term use, it may be considered only in very rare occasions when dystonia and spasticity are dominant features or when pain is not able to be managed using any other non-operative treatment.

Refer the Division's Chronic Pain Disorder Medical Treatment Guideline for indications.

5. **SYMPATHECTOMY:** including use of phenol or radiofrequency.

Description: destruction of part of the sympathetic nervous system, which is not generally accepted or widely used. Long-term success with this pain relief treatment is poor. Expected duration of pain relief is 3 to 5 months. There is currently a lack of evidence supporting long-term pain relief, and increased pain can result. This procedure is generally ***not recommended*** and requires prior authorization. It may be considered for patients who are unable to return to normal activities of daily living when using the other non-operative treatments (as listed in Section G, Non-operative Procedures) and who meet the strict indications below.

The practice of surgical and chemical sympathectomy for neuropathic pain and CRPS is based on very little high quality evidence. Sympathectomy should be used cautiously in clinical practice, in carefully selected patients, and probably only after failure of other treatment options. In these circumstances, establishing a clinical register of sympathectomy may help to inform treatment options on an individual patient basis.

Indications: single extremity CRPS I with a significant amount of sympathetically mediated ischemia and distal pain only. The procedure should not be done if the proximal extremity is involved. Local anesthetic stellate ganglion block or lumbar sympathetic block consistently gives 90 to 100% relief each time a technically good block is performed and results in a temperature difference between the affected and the unaffected extremity of at least 1°C. The procedure may be considered for individuals who have limited duration of relief from blocks. Permanent neurological complications are common.

6. **AMPUTATION:**

Amputation is ***not recommended*** in CRPS except in cases of gangrene or frequent/recurrent limb infections with the risk for osteomyelitis or systemic sepsis.

J. MAINTENANCE MANAGEMENT

Successful management of chronic pain conditions results in fewer relapses requiring intense medical care. Failure to address long-term management as part of the overall treatment program may lead to higher costs and greater dependence on the health care system. Management of CRPS continues after the patient has met the definition of maximum medical improvement (MMI). MMI is declared when a patient's condition has plateaued and an authorized treating physician believes no further medical intervention is likely to result in improved function. Patients with either clinical or confirmed CRPS may qualify for an impairment when functional deficits exist related to CRPS physiology which are distinct from any other related conditions. When the patient has reached MMI, a physician must describe in detail the maintenance treatment.

Maintenance care in CRPS requires a close working relationship between the carrier, the providers, and the patient. Providers and patients have an obligation to design a cost-effective, medically appropriate program that is predictable and allows the carrier to set aside appropriate reserves. Carriers and adjusters have an obligation to assure that medical providers can design medically appropriate programs. Designating a primary physician for maintenance management is strongly recommended.

Maintenance care will be based on principles of patient self-management. When developing a maintenance plan of care, the patient, physician, and insurer should attempt to meet the following goals:

- Maximal independence will be achieved through the use of home exercise programs or exercise programs requiring special facilities (e.g., pool, health club) and educational programs;
- Modalities will emphasize self-management and self-applied treatment;
- Management of pain or injury exacerbations will emphasize initiation of active therapy techniques and may occasionally require anesthetic injection blocks;
- Dependence on treatment provided by practitioners other than an authorized treating physician will be minimized;
- Reassessment of the patient's function must occur regularly to maintain daily living activities and work function; and
- Patients will understand that failure to comply with the elements of the self-management program or therapeutic plan of care may affect consideration of other interventions.

1. **FUNCTIONAL TESTS**: It is recommended that valid functional tests are used with treatments to track efficacy. Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline for Specific Maintenance Interventions and Parameters, including home exercise programs and exercise equipment, exercise programs requiring special facilities, patient education management, psychological management, non-opioid medication management, therapy management, and purchase or rental of durable medical equipment.

2. **VITAMIN C**: There is some evidence that Vitamin C 500mg taken for 50 days after a wrist fracture may help to prevent CRPS. It may be useful to prescribe vitamin C to patients who historically have had or currently have CRPS if they suffer a fracture in order to prevent exacerbation of CRPS.

Evidence Statements Regarding Vitamin C		
Some Evidence	Evidence Statement	Design
	Vitamin C 500mg taken for 50 days after a wrist fracture may help to prevent CRPS.	Randomized clinical trial

3. **OPIOID MEDICATION MANAGEMENT**: In very selective cases, scheduled opioids may prove to be the most cost effective means of ensuring the highest function and quality of life; however, inappropriate selection of these patients may result in a high degree of iatrogenic illness including addiction and drug overdose. A patient should have met the criteria in the opioids section of this guideline before beginning maintenance opioids. Laboratory or other testing may be appropriate to monitor medication effects on organ function. The following management is suggested for maintenance opioids:

- The medications should be clearly linked to improvement of function, not just pain control. All follow-up visits should document the patient's ability to perform routine functions satisfactorily. Examples include the abilities to perform: work tasks, drive safely, pay bills or perform basic math operations, remain alert and upright for 10 hours per day, or participate in normal family and social activities. If the patient is not maintaining reasonable levels of activity the patient should usually be tapered from the opioid and tried on a different long-acting opioid.

- A lower risk opioid medication regimen is defined as less than 50 MME per day. This may minimally increase or decrease over time. Dosages will need to be adjusted based on side effects of the medication and objective function of the patient. A patient may frequently be maintained on non-opioid medications to control side effects, treat mood disorders, or control neuropathic pain; however, only one long-acting opioid and one short-acting opioid for rescue use should be prescribed. Buccally absorbed opioids other than buprenorphine are not appropriate for these non-malignant pain patients. Transdermal opioid medications are ***not recommended,*** other than buprenorphine.

- All patients on chronic opioid medication dosages need to sign an appropriate opioid contract with their physician for prescribing the opioids.

- The patient must understand that continuation of the medication is contingent on their cooperation with the maintenance program. Use of non-prescribed drugs may result in tapering of the medication. The clinician should order random drug testing at least annually and when deemed appropriate to monitor medication compliance.

- Patients on chronic opioid medication dosages must receive them through one prescribing physician.

Time Frames for Opioid Medication Management	
Maintenance Duration	12 visits within a 12 month period to review the opioid plan. Laboratory and other monitoring, as appropriate.

4. INJECTION THERAPY

a. **Sympathetic Blocks**: These injections are considered appropriate if they increase function for a minimum of 4 to 8 weeks. Maintenance blocks are combined with and are enhanced by the appropriate neuro-pharmacological medication(s) and an active self-management exercise program. It is anticipated that the frequency of the maintenance blocks may increase in the cold winter months or with stress.

Time Frames for Sympathetic Blocks	
Maintenance Duration	Not to exceed 4 to 6 blocks in a 12 month period for a single extremity and to be separated by no less than 4 week intervals. Increased frequency may need to be considered for multiple extremity involvement or for acute recurrences of pain and symptoms. For treatment of acute exacerbations, consider 2 to 6 blocks with a short time interval between blocks. A positive result would include a return to baseline function as established at MMI, return to increased work duties, and measurable improvement in physical activity goals including return to baseline after an exacerbation. Injections may only be repeated when these functional and time goals are met and verified by the designated primary physician. Patient completed functional questionnaires such as those recommended by the Division as part of Quality Performance and Outcomes Payments (QPOP, see Rule 18-8) and/or the Patient Specific Functional Scale can provide useful additional confirmation.

Notice of Proposed Rulemaking

Tracking number

2017-00337

Department

1100 - Department of Labor and Employment

Agency

1101 - Division of Workers' Compensation

CCR number

7 CCR 1101-3 R17 Ex 09

Rule title

Rule 17: Exhibit 9 - CHRONIC PAIN DISORDER MEDICAL TREATMENT GUIDELINES

Rulemaking Hearing

Date

09/13/2017

Time

09:30 AM

Location

633 17th St. Denver CO 80202

Subjects and issues involved

Exhibit 9 of the medical treatment guidelines. This is a strike and replace update. The entire current exhibit will be deleted and replaced with the updated exhibit.

Statutory authority

8-47-107

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RULE 17, EXHIBIT 9

Chronic Pain Disorder

Medical Treatment Guideline

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Effective: _____

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Presented by:

COLORADO
Department of
Labor and Employment

DIVISION OF WORKERS' COMPENSATION

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DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Workers' Compensation

CCR 1101-3

RULE 17, EXHIBIT 9

CHRONIC PAIN DISORDER MEDICAL TREATMENT GUIDELINE

A. INTRODUCTION

This document has been prepared by the Colorado Department of Labor and Employment, Division of Workers' Compensation (Division) and should be interpreted within the context of guidelines for physicians/providers treating individuals qualifying under Colorado's Workers' Compensation Act as injured workers with chronic pain.

Although the primary purpose of this document is advisory and educational, these guidelines are enforceable under the Workers' Compensation Rules of Procedure, 7 CCR 1101-3. The Division recognizes that acceptable medical practice may include deviations from these guidelines, as individual cases dictate. Therefore, these guidelines are not relevant as evidence of a provider's legal standard of professional care.

To properly utilize this document, the reader should not skip nor overlook any sections.

B. GENERAL GUIDELINE PRINCIPLES

The principles summarized in this section are key to the intended implementation of all Division of Workers' Compensation medical treatment guidelines and critical to the reader's application of the guidelines in this document.

1. **APPLICATION OF THE GUIDELINES** The Division provides procedures to implement medical treatment guidelines and to foster communication to resolve disputes among the provider, payer, and patient through the Workers' Compensation Rules of Procedure. In lieu of more costly litigation, parties may wish to seek administrative dispute resolution services through the Division or the office of administrative courts.

2. **EDUCATION** Education of the patient and family, as well as the employer, insurer, policy makers, and the community, should be the primary emphasis in the treatment of chronic pain and disability. Currently, practitioners often think of education last, after medications, manual therapy, and surgery. Practitioners must implement strategies to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with inexpensive communication providing reassuring and evidence-based information to the patient. More in-depth patient education is currently a component of treatment regimens which employ functional, restorative, preventive, and rehabilitative programs. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms and prevention. Facilitation through language interpretation, when necessary, is a priority and part of the medical care treatment protocol.

3. **INFORMED DECISION MAKING** Providers should implement informed decision making as a crucial element of a successful treatment plan. Patients, with the assistance of their health care practitioner, should identify their personal and professional functional goals of treatment at the first visit. Progress towards the individual's identified functional goals should be addressed by all members of the health care team at subsequent visits and throughout the established treatment plan. Nurse case managers, physical therapists, and other members of the health care team play an integral role in informed decision making and achievement of functional goals. Patient education and informed decision making should facilitate self-management of symptoms and prevention of further injury.

4. **TREATMENT PARAMETER DURATION** Time frames for specific interventions commence once treatments have been initiated, not on the date of injury. Obviously, duration will be impacted by patient adherence, as well as availability of services. Clinical judgment may substantiate the need to accelerate or decelerate the time frames discussed in this document.

5. **ACTIVE INTERVENTIONS** Active interventions emphasizing patient responsibility, such as therapeutic exercise and/or functional treatment, are generally emphasized over passive modalities, especially as treatment progresses. Generally, passive interventions are viewed as a means to facilitate progress in an active rehabilitation program with concomitant attainment of objective functional gains.

6. **ACTIVE THERAPEUTIC EXERCISE PROGRAM** Exercise program goals should incorporate patient strength, endurance, flexibility, coordination, and education. This includes functional application in vocational or community settings.

7. **POSITIVE PATIENT RESPONSE** Positive results are defined primarily as functional gains that can be objectively measured. Objective functional gains include, but are not limited to: positional tolerances, range-of-motion (ROM), strength, endurance, activities of daily living, ability to function at work, cognition, psychological behavior, and efficiency/velocity measures that can be quantified. Subjective reports of pain and function should be considered and given relative weight when the pain has anatomic and physiologic correlation. Anatomic correlation must be based on objective findings. Patient completed functional questionnaires such as those recommended by the Division as part of Quality Performance and Outcomes Payments (QPOP, see Rule 18-8) and/or the Patient Specific Functional Scale can provide useful additional confirmation.

8. **RE-EVALUATION OF TREATMENT NO LESS THAN EVERY 3 TO 4 WEEKS** If a given treatment or modality is not producing positive results within 3 to 4 weeks or within the time to produce effect in the guidelines, the treatment should be either modified or discontinued. Before discontinuing the treatment, the provider should have a detailed discussion with the patient to determine the reason for failure to produce positive results. Reconsideration of diagnosis should also occur in the event of a poor response to a seemingly rational intervention.

9. **SURGICAL INTERVENTIONS** Surgery should be contemplated within the context of expected functional outcome and not purely for the purpose of pain relief. The concept of "cure" with respect to surgical treatment by itself is generally a misnomer. All operative interventions must be based upon positive correlation of clinical findings, clinical course, and diagnostic tests. A comprehensive assimilation of these factors must lead to a specific diagnosis with positive identification of pathologic conditions.

10. **SIX-MONTH TIME FRAME** The prognosis drops precipitously for returning an injured worker to work once he/she has been temporarily totally disabled for more than six months. The emphasis within these guidelines is to move patients along a continuum of care and return to work within a six-month time frame, whenever possible. It is important to note that time frames may be less pertinent for injuries that do not involve work-time loss or are not occupationally related.

11. **RETURN-TO-WORK** A return-to-work is therapeutic, assuming the work is not likely to aggravate the basic problem or increase long-term pain. The practitioner must provide specific physical limitations, and the patient should never be released to non-specific and vague descriptions such as "sedentary" or "light duty." The following physical limitations should be considered and modified as recommended: lifting, pushing, pulling, crouching, walking, using stairs, bending at the waist, awkward and/or sustained postures, tolerance for sitting or standing, hot and cold environments, data entry and other repetitive motion tasks, sustained grip, tool usage, and vibration factors. Even if there is residual chronic pain, return-to-work is not necessarily contraindicated. The practitioner should understand all of the physical demands of the patient's job position before returning the patient to full duty and should request clarification of the patient's job duties. Clarification should be obtained from the employer or, if necessary, from including, but not limited to, an occupational health nurse, occupational therapist, vocational rehabilitation specialist, an industrial hygienist, or another professional.

12. **DELAYED RECOVERY** Strongly consider a psychological evaluation, if not previously provided, as well as initiating interdisciplinary rehabilitation treatment and vocational goal setting, for those patients who are failing to make expected progress 6 to 12 weeks after initiation of treatment of an injury. Therefore, all chronic pain patients should have a documented psychological evaluation and psychological treatment as appropriate to address issues of chronic pain. It is also appropriate to clinically reassess the patient, function goals, and differential diagnosis. The Division recognizes that 3 to 10% of all

industrially injured patients will not recover within the timelines outlined in this document, despite optimal care. Such individuals may require treatments beyond the timelines discussed within this document, but such treatment requires clear documentation by the authorized treating practitioner focusing on objective functional gains afforded by further treatment and impact upon prognosis.

13. GUIDELINE RECOMMENDATIONS AND INCLUSION OF MEDICAL EVIDENCE All recommendations are based on available evidence and/or consensus judgment. When possible, guideline recommendations will note the level of evidence supporting the treatment recommendation. It is generally recognized that early reports of a positive treatment effect are frequently weakened or overturned by subsequent research. When interpreting medical evidence statements in the guideline, the following apply:

- Consensus means the judgment of experienced professionals based on general medical principles. Consensus recommendations are designated in the guidelines as "generally well-accepted," "generally accepted," "acceptable/accepted," or "well-established."

- "Some evidence" means the recommendation considered at least one adequate scientific study, which reported that a treatment was effective. The Division recognizes that further research is likely to have an impact on the intervention's effect.

- "Good evidence" means the recommendation considered the availability of multiple adequate scientific studies or at least one relevant high-quality scientific study, which reported that a treatment was effective. The Division recognizes that further research may have an impact on the intervention's effect.

- "Strong evidence" means the recommendation considered the availability of multiple relevant and high-quality scientific studies, which arrived at similar conclusions about the effectiveness of a treatment. The Division recognizes that further research is unlikely to have an important impact on the intervention's effect.

All recommendations in the guideline are considered to represent reasonable care in appropriately selected cases, irrespective of the level of evidence or consensus statement attached to them. Those procedures considered inappropriate, unreasonable, or unnecessary are designated in the guideline as "***not recommended***."

Please refer to the Colorado Department of Labor and Employment's website for evidence tables and study critiques which provide details on the studies used to develop the evidence statements.

14. TREATMENT OF PRE-EXISTING CONDITIONS The conditions that preexisted the work injury/disease will need to be managed under two circumstances: (a) A pre-existing condition exacerbated by a work injury/disease should be treated until the patient has returned to their objectively verified prior level of functioning or Maximum Medical Improvement (MMI); and (b) A pre-existing condition not directly caused by a work injury/disease but which may prevent recovery from that injury should be treated until its objectively verified negative impact has been controlled. The focus of treatment should remain on the work injury/disease.

The remainder of this document should be interpreted within the parameters of these guideline principles that may lead to more optimal medical and functional outcomes for injured workers.

C. OVERVIEW OF CHRONIC PAIN MANAGEMENT

It is estimated by the Institute of Medicine that approximately 100 million adults suffer from chronic pain in the United States. The World Health Organization's survey found that 37% of adults in 10 developed countries have chronic pain conditions. This overview covers the biopsychosocial nature of chronic pain and a comprehensive plan of care including: functional assessment and goal setting, psychological assessment, medication management, sleep considerations, and active therapy.

Chronic pain may develop from persistent acute pain due to neuroplastic changes occurring in the central nervous system. All chronic pain appears to involve a central sensitization which changes the perception of pain. Thus, treatment patterns are aimed at a number of mechanisms contributing to chronic pain.

Chronic pain is recognized as a biopsychosocial disease process. Each treatment plan should be individualized with a patient-centered approach addressing the many available treatment combinations. Therefore, all areas of the chronic pain guideline should be considered when developing a treatment plan. This includes: the mandatory psychological evaluation; an active therapy plan; medications specific to the pain process for that patient; continuing functional assessment; complementary medication alternatives, when appropriate; and continued return to work/regular daily activity.

Once a patient has been identified as a chronic pain patient, usually 3 months after an injury when pain persists or when pain persists beyond a reasonable post-operative period, the physician should perform a complete re-evaluation. This will assist both the patient and the provider in developing an appropriate treatment plan. Although it is unusual to identify an unknown pathology at this point in the treatment, it is recommended that the provider acknowledge the full complement of patient symptoms and concerns. Repeating or ordering new imaging may be necessary; however, it is not usually recommended as the findings may add to the patient's confusion regarding the work-related injury.

It is essential that the patient and provider understand the type of pain the patient is experiencing and how the pain affects day-to-day activities. Identifying the presence of neuropathic pain, as well as any sources of nocioceptive pain, will assist the patient and provider when choosing medication and other forms of treatment recommended in the guideline.

During the chronic pain assessment, it is suggested that all physicians review with the patient their usual activities over several different typical 24-hour periods. This will assist both parties in understanding what functions are not able to be performed by the patient, how significantly sleep is impacted, and whether pain is affecting social and family relationships. This information is also essential for establishing agreed upon functional goals.

All chronic pain patients should have psychological evaluations. Patients may merely need assistance with coping mechanisms, and/or anxiety or depression may be caused or exacerbated by chronic pain. Treatment in this area is essential for the chronic pain patient. A limited number of cognitive behavioral sessions are frequently effective for these conditions.

Review of the current prescribed and over-the-counter medications is an important part of this initial chronic pain evaluation. If the patient has been chronically on opioids, it is very likely that the full required opioid trial and review has not been performed. Thus, the physician will need to ensure that the proper steps have been taken if opioids are to be continued. It is also reasonable to taper opioids in order to determine the patient's baseline and how other medications are actually affecting the pain.

Refer to Section G.10.g, Opioids, in this guideline for more details. The following is a general

summary of the required elements. A number of other guidelines, including the Center for Disease Control and Prevent (CDC) and Colorado's Board of Medical Examiners, have confirmed these steps.

1. An opioid trial shall be performed before chronic opioids are determined to be useful for patients. About 50% of patients will not be able to tolerate the side effects and/or not show a sufficient increase in function with opioid use. Patients should be aware that this is a trial and like any other medication trial, it will not be continued unless there is sufficient benefit. The average benefit is about a 30% decrease in pain. Thus, all other required treatment must be continued during the time period of the chronic opioid trial.

2. Long acting opioids should never be used for acute pain, post-operative pain, or before an opioid trial has been completed. There is no evidence they are more beneficial than short acting opioids, and the trial should began with short acting opioids.

3. A risk assessment tool, such as the Opioid Risk Tool (ORT) should be completed to assure the provider that there are no prior elements suggesting substance abuse or, when such elements are present, the physician may choose to refer to a provider with more expertise in substance abuse.

4. Urine drug testing should be done prior to the trial.

5. Check the Prescription Drug Monitoring Program (PDMP).

6. The psychological evaluation should have been completed and hopefully treatment as appropriate is being continued.

7. A functional history should be taken and functional goals should be set. This needs to be followed throughout all chronic pain treatment to determine if the patient is increasing or decreasing in function.

8. A provider physician agreement must be completed. This is extremely helpful as it reviews for the patient the expectations regarding his/her behavior as well as the expectations regarding when a physician would choose to taper or remove the patient from opioids and what other treatment is expected to continue during an opioid trial.

If the opioid trial is successful, the physician should continue to monitor with random drug testing and PDMP checks. In addition, the Current Opioid Misuse Measure (COMM) is a tool that can be used for patients on opioids to screen for possible abuse. It should be noted that current estimates suggest approximately 14 to 19 percent of chronic opioid users may become addicted to opioids.

The patient will need to be monitored for side effects. Constipation is anticipated. There may also be problems with sexual dysfunction. Opioids may increase or cause sleep apnea problems, and this should be monitored. At all visits, the functional status of the patient should be recorded. This can be accomplished with reliable, patient-reported functional status tools. Function is preferably validated by physical exam or by other objective measures from the provider.

Lack of sleep is a significant problem for patients with uncontrolled chronic pain. Taking a good history in this area and promoting an appropriate sleep regime is essential for patients, if they are to establish a productive life-style.

Active therapy is one of the most important components. Regular exercise is shown to decrease depression as well as decrease chronic pain. Helping the patient choose appropriate physical activities and cognitive activities will be important for recovery.

Although treating chronic pain patients is challenging due to the many disciplines and treatment patterns available, the rewards are great when a patient with chronic pain is able to resume work and engage in satisfying life activities.

D. INTRODUCTION TO CHRONIC PAIN

The International Association for the Study of Pain (IASP) defines pain as "an unpleasant sensory and emotional experience with actual or potential tissue damage." Pain is a complex experience embracing physical, mental, social, and behavioral processes that often compromises the quality of life of many individuals.

Pain is an unpleasant subjective perception usually in the context of tissue damage. Pain is subjective and cannot be measured or indicated objectively. Pain evokes negative emotional reactions such as fear, anxiety, anger, and depression. People usually regard pain as an indicator of physical harm, despite the fact that pain can exist without tissue damage and tissue damage can exist without pain. Many people report pain in the absence of tissue damage or any likely pathophysiologic cause. There is no way to distinguish their experience from pain due to actual tissue damage. If they regard their experience as pain and they report it the same way as pain caused by tissue damage, it should be accepted as pain.

Pain can generally be classified as:

- Nociceptive, which includes pain from visceral origins or damage to other tissues. Myofascial pain is a nociceptive type of pain characterized by myofascial trigger points limited to a specific muscle or muscles;
- Neuropathic, including pain originating from the brain, peripheral nerves, or both; and
- Psychogenic, which originates in mood, characterological, social, or psychophysiological processes.

Recent advances in the neurosciences reveal additional mechanisms involved in chronic pain. In the past, pain was seen as a sensation arising from the stimulation of pain receptors by damaged tissue, initiating a sequence of nerve signals ending in the brain and there recognized as pain. A consequence of this model was that ongoing pain following resolution of tissue damage was seen as less physiological and more psychological than acute pain with identifiable tissue injury. Current research indicates that chronic pain involves additional mechanisms that cause: 1) neural remodeling at the level of the spinal cord and higher levels of the central nervous system; 2) changes in membrane responsiveness and connectivity leading to activation of larger pain pathways; and 3) recruitment of distinct neurotransmitters.

Changes in gene function and expression may occur, with lasting functional consequences. These physiologic functional changes cause chronic pain to be experienced in body regions beyond the original injury and to be exacerbated by little or no stimulation. The chronic pain experience clearly represents both psychologic and complex physiologic mechanisms, many of which are just beginning to be understood.

Chronic pain is defined as "pain that persists for at least 30 days beyond the usual course of an acute disease or a reasonable time for an injury to heal or that is associated with a chronic pathological process that causes continuous pain (e.g., Complex Regional Pain Syndrome)." The very definition of chronic pain describes a delay or outright failure to increase function and relieve pain associated with some specific illness or accident. Delayed recovery should prompt a clinical review of the case and a psychological evaluation by the health care provider. Consideration may be given to new diagnostic testing or a change in treatment plan. Referral to a specialist with experience in chronic pain management is recommended.

The term “chronic pain syndrome” has been incorrectly used and defined in a variety of ways that generally indicate a belief on the part of the health care provider that the patient's pain is

inappropriate or out of proportion to existing problems or illness. Use of the term “chronic pain syndrome” should be discontinued because the term ceases to have meaning due to the many different physical and psychosocial issues associated with it. The IASP offers a taxonomy of pain, which underscores the wide variety of pathological conditions associated with chronic pain. This classification system may not address the psychological and psychosocial issues that occur in the perception of pain, suffering, and disability and may require referral to psychiatric or psychological clinicians. Practitioners should use the nationally accepted terminology indicated in the most current ICD system. Chronic pain can be diagnosed as F45.42 “Pain disorder with related psychological factors” when the associated body part code is also provided. Alternately, chronic pain can also be diagnosed as F54 “Psychological factors affecting physical conditions,” and this code should also be accompanied by the associated body part.

Injured patients generally initiate treatment with complaints of pain, which is generally attributable to a specific injurious event, but occasionally to an ostensible injury. Thus, the physician should not automatically assume that complaints of acute pain are directly attributable to pathophysiology at the tissue level. Pain is known to be associated with sensory, affective, cognitive, social, and other processes. The pain sensory system itself is organized into two parts, often called first and second pain. A-∂ nerve fibers conduct first pain via the neospinalthalamic tract to the somatosensory cortex and provide information about pain location and quality. In contrast, unmyelinated C fibers conduct second pain via the paleospinalthalamic tract and provide information about pain intensity. Second pain is more closely associated with emotion and memory neural systems than it is with sensory systems.

As a patient’s condition transitions through the acute, subacute, and chronic phases, the central nervous system (CNS) is reorganized. The temporal summation of second pain produces a sensitization or “windup” of the spinal cord, and the connections between the brain regions involved in pain perception, emotion, arousal, and judgment are changed by persistent pain. These changes cause the CNS’s “pain neuromatrix” to become sensitized to pain. This CNS reorganization is also associated with changes in the volume of brain areas, decreased grey matter in the prefrontal cortex, and the brain appearing to age more rapidly. As pain continues over time, the CNS remodels itself so that pain becomes less closely associated with sensation, and more closely associated with arousal, emotion, memory, and beliefs. Because of these CNS processes, all clinicians should be aware that as the patient enters the subacute phase, it becomes increasingly important to consider the psychosocial context of the disorder being treated, including the patient’s social circumstances, arousal level, emotional state, and beliefs about the disorder. However, behavioral complications and physiological changes associated with chronicity and central sensitization may also be present in the acute phase, and within hours of the initial injury. It is the intent of many of the treatments in this guideline to assist in remodeling these CNS changes.

Chronic pain is a phenomenon not specifically relegated to anatomical or physiologic parameters. The prevailing biomedical model (which focuses on identified disease pathology as the sole cause of pain) cannot capture all of the important variables in pain behavior. While diagnostic labels may pinpoint contributory physical and/or psychological factors and lead to specific treatment interventions that are helpful, a large number of patients defy precise taxonomic classification. Furthermore, such diagnostic labeling often overlooks important social contributions to the chronic pain experience. Failure to address these operational parameters of the chronic pain experience may lead to incomplete or faulty treatment plans. The concept of a "pain disorder" is perhaps the most useful term, in that it captures the multi-factorial nature of the chronic pain experience.

It is recognized that some health care practitioners have much greater expertise in the area of chronic pain evaluation and treatment than others by virtue of their experience, additional training, and/or accreditation by pain specialty organizations. Referrals for the treatment of chronic pain should be to such recognized specialists. Chronic pain treatment plans should be monitored and

coordinated by physicians with expertise in pain management including specialty training and/or certification.

Most acute and some chronic pain problems are adequately addressed in other Division Medical Treatment Guidelines and are generally not within the scope of this guideline. However, because chronic pain is more often than not multi-factorial, involving more than one pathophysiologic or mental disorder, some overlap with other guidelines is inevitable. This guideline is meant to apply to any patient who fits the operational definition of chronic pain discussed at the beginning of this section.

E. DEFINITIONS

1. **AFTER SENSATION:** refers to the abnormal persistence of a sensory perception provoked by a stimulus even though the stimulus has ceased.

2. **ALLODYNIA:** pain due to a non-noxious stimulus that does not normally provoke pain.

Mechanical Allodynia: refers to the abnormal perception of pain from usually non-painful mechanical stimulation.

Static Mechanical Allodynia: refers to pain obtained by applying a single stimulus such as light pressure to a defined area.

Dynamic Mechanical Allodynia: obtained by moving the stimulus such as a brush or cotton tip across the abnormal hypersensitive area.

Thermal Allodynia: refers to the abnormal sensation of pain from usually non-painful thermal stimulation such as cold or warmth.

3. **ANALGESIA:** absence of pain in response to stimulation that would normally be painful.

4. **BIOPSYCHOSOCIAL:** a term that reflects the multiple facets of any clinical situation; namely, the biological, psychological, and social situation of the patient.

5. **CENTRAL PAIN:** pain initiated or caused by a primary lesion or dysfunction in the central nervous system.

6. **CENTRAL SENSITIZATION:** the experience of pain evoked by the excitation of non-nociceptive neurons or of nerve fibers that normally relay non-painful sensations to the spinal cord. This results when non-nociceptive afferent neurons act on a sensitized central nervous system (CNS). Experimental data suggest that pathways normally carrying pain signals themselves become overstimulated and/or fail to respond to inhibitory influences causing increased pain**.** An example is 'wind-up' which occurs when cells in the dorsal horn of the spinal cord increase their rate of action potential discharge in response to repeated stimulation by nociceptors.

7. **DYSESTHESIA:** an abnormal sensation described by the patient as unpleasant. As with paresthesia, dysesthesia may be spontaneous or evoked by maneuvers on physical examination.

8. **HYPERALGESIA:** refers to an exaggerated pain response from a usually painful stimulation.

9. **HYPERESTHESIA (POSITIVE SENSORY PHENOMENA):** includes allodynia, hyperalgesia, and hyperpathia. Elicited by light touch, pin prick, cold, warm, vibration, joint position sensation or two-point discrimination, which is perceived as increased or more.

10. **HYPERPATHIA:** a condition of altered perception such that stimuli which would normally be innocuous, if repeated or prolonged, result in severe explosive persistent pain.

11. **HYPOALGESIA:** diminished pain perception in response to a normally painful stimulus.

12. **HYPOESTHESIA/HYPESTHESIA (NEGATIVE SENSORY PHENOMENA):** diminished sensitivity to stimulation.

13. **MALINGERING:** intentional feigning of illness or disability in order to achieve external incentives such as recreational drugs or money.

14. **MYOFASCIAL PAIN:** a regional pain characterized by tender points in taut bands of muscle that produce pain in a characteristic reference zone.

15. **MYOFASCIAL TRIGGER POINT:** a physical sign in a muscle which includes a) exquisite tenderness in a taut muscle band; and b) referred pain elicited by mechanical stimulation of the trigger point. The following findings may be associated with myofascial trigger points: 1) Local twitch or contraction of the taut band when the trigger point is mechanically stimulated; 2) Reproduction of the patient's spontaneous pain pattern when the trigger point is mechanically stimulated; 3) Weakness without muscle atrophy; 4) Restricted range-of-motion of the affected muscle; and 5) Autonomic dysfunction associated with the trigger point such as changes in skin or limb temperature.

16. **NEURALGIA:** pain in the distribution of a nerve or nerves.

17. **NEURITIS:** inflammation of a nerve or nerves.

18. **NEUROGENIC PAIN:** pain initiated or caused by a primary lesion, dysfunction, or transitory perturbation in the peripheral or central nervous system.

19. **NEUROPATHIC PAIN:** pain due to an injured or dysfunctional central or peripheral nervous system.

20. **NEUROPATHY:** a disturbance of function or pathological change in a nerve: in one nerve (mononeuropathy), in several nerves (mononeuropathy multiplex), **OR** diffuse and bilateral (polyneuropathy). Neuropathy should be associated with objective findings such as consistent sensory abnormalities, consistent motor findings (e.g., weakness, atrophy, fasciculations, muscle cramping), and/or neuropathic abnormalities on EMG/nerve conduction testing.

21. **NOCICEPTOR:** a receptor preferentially sensitive to a noxious stimulus or to a stimulus which would become noxious if prolonged.

22. **PAIN BEHAVIOR:** the non-verbal actions (such as grimacing, groaning, limping, using visible pain relieving or support devices, and requisition of pain medications, among others) that are outward manifestations of pain and through which a person may communicate that pain is being experienced.

23. **PAIN THRESHOLD:** the smallest stimulus perceived by a subject as painful during laboratory testing. The term also loosely applies to the biological variation among human beings in sensing and coping with pain.

24. **PARESTHESIA:** an abnormal sensation that is not described as pain. It can be either a spontaneous sensation (such as pins and needles) or a sensation evoked from non-painful or painful stimulation, such as light touch, thermal, or pinprick stimulus on physical examination.

25. **PERIPHERAL NEUROPATHIC PAIN:** pain initiated or caused by a primary lesion or dysfunction in the peripheral nervous system.

26. **SOMATIC DYSFUNCTION:** somatic dysfunction is impaired or altered function of related components of the somatic (body framework) system which includes skeletal, arthrodial, and myofascial structures.

27. **SUMMATION:** refers to abnormally painful sensation to a repeated stimulus although the actual stimulus remains constant. The patient describes the pain as growing and growing as the same intensity stimulus continues.

28. **SYMPATHETICALLY MAINTAINED PAIN (SMP):** a pain that is maintained by sympathetic efferent pathways and is eliminated by blockade of these pathways. It is intensified by circulating catecholamines.

29. **TENDER POINTS:** tenderness on palpation at a tendon insertion, muscle belly, or over bone. Palpation should be done with the thumb or forefinger, applying pressure approximately equal to a force of 4 kilograms (blanching of the entire nail bed).

F. INITIAL EVALUATION & DIAGNOSTIC PROCEDURES

The Division recommends the following diagnostic procedures be considered, at least initially. It is the responsibility of the workers' compensation carrier to ensure that an accurate diagnosis and treatment plan can be established. Standard procedures that should be utilized when initially diagnosing a work-related chronic pain complaint are listed below.

1. **HISTORY TAKING AND PHYSICAL EXAMINATION (HX & PE)**: These are generally accepted, well-established, and widely used procedures that establish the foundation/basis for and dictate subsequent stages of diagnostic and therapeutic procedures. When findings of clinical evaluations and those of other diagnostic procedures are not complementing each other, the objective clinical findings should have preference. The medical records should reasonably document the following:

a. **Medical History**: As in other fields of medicine, a thorough patient history is an important part of the evaluation of chronic pain. In taking such a history, factors influencing a patient's current status can be made clear and taken into account when planning diagnostic evaluation and treatment. It may be necessary to acquire previous medical records. One efficient manner in which to obtain historical information and patient reported functional status is by using a questionnaire. The questionnaire may be sent to the patient prior to the initial visit or administered at the time of the office visit. History should ascertain the following elements.

i. General Information: General items requested are name, sex, age, birth date, etc.

ii. Level of Education: The level of the patient's education may influence response to treatment.

iii. Work History/Occupation: to include both impact of injury on job duties and impact on ability to perform job duties, work history, job description, mechanical requirements of the job, duration of employment, and job satisfaction.

iv. Current employment status.

v. Marital status.

vi. Family Environment: Is the patient living in a nuclear family or with friends? Is there, or were there, any family members with chronic illness or pain problems? Responses to such questions reveal the nature of the support system or the possibility of conditioning toward chronicity.

vii. Ethnic Origin: Ethnicity of the patient, including any existing language barriers, may influence the patient's perception of and response to pain. Literature indicates that providers may under-treat patients of certain ethnic backgrounds due to underestimation of their pain.

viii. Belief System: Patients should be asked about their value systems, including spiritual and cultural beliefs, in order to determine how these may influence the patient's and family's response to illness and treatment recommendations.

ix. Functional Assessment: Functional ability should be assessed and documented at the beginning of treatment. Periodic assessment should be recorded throughout the course of care to follow the trajectory of recovery. Functional measures are likely to be more reliable over time than pain measures.

Patient-reported outcomes, whether of pain or function, are susceptible to a phenomenon called response shift. This refers to changes in self-evaluation, which may accompany changes in health status. Patient self-reports may not coincide with objective measures of outcome, due to reconceptualization of the impact of pain on daily function and internal recalibration of pain scales. Response shift may obscure treatment effects in clinical trials and clinical practice, and it may lead to apparent discrepancies in patient-reported outcomes following treatment interventions. While methods of measuring and accounting for response shift are not yet fully developed, understanding that the phenomenon exists can help clinicians understand what is happening when some measures of patient progress appear inconsistent with other measures of progress.

x. Activities of Daily Living (ADLs) and Instrumental Activities of Daily Living (IADLs): Pain has a multidimensional effect on the patient that is reflected in changes in the ability to perform self-care tasks and usual daily vocational, social, recreational, and sexual activities.

xi. Past and present psychological problems.

xii. History of abuse: physical, emotional, sexual.

xiii. History of disability in the family.

xiv. Sleep disturbances: Poor sleep has been shown to increase patient's self-perceived pain scores. Pre-injury and post-injury sleep should be recorded.

xv. Causality: How did this injury occur? Was the problem initiated by a work-related injury or exposure? Patient's perception of causality (e.g., was it their fault or the fault of another).

b. **Pain History**: Characterization of the patient's pain and of the patient's response to pain is one of the key elements in treatment.

i. Site of Pain: Localization and distribution of the pain help determine the type of pain the patient has (i.e., central versus peripheral).

ii. Pain diagram drawings to document the distribution of pain.

iii. Visual Analog Scale (VAS): Current pain, highest pain level, and usual pain level may be recorded. Include a discussion of the range of pain during the day and how activities, use of modalities, and other actions affect the intensity of pain.

iv. Duration: including intermittent pain, activity related pain.

v. Place of onset: circumstances during which the pain began (e.g., an accident, an illness, a stressful incident, or spontaneous onset).

vi. Pain Characteristics: such as burning, shooting, stabbing, and aching. Time of pain occurrence, as well as intensity, quality, and radiation, give clues to the diagnosis and potential treatment. Quality of pain can be helpful in identifying neuropathic pain which is normally present most of the day, at night, and is often described as burning.

vii. List of activities which aggravate or exacerbate, ameliorate, decrease, or have no effect on the level of pain.

viii. Associated Symptoms: Does the patient have numbness or paresthesia, dysesthesia, weakness, bowel or bladder dysfunction, altered temperature, increased sweating, cyanosis, or edema? Is there local tenderness, allodynia, hyperesthesia, or hyperalgesia? Does the patient have constitutional symptoms such as fevers, chills, night sweats, unexplained weight loss, or pain that awakes them from a deep sleep at night?

c. Medical Management History:

i. Diagnostic Tests: All previous radiological and laboratory investigations should be reviewed.

ii. Prior Treatment: chronological review of medical records including previous medical evaluations and response to treatment interventions. In other words, what has been tried and which treatments have helped?

iii. Prior Surgery: If the patient has had prior surgery specifically for the pain, he/she may be less likely to have a positive outcome.

iv. Medications: history of and current use of medications, including opioids, over-the-counter medications, cannabis products, and herbal/dietary supplements, to determine drug usage (or abuse) interactions and efficacy of treatment. Drug allergies and other side effects experienced with previous or current medication therapy and adherence to currently prescribed medications should be documented. Ideally, this includes dosing schedules as reported by the patient or patient representative. Information should be checked against the Colorado Prescription Drug Monitoring Program (PDMP), offered by the Colorado Pharmacy Board.

v. Review of Systems Check List: Determine if there is any interplay between the pain complaint and other medical conditions.

vi. Psychosocial Functioning: Determine if any of the following are present: current symptoms of depression or anxiety; evidence of stressors in the workplace or at home; and past history of psychological problems. Other confounding psychosocial issues may be present, including the presence of psychiatric disease. Due to the high incidence of co-morbid problems in populations that develop chronic pain, it is recommended that all patients diagnosed with chronic pain should be referred for a full psychosocial evaluation.

vii. Pre-existing Conditions: Treatment of these conditions is appropriate when the pre-existing condition affects recovery from chronic pain.

viii. Family history pertaining to similar disorders.

d. Substance Use/Abuse:

i. Alcohol use.

ii. Smoking History and use of nicotine replacements.

iii. History of current and prior prescription and recreational drug use or abuse.

iv. The use of caffeine or caffeine containing beverages.

v. Substance abuse information may be only fully obtainable from multiple sources over time. Patient self-reports may be unreliable. Patient self-reports should always be checked against medical records.

e. Other Factors Affecting Treatment Outcome:

i. Compensation/Disability/Litigation.

ii. Treatment Expectations: What does the patient expect from treatment: complete relief of pain or reduction to a more tolerable level?

iii. Other scales may be used to identify cases which are likely to require more complex care. Examples include:

A) Fear Avoidance Beliefs Questionnaire

B) Tampa Scale of Kinesiophobia

C) Pain Catastrophizing Scale

f. Physical Examination:

i. Neurologic Evaluation: includes cranial nerves survey, muscle tone and strength, atrophy, detailed sensory examination (see ii-below), motor evaluation (station, gait, coordination), reflexes (normal tendon reflexes and presence or absence of abnormal reflexes such as frontal lobe release signs or upper motor neuron signs), cerebellar testing, signs suggestive of a sensory ataxia (positive Romberg, impaired proprioception, etc.), and provocative neurological maneuvers.

ii. Sensory Evaluation: A detailed sensory examination is crucial in evaluating a patient with chronic pain complaints. Quantitative sensory testing, such as Semmes-Weinstein, may be useful tools in determining sensory abnormalities. Ideally, the examination should determine if the following sensory signs are present and consistent on repeated examination.

A) Hyperalgesia.

B) Hyperpathia.

C) Paresthesia.

D) Dysesthesia.

E) Mechanical Allodynia – static versus dynamic.

F) Thermal Allodynia.

G) Hypoesthesia.

H) Hyperesthesia.

I) Summation.

iii. Musculoskeletal Evaluation: range-of-motion, segmental mobility, musculoskeletal provocative maneuvers, palpation, observation, and functional activities. All joints, muscles, ligaments, and tendons should be examined for asymmetry, swelling, laxity, and tenderness. A portion of the musculoskeletal evaluation is the myofascial examination. The myofascial examination includes palpating soft tissues for evidence of tightness, tenderness, and trigger points.

iv. Evaluation of non-physiologic findings:

A) Waddell's Signs cannot be used to predict or diagnose malingering. It is not an appropriate test for assessing non-physiologic causes of low back pain. The sole purpose of the Waddell's signs is to identify low back pain patients who may need further psychosocial assessment prior to surgery. Refer to Section F.2, Personality/Psychological/Psychosocial Evaluation.

B) Variability on formal exam including variable sensory exam, inconsistent tenderness, and/or swelling secondary to extrinsic sources.

C) Inconsistencies between formal exam and observed abilities of range-of-motion, motor strength, gait, and cognitive/emotional state should be noted in the assessment.

2. PERSONALITY/ PSYCHOLOGICAL/PSYCHOSOCIAL EVALUATIONS FOR PAIN MANAGEMENT: These are generally accepted, well-established, and widely used diagnostic procedures not only with selected use in acute pain problems but also with more widespread use in subacute and chronic pain populations. Diagnostic evaluations should distinguish between conditions that are pre-existing, aggravated by the current injury, or work related.

Psychosocial evaluations should determine if further psychosocial or behavioral interventions are indicated for patients diagnosed with chronic pain. The interpretations of the evaluation should provide clinicians with a better understanding of the patient in his or her social environment, thus allowing for more effective rehabilitation. Psychosocial assessment requires consideration of variations in pain experience and expression resulting from affective, cognitive, motivational and coping processes, and other

influences such as gender, age, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status.

While there is some agreement about which psychological factors need to be assessed in patients with chronic pain, a comprehensive psychological evaluation should attempt to identify both primary psychiatric risk factors or "red flags" (e.g., psychosis, active suicidality) as well as secondary risk factors or "yellow flags" (e.g., moderate depression, job dissatisfaction). Significant personality disorders must be taken into account when considering a patient for spinal cord stimulation and other major procedures.

Psychometric Testing is a valuable component of a consultation to assist the physician in making a more effective treatment plan. There is good evidence that psychometric testing can have significant ability to predict medical treatment outcome. For example, one study found that psychometric testing exceeded the ability of discography to predict disability in patients with low back pain. Pre-procedure psychiatric/psychological evaluation must be done prior to diagnostic confirmatory testing for a number of procedures. Examples include discography for fusion, spinal cord stimulation, or intrathecal drug delivery systems, and they should not be done by a psychologist employed by the physician planning to perform the procedure.

In many instances, psychological testing has validity comparable to that of commonly used medical tests; for example, the correlation between high trait anger and blood pressure is equal to the correlation between reduced blood flow and the failure of a synthetic hemodialysis graft. Thus, psychometric testing may be of comparable validity to medical tests and may provide unique and useful diagnostic information.

All patients who are diagnosed as having chronic pain should be referred for a psychosocial evaluation, as well as concomitant interdisciplinary rehabilitation treatment. This referral should be performed in a way so as to not imply that the patient's claims are invalid or that the patient is malingering or mentally ill. Even in cases where no diagnosable mental condition is present, these evaluations can identify social, cultural, coping, and other variables that may be influencing the patient's recovery process and may be amenable to various treatments including behavioral therapy. As pain is understood to be a biopsychosocial phenomenon, these evaluations should be regarded as an integral part of the assessment of chronic pain conditions.

a. **Qualifications**:

i. A psychologist with a PhD, PsyD, or EdD credentials or a physician with Psychiatric MD/DO credentials may perform the initial comprehensive evaluations. It is preferable that these professionals have experience in diagnosing and treating chronic pain disorders and/or working with patients with physical impairments.

ii. Psychometric tests should be administered by psychologists with a PhD, PsyD, or EdD or health professionals working under the supervision of a doctorate level psychologist. Physicians with appropriate training may also administer such testing, but interpretation of the tests should be done by properly credentialed mental health professionals.

b. **Clinical Evaluation**:

Special note to health care providers: most providers are required to adhere to the federal regulations under the Health Insurance Portability and Accountability Act (HIPAA). Unlike general health insurers, workers' compensation insurers are

not required to adhere to HIPAA standards. Thus, providers should assume that sensitive information included in a report sent to the insurer could be forwarded to the employer. The Colorado statute provides a limited waiver of medical information regarding the work-related injury or disease to the extent necessary to resolve the claim. It is recommended that the health care provider either 1) obtain a full release from the patient regarding information that may go to the employer or 2) not include sensitive health information not directly related to the work related conditions in reports sent to the insurer.

All chronic pain patients should have a clinical evaluation that addresses the following areas recalling that not all details should be included in the report sent to the insurer due to the HIPAA issue noted above:

i. History of Injury: The history of the injury should be reported in the patient's words or using similar terminology. Caution must be exercised when using translators.

- Nature of injury.
- Psychosocial circumstances of the injury.
- Current symptomatic complaints.
- Extent of medical corroboration.
- Treatment received and results.
- Adherence with treatment.
- Coping strategies used, including perceived locus of control, catastrophizing, and risk aversion.
- Perception of medical system and employer.
- History of response to prescription medications.

ii. Health History:

- Nature of injury.
- Medical history.
- Psychiatric history: to include past diagnoses, counseling, medications, and response to treatment.
- Past, recent, and concurrent stressors.
- History of substance related and addictive disorders to include:
    - Alcohol
    - Cannabis products

- Opioids
- Sedative, hypnotic, and anxiolytic medications
- Stimulants
- Prescription drug abuse
- Nicotine use
- Other substances of abuse / dependence

- Activities of daily living.
- Previous injuries, including disability, impairment, and compensation.

iii. Psychosocial History:

- Childhood history, including abuse/neglect.
- Educational history.
- Family history, including disability.
- Current living situation including roommates, family, intimate partners, and financial support.
- Marital history and other significant adulthood activities and events.
- Legal history, including but not limited to substance use related, domestic violence, criminal, and civil litigation.
- Employment history.
- Military duty: Because post-traumatic stress disorder (PTSD) might be an unacceptable condition for many military personnel to acknowledge, it may be prudent to screen initially for signs of depression or anxiety – both of which may be present in PTSD.
- Signs of pre-injury psychological dysfunction.
- Financial history.
- Prior level of function including self-care, community, recreational, and employment activities.

iv. Mental status exam including orientation, cognition, activity, speech, thinking, affect, mood, and perception. May include screening tests such as the mini mental status exam or frontal assessment battery if appropriate.

v. Assessment of any danger posed to self or others.

vi. Psychological test results, if performed.

vii. Current psychiatric diagnosis consistent with the standards of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders.

viii. Pre-existing psychiatric conditions: Treatment of these conditions is appropriate when the pre-existing condition affects recovery from chronic pain.

ix. Causality: to address medically probable cause and effect and to distinguish pre-existing psychological symptoms, traits, and vulnerabilities from current symptoms.

x. Treatment recommendations with respect to specific goals, frequency, time frames, and expected outcomes.

c. **Tests of Psychological Functioning**: Psychometric testing is a valuable component of a consultation to assist the physician in making a more effective treatment plan. Psychometric testing is useful in the assessment of mental conditions, pain conditions, cognitive functioning, treatment planning, vocational planning, and evaluation of treatment effectiveness. While there is no general agreement as to which psychometric tests should be specifically recommended for psychological evaluations of chronic pain conditions, standardized tests are preferred over those which are not for assessing diagnosis. Generally, it is helpful if tests consider the following issues: validity, physical symptoms, affective disorders, character disorders and traits, and psychosocial history. Character strengths that support the healing/rehabilitative process should also be evaluated and considered with any dysfunctional behavior patterns or pathology to more accurately assess the patient's prognosis and likely response to a proposed intervention.

In contrast, non-standardized tests can be useful for "ipsative" outcome assessment, in which a test is administered more than once and a patient's current and past reports are compared.

It is appropriate for the mental health providers to use their discretion and administer selective psychometric tests within their expertise and within standards of care in the community. Use of screening psychometrics by non-mental health providers is encouraged, but mental health provider consultation should always be utilized for chronic pain patients in which invasive palliative pain procedures or chronic opiate treatment is being contemplated. Some of these tests are available in Spanish and other languages, and many are written at a 6th grade reading level. Examples of frequently used psychometric tests performed include, but are not limited to, the tests identified below. (For a description of the psychometric tests listed in this section, refer to the Appendix, Description of Tests of Psychological Functioning.)

i. Comprehensive Inventories for Medical Patients:

A) Battery for Health Improvement, 2nd Edition (BHI™ -2).

B) Millon™ Behavioral Medical Diagnostic (MBMD™).

ii. Comprehensive Psychological Inventories:

These tests are designed for detecting various psychiatric syndromes but in general are more prone to false positive findings when administered to medical patients.

A) Millon® Clinical Multiaxial Inventory® (MCMI®-IV).

B) Minnesota Multiphasic Personality Inventory®, 2nd Edition (MMPI®-2).

C) Minnesota Multiphasic Personality Inventory®, 2nd Edition Revised Form (MMPI®-2).

D) Personality Assessment Inventory™ (PAI®).

iii. Brief Multidimensional Screens for Medical Patients:

Treating providers may use brief instruments to assess a variety of psychological and medical conditions, including depression, pain, disability, and others. These instruments may also be employed as repeated measures to track progress in treatment or as one test in a more comprehensive evaluation. Brief instruments are valuable in that the test may be administered in the office setting and hand scored by the physician. Results of these tests should help providers distinguish which patients should be referred for a specific type of comprehensive evaluation.

A) Brief Battery for Health Improvement, 2nd Edition (BBHI™-2).

B) Pain Patient Profile (P-3®).

C) SF-36®.

D) Sickness Impact Profile (SIP).

E) McGill Pain Questionnaire (MPQ).

F) McGill Pain Questionnaire – Short Form (MPQ-SF).

G) Oswestry Disability Questionnaire (ODQ).

H) Visual Analog Scales (VAS).

I) Numerical Rating Scales (NRS).

J) Chronic Pain Grade Scale (CPGS).

K) Pain Catastrophizing Scale (PCS).

iv. Brief Multidimensional Screens for Psychiatric Patients:

These tests are designed for detecting various psychiatric syndromes but

in general are more prone to false positive findings when administered to medical patients.

A) Brief Symptom Inventory (BSI®).

B) Brief Symptom Inventory–18 (BSI®-18).

C) Symptom Check List - 90 Revised (SCL-90 R®).

v. Brief Specialized Psychiatric Screening Measures:

A) Beck Depression Inventory® (BDI®).

B) Center of Epidemiologic Studies – Depression Questionnaire (CES-D).

Note: Designed for assessment of psychiatric patients, not pain patients, which can bias results, and this should be a consideration when using.

C) Brief Patient Health Questionnaire from PRIME - MD®. (The PHQ-9 may also be used as a depression screen.)

D) Zung Depression Questionnaire.

Note: The Zung Depression Scale must be distinguished from the Modified Zung Depression scale used by the DRAM (a QPOP measure). The Zung Depression Scale has different items and a different scoring system than the Modified Zung Depression scale, making the cutoff scores markedly different. The cutoff scores for one measure cannot be used for the other.

E) Generalized Anxiety Disorder 7-item scale (GAD-7).

Evidence Statements Regarding Psychometric Testing		
Good Evidence	Evidence Statement	Design
	Psychometric testing can have significant ability to predict medical treatment outcome.	Prospective cohort study, Observational cohort study

3. **DIAGNOSTIC STUDIES** Imaging of the spine and/or extremities is a generally accepted, well-established, and widely used diagnostic procedure when specific indications, based on history and physical examination, are present. Practitioners should be aware of the radiation doses associated with various procedures and provide appropriate warnings to patients. Coloradans have a substantial background exposure to radiation, and unnecessary CT scans or X-rays increase the lifetime risk of cancer death. Physicians should refer to the Division's Medical Treatment Guidelines on specific acute care for detailed information about specific testing procedures. Tests should be performed to rule in or out specific diagnoses.

a. Radiographic Imaging, MRI, CT, bone scan, radiography, and other special imaging studies may provide useful information for many musculoskeletal disorders causing chronic pain. It is probably most helpful in ruling out rare, significant diagnoses that may present with pain, such as metastatic cancer. Most imaging is likely to demonstrate aging changes which are usually not pathologic. Refer to specific Division Medical Treatment Guidelines for details. Before the test is performed, patients should be informed of the purpose of the exam (e.g., to rule out unsuspected cancer) and the likelihood of finding non-pathologic changes that are part of the normal aging process.

b. Electrodiagnostic studies may be useful in the evaluation of patients with suspected myopathic or neuropathic disease and may include Nerve Conduction Studies (NCS), Standard Needle Electromyography, or Somatosensory Evoked Potential (SSEP). The evaluation of electrical studies is complex and should be performed by specialists who are well trained in the use of this diagnostic procedure.

c. Special testing procedures may be considered when attempting to confirm the current diagnosis or reveal alternative diagnosis. Additional special tests may be performed at the discretion of the physician.

d. Testing for Complex Regional Pain Syndrome (CRPS I) or Sympathetically Maintained Pain (SMP) is described in the Division's Complex Regional Pain Syndrome/Reflex Sympathetic Dystrophy Medical Treatment Guidelines.

4. **LABORATORY TESTING** Laboratory tests are generally accepted, well-established, and widely used procedures. Patients should be carefully screened at the initial exam for signs or symptoms of diabetes, hypothyroidism, arthritis, and related inflammatory diseases. For patients at risk for sleep apnea, testing may be appropriate depending on medication use and issues with insomnia. The presence of concurrent disease does not refute work-relatedness of any specific case. This frequently requires laboratory testing. When a patient's history and physical examination suggest infection, metabolic or endocrinologic disorders, tumorous conditions, systemic musculoskeletal disorders (e.g., rheumatoid arthritis or ankylosing spondylitis), or problems potentially related to medication (e.g., renal disease and non-steroidal anti-inflammatory medications), then laboratory tests, including, but not limited to the following can provide useful diagnostic information:

a. Thyroid stimulating hormone (TSH) for hypothyroidism;

b. Diabetic screening: recommended for men and women with a BMI over 30, patients with a family history of diabetes, those from high risk ethnic groups, and patients with a previous history of impaired glucose tolerance. There is some evidence that diabetic patients with upper extremity disorders have sub-optimal control of their diabetes;

c. Serum protein electrophoresis;

d. Sedimentation rate and C-reactive protein (CRP) are nonspecific but elevated in infection, neoplastic conditions, and rheumatoid arthritis. Other screening tests to rule out inflammatory or autoimmune disease may be added when appropriate;

e. Serum calcium, phosphorus, uric acid, alkaline, and acid phosphatase for metabolic, endocrine and neo-plastic conditions;

f. Complete blood count (CBC), liver, and kidney function profiles for metabolic or endocrine disorders or for adverse effects of various medications;

g. Bacteriological (microorganism) work-up for wound, blood, and tissue;

h. Vitamin B12 levels may be appropriate for some patients.

The Division recommends that the workers' compensation carrier cover initial lab diagnostic procedures to ensure that an accurate diagnosis and treatment plan is established. When an authorized treating provider has justification for the test, insurers should cover the costs. Laboratory testing may be required periodically to monitor patients on chronic medications.

5. INJECTIONS–DIAGNOSTIC

a. Spinal Diagnostic Injections:

Diagnostic spinal injections are not commonly used in chronic pain patients as usually they have been performed previously in the acute or subacute stage. They may rarely be necessary for aggravations of low back pain. Refer to the Division's Low Back Pain Medical Treatment Guideline for indications.

i. Steroid Associated Issues:

If steroids are injected, only non-particulate steroids should be used to avoid the risk of spinal infection.

The majority of diabetic patients will experience an increase in glucose following steroid injections. Average increases in one study were 125mg/dL and returned to normal in 48 hours, whereas in other studies, the increased glucose levels remained elevated up to 7 days, especially after multiple injections. All diabetic patients should be told to follow their glucose levels carefully over the 7 days after a steroid injection. For patients who have not been diagnosed with diabetes, one can expect some increase in glucose due to insulin depression for a few days after a steroid injection. Clinicians may consider diabetic screening tests for those who appear to be at risk for type 2 diabetes.

Intra-articular or epidural injections cause rapid drops in plasma cortisol levels which usually resolve in 1 to 4 weeks. There is some evidence that an intra-articular injection of 80 mg of methylprednisolone acetate into the knee has about a 25% probability of suppressing the adrenal gland response to exogenous adrenocortocotrophic hormone ACTH for four or more weeks after injection, but complete recovery of the adrenal response is seen by week 8 after injection. This adrenal suppression could require treatment if surgery or other physiologically stressful events occur.

There is good evidence that there are no significant differences between epidural injections with corticosteroid plus local anesthetic versus local anesthetic alone in patients with symptomatic spinal stenosis; however, there are measureable differences with respect to morning cortisol levels at 3 and 6 weeks after the injection, suggesting that the corticosteroid injection is capable of inducing suppression of the hypothalamic-pituitary-adrenal axis.

Case reports of Cushing's syndrome, hypopituitarism and growth hormone deficiency have been reported uncommonly and have been tied to systemic absorption of intra-articular and epidural steroid injections. Cushing's syndrome has also been reported from serial occipital nerve injections and paraspinal injections.

Morning cortisol measurements may be ordered prior to repeating steroid injections or prior to the initial steroid injection when the patient has received multiple previous steroid injections.

The effect of steroid injections on bone mineral density (BMD) and any contribution to osteoporotic fractures is less clear. Patients on long-term steroids are clearly more likely to suffer from fractures than those who do not take steroids. However, the contribution from steroid injections to this phenomenon does not appear to be large. A well-controlled, large retrospective cohort study found that individuals with the same risk factors for osteoporotic fractures were 20% more likely to suffer a lumbar fracture if they had an epidural steroid injection. The risk increased with multiple injections. Other studies have shown inconsistent findings regarding BMD changes.

Thus the risk of epidural injections must be carefully discussed with the patient, particularly for patients over 60, and repeat injections should generally be avoided unless the functional goals to be reached outweigh the risk for future fracture. Patients with existing osteoporosis or other risk factors for osteoporosis should rarely receive epidural steroid injections.

Time Frame for Spinal Diagnostic Injections	
Maximum	Given this information regarding increase in blood glucose levels, effects on the endocrine system, and possible osteoporotic influence, it is suggested that intra-articular and epidural injections be limited to a total of 3 to 4 per year [***all joints combined***].

ii. Specific Diagnostic Injections: In general, relief should last for at least the duration of the local anesthetic used and should significantly result in functional improvement and relief of pain. Refer to Section G.7, Injections – Spinal Therapeutic, for information on specific therapeutic injections.

A) Epidural injections: Diagnostic epidural injections are usually not necessary in chronic pain as herniated discs have already been treated. They may be used for spinal stenosis. Refer to the Division's Low Back Pain Medical Treatment Guideline for indications.

B) Medial Branch Blocks: Diagnostic medical branch blocks are usually not necessary in chronic pain. Refer to the Division's Low Back Pain Medical Treatment Guideline for indications.

C) Sacroiliac Joint Injection: Diagnostic sacroiliac joint injections are usually not necessary in chronic pain. Refer to the Division's Low Back Pain Medical Treatment Guideline for indications.

D) Zygapophyseal (Facet) Blocks: Diagnostic zygapophyseal blocks are usually not necessary in chronic pain. Refer to the Division's Low Back Pain Medical Treatment Guideline for indications.

E) Peripheral Nerve Blocks: These are diagnostic injections that may be used for specific nerve injury or entrapment syndromes. Not all peripheral nerve blocks require fluoroscopy. On occasion, they are used for treatment in chronic pain or CRPS. Repeat injection for treatment should be based on functional changes. These injections are usually limited to 3 injections per site per year.

Evidence Statements Regarding Diagnostic Spinal Injections and Steroid Associated Issues		
Strong Evidence	Evidence Statement	Design
	Epidural steroid injections (ESIs) have a small average short-term benefit for leg pain and disability for those with sciatica.	Meta-analysis of randomized clinical trials
	ESIs do not, on average, provide clinically meaningful long-term improvements in leg pain, back pain, or disability in patients with sciatica (lumbar radicular pain or radiculopathy).	
	ESIs have no short-term or long-term benefit for low back pain.	
Good Evidence	Evidence Statement	Design
	The addition of steroids to a transforaminal bupivacaine injection has a small effect on patient reported pain and disability.	Randomized clinical trials
	There are no significant differences between epidural injections with corticosteroid plus local anesthetic versus local anesthetic alone in patients with symptomatic spinal stenosis. However, there are measureable differences with respect to morning cortisol levels at 3 and 6 weeks after the injection, suggesting that the corticosteroid injection is capable of inducing suppression of the hypothalamic-pituitary-adrenal axis.	Randomized clinical trial
Some Evidence	Evidence Statement	Design
	The addition of steroids to a transforaminal bupivacaine injection may reduce the frequency of surgery in the first year after treatment in patients with neurologic	Randomized clinical trial

Evidence Statements Regarding Diagnostic Spinal Injections and Steroid Associated Issues		
Some Evidence, continued	compression and corresponding imaging findings who also are strong candidates for surgery and have completed 6 weeks of therapy without adequate benefit. The benefits for the non-surgical group persisted for at least 5 years in most patients, regardless of the type of block given.	
	After 6 weeks of conservative therapy for large herniated discs, an epidural injection may be attempted, as it does not compromise the results of a discectomy at a later date. One half of the patients in this study who were randomized to ESIs did not have surgery and this benefit persisted. Because this study did not have a control group that received neither treatment nor a group which received injections without steroids, one cannot make definite conclusions regarding the efficacy of ESI injections in this setting.	Randomized clinical trial
	An intra-articular injection of 80 mg of methylprednisolone acetate into the knee has about a 25% probability of suppressing the adrenal gland response to exogenous adrenocortocotrophic hormone ACTH for four or more weeks after injection, but complete recovery of the adrenal response is seen by week 8 after injection.	Randomized clinical trial

Evidence Against		
Good Evidence	Evidence Statement	Design
	There is good evidence against the use of lumbar facet or epidural injections for relief of non-radicular low back pain.	Systematic review of randomized clinical trials

6. **SPECIAL TESTS** are generally well-accepted tests and are performed as part of a skilled assessment of the patient's capacity to return to work, his/her strength capacities, and/or physical work demand classifications and tolerance. The procedures in this subsection are listed in alphabetical order.

a. **Computer-Enhanced Evaluations**: These may include isotonic, isometric, isokinetic, and/or isoinertial measurements of movement; ROM; endurance; or strength. Values obtained can include degrees of motion, torque forces, pressures, or resistance. Indications include determining validity of effort, effectiveness of treatment, and demonstrated motivation. These evaluations should not be used alone to determine return-to-work restrictions.

Time Frames for Computer-Enhanced Evaluations	
Frequency	One time for evaluation, one for mid-treatment assessment, and one at final evaluation.

b. **Functional Capacity Evaluation (FCE)**: This is a comprehensive or modified evaluation of the various aspects of function as they relate to the worker's ability to return to work. Areas such as endurance, lifting (dynamic and static), postural tolerance, specific ROM, coordination and strength, worker habits, employability, as well as psychosocial aspects of competitive employment may be evaluated. Reliability of patient reports and overall effort during testing is also reported. Components of this evaluation may include: (a) musculoskeletal screen; (b) cardiovascular profile/aerobic capacity; (c) coordination; (d) lift/carrying analysis; (e) job-specific activity tolerance; (f) maximum voluntary effort; (g) pain assessment/psychological screening; and (h) non-material and material handling activities. Standardized national guidelines (such as National Institute for Occupational Safety and Health (NIOSH)) should be used as the basis for FCE recommendations.

Most studies of FCEs were performed on chronic low back cases. There is some evidence that an FCE fails to predict which injured workers with chronic low back pain will have sustained return to work. Another cohort study concluded that there was a significant relation between FCE information and return to work, but the predictive efficiency was poor. There is some evidence that time off work and gender are important predictors for return to work, and floor-to-waist lifting may also help predict return to work; however, the strength of that relationship has not been determined.

A full review of the literature reveals no evidence to support the use of FCEs to prevent future injuries. There is some evidence in chronic low back pain patients that (1) FCE task performance is weakly related to time on disability and time for claim closure, and (2) even claimants who fail on numerous physical performance FCE tasks may be able to return to work. These same issues may exist for lower extremity issues.

Full FCEs are rarely necessary. In many cases, a work tolerance screening or return to work performance will identify the ability to perform the necessary job tasks. There is some evidence that a short form FCE reduced to a few tests produces a similar predictive quality compared to the longer 2-day version of the FCE regarding length of disability and recurrence of a claim after return to work.

When an FCE is being used to determine return to a specific jobsite, the provider is responsible for fully understanding the physical demands and the duties of the job that the worker is attempting to perform. A jobsite evaluation is usually necessary. A job description should be reviewed by the provider and FCE evaluator prior to this evaluation. FCEs cannot be used in isolation to determine work restrictions. It is expected that the FCE may differ from both self-report of abilities and pure clinical exam findings in chronic pain patients. The length of a return to work evaluation should be based on the judgment of the referring physician and the provider performing the evaluation. Since return to work is a complicated multidimensional issue, multiple factors beyond functional ability and work demands should be considered and measured when attempting determination of readiness or fitness to return to work. FCEs should not be used as the sole criteria to diagnose malingering.

Evidence Statements Regarding Functional Capacity Evaluation		
Some Evidence	Evidence Statement	Design
	An FCE fails to predict which injured workers with chronic low back pain will have sustained return to work.	Observational prognostic study
	In chronic low back pain patients, (1) FCE task performance is weakly related to time on disability and time for claim closure and (2) even claimants who fail on numerous physical performance FCE tasks may be able to return to work.	
	Time off work and gender are important predictors for return to work, and floor-to-waist lifting may also help predict return to work; however, the strength of that relationship has not been determined.	Retrospective Study
	A short form FCE reduced to a few tests produces a similar predictive quality compared to the longer 2-day version of the FCE regarding length of disability and recurrence of a claim after return to work.	Randomized clinical trial

Time Frames for Functional Capacity Evaluation	
Frequency	Once when the patient is unable to return to the pre-injury position and further information is desired to determine permanent work restrictions. Prior authorization is required for repeat FCEs.

c. **Jobsite Evaluation and Alterations**: A comprehensive analysis of the physical, mental, and sensory components of a specific job. The goal of the jobsite evaluation is to identify any job modification needed to ensure the safety of the employee upon return to work. These components may include but are not limited to: (a) postural tolerance (static and dynamic); (b) aerobic requirements; (c) range-of-motion; (d) torque/force; (e) lifting/carrying; (f) cognitive demands; (g) social interactions; (h) visual perceptual; (i) environmental requirements of a job; (j) repetitiveness; (k) essential functions of a job; and (l) ergonomic set up. Job descriptions provided by the employer are helpful but should not be used as a substitute for direct observation.

Jobsite evaluation and alteration should include input from a health care professional with experience in ergonomics or a certified ergonomist, the employee, and the employer. The employee must be observed performing all job functions in order for the jobsite evaluation to be a valid representation of a typical workday. If the employee is unable to perform the job function for observation, a co-worker in an identical job position may be observed instead. Periodic follow-up is recommended to assess the effectiveness of the intervention and need for additional ergonomic changes.

A jobsite evaluation may include observation and instruction of how work is done, what material changes (desk, chair) should be made, and determination of

readiness to return to work.

Requests for a jobsite evaluation should describe the expected goals for the evaluation. Goals may include but are not limited to the following:

i. To determine if there are potential contributing factors to the person's condition and/or for the physician to assess causality;

ii. To make recommendations for and to assess the potential for ergonomic changes;

iii. To provide a detailed description of the physical and cognitive job requirements;

iv. To assist patients in their return to work by educating them on how they may be able to do their job more safely in a bio-mechanically appropriate manner;

v. To give detailed work/activity restrictions.

Time Frames for Jobsite Evaluation and Alterations	
Frequency	One time with additional visits as needed for follow-up per jobsite.

d. **Vocational Assessment**: Once an authorized practitioner has reasonably determined and objectively documented that a patient will not be able to return to his/her former employment and can reasonably prognosticate final restrictions, implementation of a timely vocational assessment can be performed. The vocational assessment should provide valuable guidance in the determination of future rehabilitation program goals. It should clarify rehabilitation goals which optimize both patient motivation and utilization of rehabilitation resources. If prognosis for return to former occupation is determined to be poor, except in the most extenuating circumstances, vocational assessment should be implemented within 3 to 12 months post-injury. Declaration of Maximum Medical Improvement (MMI) should not be delayed solely due to lack of attainment of a vocational assessment.

Time Frames for Vocational Assessment	
Frequency	One time with additional visits as needed for follow-up.

e. **Work Tolerance Screening (Fitness for Duty)**: is a determination of an individual's tolerance for performing a specific job based on a job activity or task. It may include a test or procedure to specifically identify and quantify work-relevant cardiovascular, physical fitness, and postural tolerance. It may also address ergonomic issues affecting the patient's return-to-work potential. May be used when a full FCE is not indicated.

Time Frames for Work Tolerance Screening	
Frequency	One time for initial screen. May monitor improvements in strength every 3 to 4 weeks up to a total of 6 visits.

G. THERAPEUTIC PROCEDURES – NON-OPERATIVE

Non-operative therapeutic rehabilitation is applied to patients with chronic and complex problems of de-conditioning and functional disability. Treatment modalities may be utilized sequentially or concomitantly depending on chronicity, complexity of the problem, and anticipated therapeutic effect. Treatment plans should always be based on a diagnosis utilizing appropriate diagnostic procedures.

All treatment plans begin with shared decision making with the patient. Before initiation of any therapeutic procedure, an authorized treating physician, employer, and insurer must consider these important issues in the care of the injured worker:

- Patients undergoing therapeutic procedure(s) should be released or returned to modified or restricted duty during their rehabilitation at the earliest appropriate time. Refer to Section G.17, Return-to-Work, in this section for detailed information.

- Reassessment of the patient's status in terms of functional improvement should be documented after each treatment. If patients are not responding within the recommended time periods, alternative treatment interventions, further diagnostic studies, or consultations should be pursued. Continued treatment should be monitored using objective measures such as:

    - Return-to-work or maintaining work status;

    - Fewer restrictions at work or performing activities of daily living (ADL);

    - Decrease in usage of medications related to the work injury; and

    - Measurable functional gains, such as increased range-of-motion, documented increase in strength, increased ability to stand, sit or lift, or patient completed functional evaluations.

- Clinicians should provide and document education to the patient. No treatment plan is complete without addressing issues of individual and/or group patient education as a means of facilitating self-management of symptoms.

- Psychological or psychosocial screening should be performed on all chronic pain patients.

The following procedures are listed in alphabetical order.

1. ACUPUNCTURE

a. Overview: When acupuncture has been studied in randomized clinical trials, it is often compared with sham acupuncture and/or no acupuncture (usual care). The differences between true acupuncture and usual care have been moderate but clinically important. These differences can be partitioned into two components: non-specific effects and specific effects. Non-specific effects include patient beliefs and expectations, attention from the acupuncturist, administration of acupuncture in a relaxing setting, and other components of what is often called the placebo effect. Specific effects refer to any additional effects which occur in the same setting of expectations and attention, but they are attributable to the penetration of the skin in the specific, classic acupuncture points on the surface of the body by the needles themselves.

A sham procedure is intended as a non-therapeutic procedure that appears similar to the patient as the purported therapeutic procedure being tested. In most controlled studies, sham and classic acupuncture have produced similar effects. However, the sham controlled studies have shown consistent advantages of both true and sham acupuncture over no acupuncture when the studies have included a third comparison group that was randomized to usual medical care. Having this third comparison group has been advantageous in the interpretation of the non-specific effects of acupuncture since the third comparison group controls for some influences on study outcome. These influences include: more frequent contact with providers; the natural history of the condition; regression to the mean; the effect of being observed in a clinical trial; and for biased reporting of outcomes if the follow-up observations are done consistently in all three treatment groups. Controlling for these factors enables researchers to more closely estimate the contextual and personal interactive effects of acupuncture as it is generally practiced.

There is some evidence that in the setting of chronic joint pain arising from aromatase inhibitor treatment of non-metastatic breast cancer, the symptomatic relief from acupuncture is strongly influenced by the expectations with which patients approach treatment, and a patient who expects significant benefits from acupuncture is more likely to derive benefits from sham acupuncture than a patient with low expectations is to derive benefits from real acupuncture. On average, real and sham acupuncture do not lead to significantly different symptom responses, but different treatment expectations do lead to different symptom responses.

Clinical trials of acupuncture typically enroll participants who are interested in acupuncture and who may respond to some of the non-specific aspects of the intervention more than patients who have no interest in or desire for acupuncture. The non-specific effects of acupuncture may not be produced in patients who have no wish to be referred for it.

There is a high quality study which does not support good evidence that true acupuncture is meaningfully superior to sham acupuncture with blunt needles in relieving the bothersomeness of nonspecific low back pain. The overall evidence from similar high quality studies does not support evidence of a treatment difference between true and sham acupuncture. In these studies, 5–15 treatments were provided. Comparisons of acupuncture and sham acupuncture have been inconsistent, and the advantage of true over sham acupuncture has been small in relation to the advantage of sham over no acupuncture.

Acupuncture is recommended for subacute or chronic pain patients who are trying to increase function and/or decrease medication usage and have an expressed interest in this modality. It is also recommended for subacute or acute pain for patients who cannot tolerate NSAIDs or other medications.

Acupuncture is not the same procedure as dry needling for coding purposes; however, some acupuncturists may use acupuncture treatment for myofascial trigger points. Dry needling is performed specifically on myofascial trigger points. Refer to Section G.8.i, Trigger Point Injections, and Section G.19.n, Trigger Point Dry Needling Treatment.

Acupuncture should generally be used in conjunction with manipulative and physical therapy/rehabilitation.

Credentialed practitioners with experience in evaluation and treatment of chronic pain patients must perform evaluations prior to acupuncture treatments. The exact mode of action is only partially understood. Western medicine studies suggest that acupuncture stimulates the nervous system at the level of the brain, promotes deep relaxation, and affects the release of neurotransmitters. Acupuncture is commonly used as an alternative or in addition to traditional Western pharmaceuticals. It may be used when pain medication is reduced or not tolerated; as an adjunct to physical rehabilitation and surgical intervention; and/or as part of multidisciplinary treatment to hasten the return of functional activity. Acupuncture must be performed by practitioners with the appropriate credentials in accordance with state and other applicable regulations. Therefore, if not otherwise within their professional scope of practice and licensure, those performing acupuncture must have the appropriate credentials, such as L.A.c. R.A.c, or Dipl. Ac.

There is good evidence that the small therapeutic effects of needle acupuncture, active laser acupuncture, and sham acupuncture for reducing pain or improving function among patients older than 50 years with moderate to severe chronic knee pain from symptoms of osteoarthritis are due to non-specific effects similar to placebo.

The Agency for Healthcare Research and Quality (AHRQ) supports acupuncture as effective for chronic low back pain. There is good evidence that acupuncture is effective in the treatment of low back pain in patients with positive expectations of acupuncture. There is good evidence that acupuncture, true or sham, is superior to usual care for the reduction of disability and pain in patients with chronic nonspecific low back pain, but true and sham acupuncture are likely to be equally effective. There is some evidence that acupuncture is better than no acupuncture for axial chronic low back pain. In summary, there is strong evidence that true or sham acupuncture may be useful for chronic low back pain in patients with high expectations, and it should be used accordingly.

Indications: All patients being considered for acupuncture treatment should have subacute or chronic pain (lasting approximately 3-4 weeks depending on the condition) and meet the following criteria:

- they should have participated in an initial active therapy program; and
- they should show a preference for this type of care or previously have benefited from acupuncture; and
- they must continue to be actively engaged in physical rehabilitation therapy and return to work.

It is less likely to be successful in patients who are more focused on pain than return to function. Time to produce effect should clearly be adhered to.

b. **Acupuncture**: is the insertion and removal of filiform needles to stimulate acupoints (acupuncture points). Needles may be inserted, manipulated, and retained for a period of time. Acupuncture can be used to reduce pain, reduce inflammation, increase blood flow, increase range-of-motion, decrease the side effect of medication-induced nausea, promote relaxation in an anxious patient, and reduce muscle spasm.

Indications include joint pain, joint stiffness, soft tissue pain and inflammation, paresthesia, post-surgical pain relief, muscle spasm, and scar tissue pain.

c. **Acupuncture with Electrical Stimulation**: is the use of electrical current (micro-amperage or milli-amperage) on the needles at the acupuncture site. It is used to increase effectiveness of the needles by continuous stimulation of the acupoint. Physiological effects (depending on location and settings) can include endorphin release for pain relief, reduction of inflammation, increased blood circulation, analgesia through interruption of pain stimulus, and muscle relaxation.

It is indicated to treat chronic pain conditions, radiating pain along a nerve pathway, muscle spasm, inflammation, scar tissue pain, and pain located in multiple sites.

d. **Other Acupuncture Modalities**: may include a combination of procedures to enhance treatment effect. Other procedures may include the use of heat, soft tissue manipulation/massage, and exercise. Refer to Section G.18, Active Therapy (Therapeutic Exercise), and Section G.19, Passive Therapy (Massage and Superficial Heat and Cold Therapy), for a description of these adjunctive acupuncture modalities and time frames.

Evidence Statements Regarding Acupuncture		
Good Evidence	Evidence Statement	Design
	The small therapeutic effects of needle acupuncture, active laser acupuncture, and sham acupuncture for reducing pain or improving function among patients older than 50 years with moderate to severe chronic knee pain from symptoms of osteoarthritis are due to non-specific effects similar to placebo.	Negative randomized clinical trial
	Acupuncture is effective in the treatment of low back pain in patients with positive expectations of acupuncture.	Randomized clinical trial
	Acupuncture, true or sham, is superior to usual care for the reduction of disability and pain in patients with chronic nonspecific low back pain, but true and sham acupuncture are likely to be equally effective.	Randomized clinical trial
Some Evidence	Evidence Statement	Design
	In the setting of chronic joint pain arising from aromatase inhibitor treatment of non-metastatic breast cancer, the symptomatic relief from acupuncture is strongly influenced by the expectations with which patients approach treatment, and a patient who expects significant benefits from acupuncture is more likely to derive benefits from sham acupuncture than a patient with low expectations is to derive benefits from real acupuncture. On average, real and sham acupuncture do not lead to significantly different symptom responses, but different treatment expectations	Randomized clinical trial

Evidence Statements Regarding Acupuncture		
	do lead to different symptom responses.	
Some Evidence, continued	Acupuncture is better than no acupuncture for axial chronic low back pain.	Randomized clinical trial
Summary of Evidence Regarding Acupuncture		
Based on the multiple studies with good and some evidence listed above, there is strong evidence that true or sham acupuncture may be useful for chronic low back pain in patients with high expectations, and it should be used accordingly.		

e. **Total Time Frames for Acupuncture and Acupuncture with Electrical Stimulation**: are not meant to be applied to acupuncture and acupuncture with electrical stimulation separately. The time frames are to be applied to all acupuncture treatments regardless of the type or combination of therapies being provided.

Time Frames for Acupuncture and Acupuncture with Electrical Stimulation	
Time to Produce Effect	3 to 6 treatments.
Frequency	1 to 3 times per week.
Optimum Duration	1 to 2 months.
Maximum Duration	14 treatments within 6 months.

Any of the above acupuncture treatments may extend longer if objective functional gains can be documented and when symptomatic benefits facilitate progression in the patient's treatment program. Treatment beyond 14 treatments must be documented with respect to need and ability to facilitate positive symptomatic or functional gains. Such care should be re-evaluated and documented with each series of treatments.

2. BIOFEEDBACK

a. **Overview:** Biofeedback is a form of behavioral medicine that helps patients learn self-awareness and self-regulation skills for the purpose of gaining greater control of their physiology, such as muscle activity, brain waves, and measures of autonomic nervous system activity. Stress-related psycho-physiological reactions may arise as a reaction to organic pain and in some cases may cause pain. Electronic instrumentation is used to monitor the targeted physiology and then displayed or fed back to the patient visually, auditorily, or tactilely, with coaching by a biofeedback specialist. There is good evidence that biofeedback or relaxation therapy is equal in effect to cognitive behavioral therapy for chronic low back pain. There is good evidence that cognitive behavioral therapy, but not behavioral therapy (e.g., biofeedback), shows weak to small effects in reducing pain and small effects on improving disability, mood, and catastrophizing in patients with chronic pain.

Indications for biofeedback include cases of musculoskeletal injury in which muscle dysfunction or other physiological indicators of excessive or prolonged stress response affects and/or delays recovery. Other applications include training to improve self-management of pain, anxiety, panic, anger or emotional distress, opioid withdrawal, insomnia/sleep disturbance, and other central and autonomic nervous system imbalances. Biofeedback is often utilized for relaxation training. Mental health professionals may also utilize it as a component of psychotherapy, where biofeedback and other behavioral techniques are integrated with psychotherapeutic interventions. Biofeedback is often used in conjunction with physical therapy or medical treatment.

Recognized types of biofeedback include the following:

b. **EMG/Electromyogram (EMG)**: used for self-management of pain and stress reactions involving muscle tension.

c. **Skin Temperature**: used for self-management of pain and stress reactions, especially vascular headaches.

d. **Respiration Feedback (RFB)**: used for self-management of pain and stress reactions via breathing control.

e. **Respiratory Sinus Arrhythmia (RSA)**: used for self-management of pain and stress reactions via synchronous control of heart rate and respiration. Respiratory sinus arrhythmia is a benign phenomenon which consists of a small rise in heart rate during inhalation and a corresponding decrease during exhalation. This phenomenon has been observed in meditators and athletes and is thought to be a psycho-physiological indicator of health.

f. **Heart Rate Variability (HRV)**: used for self-management of stress via managing cardiac reactivity.

g. **Electrodermal Response (EDR)**: used for self-management of stress involving palmar sweating or galvanic skin response.

h. **Electroencephalograph (EEG, QEEG)**: used for self-management of various psychological states by controlling brainwaves.

The goal in biofeedback treatment is normalizing the physiology to the pre-injury status to the extent possible and involves transfer of learned skills to the workplace and daily life. Candidates for biofeedback therapy or training should be motivated to learn and practice biofeedback and self-regulation techniques. In the course of biofeedback treatment, patient stressors are discussed and self-management strategies are devised. If the patient has not been previously evaluated, a psychological evaluation should be performed prior to beginning biofeedback treatment for chronic pain. The psychological evaluation may reveal cognitive difficulties, belief system conflicts, somatic delusions, secondary gain issues, hypochondriasis, and possible biases in patient self-reports, which can affect biofeedback. Home practice of skills is often helpful for mastery and may be facilitated by the use of home training tapes.

Psychologists or psychiatrists, who provide psycho-physiological therapy which integrates biofeedback with psychotherapy, should be either Biofeedback Certification International Alliance (BCIA) certified or practicing within the scope of their training. All non-licensed health care providers of biofeedback for chronic

pain patients must be BCIA certified and shall have their biofeedback treatment plan approved by an authorized treating psychologist or psychiatrist. Biofeedback treatment must be done in conjunction with the patient's psychosocial intervention. Biofeedback may also be provided by licensed health care providers who follow a set treatment and educational protocol. Such treatment may utilize standardized material, relaxation tapes, or smart phone apps.

Evidence Statements Regarding Biofeedback		
Good Evidence	Evidence Statement	Design
	Biofeedback or relaxation therapy is equal in effect to cognitive behavioral therapy for chronic low back pain.	Meta-analysis of controlled clinical trials
	Cognitive behavioral therapy, but not behavioral therapy e.g., biofeedback, shows weak to small effects in reducing pain and small effects on improving disability, mood, and catastrophizing in patients with chronic pain.	Meta-analysis of randomized clinical trials favoring cognitive behavioral therapy over biofeedback

Time Frames for Biofeedback	
Time to Produce Effect	3 to 4 sessions.
Frequency	1 to 2 times per week.
Optimum Duration	5 to 6 sessions.
Maximum Duration	10 to 12 sessions. Treatment beyond 12 sessions must be documented with respect need, expectation, and ability to facilitate functional gains.

3. COMPLEMENTARY MEDICINE

a. Overview: Complementary Medicine, termed Complementary Alternative Medicine (CAM) in some systems, is a term used to describe a broad range of treatment modalities, a number of which are generally accepted and supported by some scientific literature and others which still remain outside the generally accepted practice of conventional Western Medicine. In many of these approaches, there is attention given to the relationship between physical, emotional, and spiritual well-being. While CAM may be performed by a myriad of both licensed and non-licensed health practitioners with training in one or more forms of therapy, credentialed practitioners should be used when available or applicable.

Although CAM practices are diverse and too numerous to list, they can be generally classified into five domains:

b. Alternative Medical Systems: These are defined as medical practices that have developed their own systems of theory, diagnosis, and treatment and have

evolved independent of and usually prior to conventional Western Medicine. Some examples are Traditional Chinese Medicine, Ayurvedic Medicine, Homeopathy, and Naturopathy.

c. **Mind-body Interventions**: These include practices such as hypnosis, meditation, bioenergetics, and prayer. Reflexology does not appear to relieve low back pain.

d. **Biological-based Practices**: These include herbal and dietary therapy as well as the use of nutritional supplements. To avoid potential drug interactions, supplements should be used in consultation with an authorized treating physician.

e. **Body-based Therapy**: This category includes Rolfing bodywork. For information on yoga, please refer to Section G.18.g, Therapeutic Exercise.

f. **Energy-based Practices**: Energy-based practices include a wide range of modalities that support physical as well as spiritual and/or emotional healing. Some of the more well-known energy practices include Qi Gong, Tai Chi, Healing Touch, and Reiki. Practices such as Qi Gong and Tai Chi are taught to the patient and are based on exercises the patient can practice independently at home. Other energy-based practices such as Healing Touch and Reiki that involve a practitioner/patient relationship may provide some pain relief. Tai Chi may improve range-of-motion in those with rheumatoid arthritis. There is some evidence that a 10-week tai chi program was effective for improving pain symptoms and disability compared with usual care controls for those who have chronic low back pain symptoms. There is insufficient evidence that the results from Qi Gong are equivalent to exercise therapy.

Methods used to evaluate chronic pain patients for participation in CAM will differ with various approaches and with the training and experience of individual practitioners. A patient may be referred for CAM therapy when the patient's cultural background, religious beliefs, or personal concepts of health suggest that an unconventional medical approach might assist in the patient's recovery or when the physician's experience and clinical judgment support a CAM approach. The patient must demonstrate a high degree of motivation to return to work and improve his or her functional activity level while participating in therapy. Other more traditional conservative treatments should generally be attempted before referral to CAM. Treatment with CAM requires prior authorization.

All CAM treatments require prior authorization and must include agreed upon number of visits for time to produce functional effects.

Evidence Statements Regarding Complementary Medicine		
Some Evidence	Evidence Statement	Design
	A 10-week tai chi program was effective for improving pain symptoms and disability compared with usual care controls for those who have chronic low back pain symptoms.	Assessor single-blind randomized controlled trial

Time Frames for Complementary Medicine	
Time to Produce Effect	Functional treatment goals and number of treatments for time to produce effect should be set with the practitioner and the patient before the beginning of treatment.
Frequency	Per CAM therapy selected.
Optimum Duration	Should be based upon the physician's clinical judgment and demonstration by the patient of positive symptomatic and functional gains. Practitioner provided CAM therapy is ***not recommended*** on a maintenance basis.

4. DIRECT CORTICAL STIMULATION

There are several types of cortical stimulation to relieve pain. All of these are undergoing further investigation and are considered experimental at this time. The limited studies available do not allow translation to the workers' compensation chronic pain population. An invasive option is implantation in the epidural motor cortex. Given the invasive nature and lack of evidence applying to the working population, direct cortical stimulation is ***not recommended***.

5. DISTURBANCES OF SLEEP

a. Overview: Disturbances of sleep are common in chronic pain. An essential element of chronic pain treatment is restoration of normal sleep cycles. Although primary insomnia may accompany pain as an independent co-morbid condition, it more commonly occurs secondary to the pain condition itself. Exacerbations of pain often are accompanied by exacerbations of insomnia; the reverse can also occur. Sleep laboratory studies have shown disturbances of sleep architecture in pain patients. Loss of deep slow-wave sleep and an increase in light sleep occur. Sleep efficiency, the proportion of time in bed spent asleep, is also decreased. These changes are associated with patient reports of non-restorative sleep. Sleep apnea may also occur as a primary diagnosis or be caused or exacerbated by opioid and hypnotic use. This should be investigated diagnostically. (Refer to Section G.10.g, Medications and Medical Management, Opioids).

A recent systematic review explored the relationship between sleep and pain. It noted that studies of healthy individuals and those in pain from medical conditions both showed decreased pain thresholds after sleep deprivation. In this report some studies focusing on sleep continuity disruption showed a disruption of the natural pain inhibitory function. Sleep continuity disruption may be one of the most common sleep problems associated with pain. Thus, clinicians should strongly focus on assuring functional sleep for patients.

Many chronic pain patients develop behavioral habits that exacerbate and maintain sleep disturbances. Excessive time in bed, irregular sleep routine, napping, low activity, and worrying in bed are all maladaptive responses that can arise in the absence of any psychopathology. Relaxation training such as progressive relaxation, biofeedback, mindfulness meditation, or imagery training,

and other forms of cognitive therapy can reduce dysfunctional beliefs and attitudes about sleep.

There is some evidence that behavioral modification, such as patient education and group or individual counseling with cognitive behavioral therapy, can be effective in reversing the effects of insomnia. Cognitive and behavioral interventions should be undertaken before prescribing medication solely for insomnia. Behavioral modifications are easily implemented and can include:

- Maintaining a regular sleep schedule; retiring and rising at approximately the same time on weekdays and weekends, regardless of the number of hours slept.
- Limiting naps to 30 minutes twice per day or less.
- Avoiding caffeinated beverages after lunchtime.
- Making the bedroom quiet and comfortable, eliminating disruptive lights, sounds, television sets, pets, and keeping a bedroom temperature of about 65 degrees Fahrenheit.
- Avoiding alcohol or nicotine within 2 hours of bedtime.
- Avoiding large meals within 2 hours of bedtime.
- Avoiding exposure to TV screens or computers within 2 hours of bedtime.
- Exercising vigorously during the day but not within 2 hours of bedtime since this may raise core temperature and activate the nervous system.
- Associating the bed with sleep and sexual activity only; using other parts of the home for television, reading, and talking on the telephone.
- Leaving the bedroom when unable to sleep for more than 20 minutes and returning to the bedroom when ready to sleep again.
- Reducing time in bed to estimated typical sleeping time.
- Engaging in relaxing activities until drowsy.

Behavioral modifications should be trialed before the use of hypnotics. Reinforcing these behaviors may also decrease hypnotic use and overall medication costs. Some patients may use other medications to assist in sleep, such as: trazadone, amitriptyline, doxepin, or low doses of melatonin. There is some evidence that group cognitive behavioral therapy reduces the severity and daytime consequences of insomnia for at least six months. There is some evidence that ramelteon, while producing a small amount of reduction in sleep latency, does not appreciably increase total sleep time or daytime function. There is some evidence that a dietary supplement containing melatonin, magnesium, and zinc, conveyed in pear pulp, taken 1 hour before bedtime, results in significantly better quality of sleep and quality of life than a placebo treatment in long-term care facility residents aged 70 and older with primary insomnia.

Many medications used in chronic pain can affect the sleep cycle. There is some evidence that the following medications exert different effects with respect to sleep variables. Total sleep time and REM sleep duration are likely to be greater with pregabalin than with duloxetine or amitriptyline. However, pregabalin is likely to lead to dizziness and fatigue more frequently than the other drugs, and oxygen desaturation during sleep also appears to be greater with pregabalin.

Insomnia requires difficulty initiating or maintaining sleep, waking up early, or insufficient restorative sleep despite adequate opportunity for sleep, as well as, daytime symptoms of sleep deprivation. In general, recommendations for treatment of insomnia include Cognitive Behavioral Therapy.

Evidence Statements Regarding Disturbance of Sleep		
Some Evidence	Evidence Statement	Design
	Group cognitive behavioral therapy reduces the severity and daytime consequences of insomnia for at least six months.	Randomized clinical trial
	Behavioral modification, such as patient education and group or individual counseling with cognitive behavioral therapy, can be effective in reversing the effects of insomnia.	Randomized clinical trial
	Ramelteon, while producing a small amount of reduction in sleep latency, does not appreciably increase total sleep time or daytime function.	Randomized clinical trial
	A dietary supplement containing melatonin, magnesium, and zinc, conveyed in pear pulp, taken 1 hour before bedtime, results in significantly better quality of sleep and quality of life than a placebo treatment in long-term care facility residents aged 70 and older with primary insomnia.	Double-blind placebo controlled randomized clinical trial
	The following medications exert different effects with respect to sleep variables. Total sleep time and REM sleep duration are likely to be greater with pregabalin than with duloxetine or amitriptyline. However, pregabalin is likely to lead to dizziness and fatigue more frequently than the other drugs, and oxygen desaturation during sleep also appears to be greater with pregabalin.	Randomized clinical trial
Summary of Evidence Regarding Disturbance of Sleep		
Based on the multiple studies with some evidence listed above, there is good evidence supporting the use of cognitive behavioral therapy for sleep disturbances.		

6. **EDUCATION/INFORMED/SHARED DECISION MAKING:** of the patient and family, as well as the employer, insurer, policy makers, and the community should be the primary emphasis to prevent disability. Unfortunately, practitioners often think of education and informed decision making last, after medications, manual therapy, and surgery.

Informed decision making is the hallmark of a successful treatment plan. In most cases, the continuum of treatment from the least invasive to the most invasive (e.g., surgery) should be discussed. The intention is to find the treatment along this continuum which most completely addresses the condition. Patients should identify their personal values and functional goals of treatment at the first visit. It is recommended that specific individual goals are articulated at the beginning of treatment as this is likely to lead to increased patient satisfaction above that achieved from improvement in pain or other physical function. Progress toward the individual functional goals identified should be addressed at follow-up visits and throughout treatment by other members of the health care team as well as an authorized physician.

Documentation of the informed decision process should occur whenever diagnostic tests or referrals from an authorized treating physician are contemplated. The informed decision making process asks the patients to set their personal functional goals of treatment and describe their current health status and any concerns they have regarding adhering to the diagnostic or treatment plan proposed. The provider should clearly describe the following:

- The expected functional outcomes from the proposed treatment or the expected results and plan of action if diagnostic tests are involved.
- Expected course of illness/injury without the proposed intervention.
- Any side effects and risks to the patient.
- Required post-treatment rehabilitation time and impact on work, if any.
- Alternative therapies or diagnostic testing.

Before diagnostic tests or referrals for invasive treatment take place, the patient should be able to clearly articulate the goals of the intervention, the general side effects and risks associated with it, and his/her decision regarding compliance with the suggested plan. There is some evidence that information provided only by video is not sufficient education.

Practitioners must develop and implement an effective strategy and skills to educate patients, employers, insurance systems, policy makers, and the community as a whole. An education-based paradigm should always start with providing reassuring information to the patient and informed decision making. More in-depth education currently exists within a treatment regimen employing functional restoration, prevention, and cognitive behavioral techniques. Patient education and informed decision making should facilitate self-management of symptoms and prevention.

Evidence Statements Regarding Education / Informed Decision Making		
Some Evidence	Evidence Statement	Design
	Information provided only by video is not sufficient education.	Prospective randomized controlled trial

Time Frames for Education / Informed Decision Making	
Time to Produce Effect	Varies with individual patient
Frequency	Should occur at every visit.

7. INJECTIONS–SPINAL THERAPEUTIC:

The following injections are considered reasonable treatment for chronic pain exacerbations when therapy is continuing and specific indications are met. Refer to the Division's appropriate Medical Treatment Guideline for indications. For post-MMI care, refer to Section I.8, Injection Therapy Maintenance Management, in this guideline.

a. Steroid Associated Issues: If steroids are injected, only non-particulate steroids should be used to avoid the risk of spinal infarction.

The majority of diabetic patients will experience an increase in glucose following steroid injections. Average increases in one study were 125mg/dL and returned to normal in 48 hours, whereas in other studies, the increased glucose levels remained elevated up to 7 days, especially after multiple injections. All diabetic patients should be told to follow their glucose levels carefully over the 7 days after a steroid injection. For patients who have not been diagnosed with diabetes, one can expect some increase in glucose due to insulin depression for a few days after a steroid injection. Clinicians may consider diabetic screening tests for those who appear to be at risk for type 2 diabetes.

Intra-articular or epidural injections cause rapid drops in plasma cortisol levels which usually resolve in 1 to 4 weeks. There is some evidence that an intra-articular injection of 80 mg of methylprednisolone acetate into the knee has about a 25% probability of suppressing the adrenal gland response to exogenous adrenocortocotrophic hormone (ACTH) for 4 or more weeks after injection, but complete recovery of the adrenal response is seen by week 8 after injection. This adrenal suppression could require treatment if surgery or other physiologically stressful events occur.

There is good evidence that there are no significant differences between epidural injections with corticosteroid plus local anesthetic versus local anesthetic alone in patients with symptomatic spinal stenosis; however, there are measureable differences with respect to morning cortisol levels at 3 and 6 weeks after the injection, suggesting that the corticosteroid injection is capable of inducing suppression of the hypothalamic-pituitary-adrenal axis.

Case reports of Cushing's syndrome, hypopituitarism, and growth hormone deficiency have been reported uncommonly and have been tied to systemic absorption of intra-articular and epidural steroid injections. Cushing's syndrome has also been reported from serial occipital nerve injections and paraspinal injections.

Morning cortisol measurements may be ordered prior to repeating steroid injections or prior to the initial steroid injection when the patient has received multiple previous steroid injections.

The effect of steroid injections on bone mineral density (BMD) and any contribution to osteoporotic fractures is less clear. Patients on long-term steroids

are clearly more likely to suffer from fractures than those who do not take steroids. However, the contribution from steroid injections to this phenomenon does not appear to be large. A well-controlled, large retrospective cohort study found that individuals with the same risk factors for osteoporotic fractures were 20% more likely to suffer a lumbar fracture if they had an epidural steroid injection. The risk increased with multiple injections. Other studies have shown inconsistent findings regarding BMD changes. Thus, the risk of epidural injections must be carefully discussed with the patient, particularly for patients over 60, and repeat injections should generally be avoided unless the functional goals to be reached outweigh the risk for future fracture. Patients with existing osteoporosis or other risk factors for osteoporosis should rarely receive epidural steroid injections.

Time Frames for Intra-Articular and Epidural Injections	
Maximum Duration	Given this information regarding increase in blood glucose levels, effects on the endocrine system, and possible osteoporotic influence, it is suggested that intra-articular and epidural injections be limited to a total of 3 to 4 per year [***all joints combined***].

b. **Epidural Steroid Injection (ESI):** may include caudal, transforaminal, or interlaminar injections. Epidural injections are usually not necessary in chronic pain as herniated discs have already been treated. They may be used for spinal stenosis. Refer to the Division's Low Back Pain Medical Treatment Guideline for indications of herniated disc.

For radicular pain due to disc herniation, refer to the Division's Low Back Pain Medical Treatment Guideline as this condition is not usually treated in chronic pain.

Spinal Stenosis Patients: Refer to the Division's Low Back Pain Medical Treatment Guideline for patients with radicular findings and claudication for indications.

For chronic radiculopathy, injections may be repeated only if a functional documented response lasts for 3 months. Patients should be reassessed after each injection session for an 80% improvement in pain (as measured by accepted pain scales) and evidence of functional improvement. A positive result would include a return to baseline function, return to increased work duties, and a measurable improvement in physical activity goals including return to baseline after an exacerbation.

c. **Intradiscal Steroid Injections:**

There is some evidence that intradiscal steroid injection is unlikely to relieve pain or provide functional benefit in patients with non-radicular back pain; therefore, they are ***not recommended***.

Intradiscal injections of other substances such as bone marrow, stem cells, are ***not recommended*** at this time due to lack of evidence and possible complications.

d. Sacroiliac Joint Injection:

A generally accepted injection of local anesthetic in an intra-articular fashion into the sacroiliac joint under fluoroscopic guidance. May include the use of corticosteroids. Long-term therapeutic effect has not yet been established. Refer to the Division's Low Back Pain Medical Treatment Guideline for indications.

e. Transforaminal Injection with Etanercept:

Transforaminal injection with a tumor necrosis factor alpha inhibitor is thought to decrease the inflammatory agents which may be associated with the pathophysiology of lumbar radicular pain from a herniated disc.

It is ***not recommended*** due to the results of a study which showed no advantage over steroids or saline injections.

f. Zygapophyseal (Facet) Injection:

This is an accepted intra-articular or pericapsular injection of local anesthetic and corticosteroid with very limited uses. There is no justification for a combined facet and medial branch block.

A high quality meta-analysis provides good evidence against the use of lumbar facet or epidural injections for relief of non-radicular low back pain. Facet injections have very limited use. Refer to the Division's Low Back Pain Medical Treatment Guideline for indications.

Evidence Statements Regarding Therapeutic Spinal Injections and Steroid Associated Issues		
Strong Evidence	Evidence Statement	Design
	Epidural steroid injections (ESIs) have a small average short-term benefit for leg pain and disability for those with sciatica.	Meta-analysis of randomized clinical trials
	ESIs do not, on average, provide clinically meaningful long-term improvements in leg pain, back pain, or disability in patients with sciatica (lumbar radicular pain or radiculopathy).	
	ESIs have no short-term or long-term benefit for low back pain.	
Good Evidence	Evidence Statement	Design
	The additional of steroids to a transforaminal bupivacaine injection has a small effect on patient reported pain and disability.	Randomized clinical trials
	There are no significant differences between epidural injections with corticosteroid plus local anesthetic versus local anesthetic alone in patients with symptomatic spinal	Randomized clinical trial

Evidence Statements Regarding Therapeutic Spinal Injections and Steroid Associated Issues		
Good Evidence, continued	stenosis. However, there are measureable differences with respect to morning cortisol levels at 3 and 6 weeks after the injection, suggesting that the corticosteroid injection is capable of inducing suppression of the hypothalamic-pituitary-adrenal axis.	
Some Evidence	Evidence Statement	Design
	The addition of steroids to a transforaminal bupivacaine injection may reduce the frequency of surgery in the first year after treatment in patients with neurologic compression and corresponding imaging findings who also are strong candidates for surgery and have completed 6 weeks of therapy without adequate benefit. The benefits for the non-surgical group persisted for at least 5 years in most patients, regardless of the type of block given.	Randomized clinical trial
	After 6 weeks of conservative therapy for large herniated discs, an epidural injection may be attempted, as it does not compromise the results of a discectomy at a later date. One half of the patients in this study who were randomized to ESIs did not have surgery and this benefit persisted. Because this study did not have a control group that received neither treatment nor a group which received injections without steroids, one cannot make definite conclusions regarding the efficacy of ESI injections in this setting.	Randomized clinical trial
	An intra-articular injection of 80 mg of methylprednisolone acetate into the knee has about a 25% probability of suppressing the adrenal gland response to exogenous adrenocortocotrophic hormone ACTH for 4 or more weeks after injection, but complete recovery of the adrenal response is seen by week 8 after injection.	Randomized clinical trial
	Patients who smoke respond less well to non-operative spine care, and quitting smoking results in greater improvement.	Prospective cohort study
	Translaminar steroid injections do not increase walking tolerance for those with spinal stenosis compared to local anesthetic.	Randomized clinical trial
	Intradiscal steroid injection is unlikely to relieve pain or provide functional benefit in patients with non-radicular back pain.	Randomized clinical trial

Evidence Against		
Good Evidence	Evidence Statement	Design
	There is good evidence against the use of lumbar facet or epidural injections for relief of non-radicular low back pain.	Systematic review of randomized clinical trials

8. **INJECTIONS – OTHER (INCLUDING RADIO FREQUENCY)**: The following are in alphabetical order:

a. **Botulinum Toxin Injections**:

Description: Used to temporarily weaken or paralyze muscles. These injections may reduce muscle pain in conditions associated with spasticity or dystonia. Neutralizing antibodies develop in at least 4% of patients treated with botulinum toxin type A, rendering it ineffective. Several antigenic types of botulinum toxin have been described. Botulinum toxin type B, first approved by the Food and Drug Administration (FDA) in 2001, is similar pharmacologically to botulinum toxin type A. It appears to be effective in patients who have become resistant to the type A toxin. The immune responses to botulinum toxins type A and B are not cross-reactive, allowing type B toxin to be used when type A action is blocked by antibody. Experimental work with healthy human volunteers suggests that muscle paralysis from type B toxin is not as complete or as long lasting as that resulting from type A. The duration of treatment effect of botulinum toxin type B for cervical dystonia has been estimated to be 12 to 16 weeks. Electromyography (EMG) needle guidance may permit more precise delivery of botulinum toxin to the target area.

There is strong evidence that botulinum toxin A has objective and asymptomatic benefits over placebo for cervical dystonia. There is good evidence that a single injection of botulinum toxin type B is more effective than placebo in alleviating the severity and pain of idiopathic cervical dystonia. The duration of effect of botulinum toxin type B is not certain but appears to be approximately 12 to 18 weeks.

There is a lack of adequate evidence supporting the use of these injections to lumbar musculature for the relief of isolated low back pain. There is insufficient evidence to support its use for longer-term pain relief of other myofascial trigger points and it is likely to cause muscle weakness or atrophy if used repeatedly. Examples of such consequences include subacromial impingement, as the stabilizers of the shoulder are weakened by repeated injections of trigger points in the upper trapezii. Therefore, it is ***not recommended*** for use for low back pain or other myofascial trigger points.

They may be used for chronic piriformis syndrome. There is some evidence to support injections for electromyographically proven piriformis syndrome. Prior to consideration of botulinum toxin injection for piriformis syndrome, patients should have had marked (80% or better) but temporary improvement, verified with demonstrated improvement in functional activities, from three separate trigger point injections. To be a candidate for botulinum toxin injection for piriformis syndrome, patients should have had symptoms return to baseline or near baseline despite an appropriate stretching program after trigger point injections. Botulinum toxin injections of the piriformis muscle should be performed by a physician experienced in this procedure and utilize either ultrasound,

fluoroscopy, or EMG needle guidance. Botulinum toxin should be followed by limb strengthening and reactivation.

Indications: for conditions which produce dystonia or piriformis syndrome. It is important to note that dystonia, torticollis, and spasticity are centrally mediated processes that are distinct from spasm, tightness, or myofascial pain. True dystonia is uncommon and consists of a severe involuntary contraction which results in abnormal postures or movements. Cervical dystonia or torticollis is the most common dystonia seen in the work related population. There should be evidence of limited range-of-motion prior to the injection. Refer to the Division's Traumatic Brain Injury (TBI) Medical Treatment Guideline for indications regarding headache.

There is insufficient evidence to support its use in myofascial trigger points for longer-term pain relief, and it is likely to cause muscle weakness or atrophy if used repeatedly. Examples of such consequences include subacromial impingement, as the stabilizers of the shoulder are weakened by repeated injections of trigger points in the upper trapezii. Therefore, it is ***not recommended*** for use for other myofascial trigger points.

Complications: There is good evidence that cervical botulinum toxin A injections cause transient dysphagia and neck weakness. Allergic reaction to medications, dry mouth, and vocal hoarseness may also occur. Dry mouth and dysphagia occur 15% of the time after one injection. Rare systemic effects include flu-like syndrome and weakening of distant muscle. There is an increased risk of systemic effects in patients with motor neuropathy or disorders of the neuromuscular junction.

Evidence Statements Regarding Botulinum Toxin Injections for Cervical Dystonia		
Strong Evidence	Evidence Statement	Design
	Botulinum toxin A has objective and asymptomatic benefits over placebo for cervical dystonia.	Meta-analysis of randomized clinical trials
Good Evidence	Evidence Statement	Design
	A single injection of botulinum toxin type B is more effective than placebo in alleviating the severity and pain of idiopathic cervical dystonia. The duration of effect of botulinum toxin type B is not certain but appears to be approximately 12 to 18 weeks.	Meta-analysis of randomized clinical trials

Evidence Statements Regarding Botulinum Toxin Injections for Piriformis Syndrome		
Some Evidence	Evidence Statement	Design
	There is some evidence to support injections for electromyographically proven piriformis syndrome.	Randomized clinical trial

Time Frames for Botulinum Toxin Injections	
Time to Produce Effect	24 to 72 hours post injection with peak effect by 4 to 6 weeks.
Frequency	No less than 3 months between re-administration. Patients should be reassessed after each injection session for approximately an 80% improvement in pain (as measured by accepted pain scales) and evidence of functional improvement for 3 months. A positive result would include a return to baseline function, return to increased work duties, and measurable improvement in physical activity goals including return to baseline after an exacerbation.
Optimum Duration	3 to 4 months.
Maximum Duration	Currently unknown. Repeat injections should be based upon functional improvement and therefore used sparingly in order to avoid development of antibodies that might render future injections ineffective. In most cases, not more than 4 injections are appropriate due accompanying muscle atrophy.

b. **Epiduroscopy and Epidural Lysis of Adhesions**: is a controversial and investigational treatment of low back pain. It involves the introduction of a fiberoptic endoscope into the epidural space via the sacral hiatus. With cephalad advancement of the endoscope under direct visualization, the epidural space is irrigated with saline. Adhesiolysis may be done mechanically with a fiberoptic endoscope. The saline irrigation is performed with or without epiduroscopy and is intended to distend the epidural space in order to obtain an adequate visual field. It is designed to produce lysis of adhesions, which are conjectured to produce symptoms due to traction on painful nerve roots. Saline irrigation is associated with risks of elevated pressures which may impede blood flow and venous return, possibly causing ischemia of the cauda equina and retinal hemorrhage. Other complications associated with instrumented lysis include catheter shearing, need for catheter surgical removal, infection (including meningitis), hematoma, and possible severe hemodynamic instability during application. Although epidural adhesions have been postulated to cause chronic low back pain, studies have failed to find a significant correlation between the level of fibrosis and pain or difficulty functioning. Studies of epidural lysis demonstrate no transient pain relief from the procedure. Given the low likelihood of a positive response, the additional costs and time requirement, and the possible complications from the procedure, epiduroscopy, or mechanical lysis, is ***not recommended***.

Epiduroscopy-directed steroid injections are also ***not recommended*** because there is no evidence to support an advantage in using an epiduroscope with steroid injections.

c. **Prolotherapy**: Also known as sclerotherapy, prolotherapy consists of a series of injections of hypertonic dextrose, with or without glycerine and phenol, into the ligamentous structures of the low back. Its proponents claim that the inflammatory response to the injections will recruit cytokine growth factors involved in the proliferation of connective tissue, stabilizing the ligaments of the low back when these structures have been damaged by mechanical insults.

There is good evidence that prolotherapy alone is not an effective treatment for chronic low back pain. There is some evidence that prolotherapy of the sacroiliac (SI) joint is longer lasting, up to 15 months, than intra-articular steroid injections. The study was relatively small and long-term blinding was unclear; however, all injections were done under fluoroscopic guidance. Indications included an 80% reduction in pain from an SI joint injection with local anesthetic, as well as physical findings of SI joint dysfunction. Lasting functional improvement has not been shown and approximately 3 injections were required. The injections are invasive, and may be painful to the patient. The use of prolotherapy for low back pain is generally ***not recommended,*** as the majority of patients with SI joint dysfunction will do well with a combination of active therapy and manipulation and not require prolotherapy. However, it may be used in select patients. Prolotherapy is ***not recommended*** for other non-specific back pain.

Indications: insufficient functional progress after 6 months of an appropriate program that includes a combination of active therapy, manual therapy and psychological evaluation and treatment. There should be documented relief from previously painful maneuvers (e.g., Patrick's or Faber's test, Gaenslen, distraction or gapping, and compression test). A positive result from SI joint diagnostic block including improvement in at least 3 previously identified physical functions. Standards of evaluation should follow those noted in the diagnostic section. Refer to Section F.5, Injections-Diagnostic.

At the minimum, manual therapy, performed on a weekly basis per guideline limits by a professional specializing in manual therapy (such as a doctor of osteopathy or chiropractor) would address any musculoskeletal imbalance causing sacroiliac joint pain such as lumbosacral or sacroiliac dysfunction, pelvic imbalance, or sacral base unleveling. This thorough evaluation would include identification and treatment to resolution of all causal conditions such as iliopsoas, piriformis, gluteal or hamstring tonal imbalance, leg length inequality, loss of motion of the sacrum, lumbar spine or pelvic bones, and ligamentous, visceral or fascial restrictions.

An active therapy program would consist of a functionally appropriate rehabilitation program which is advanced in a customized fashion as appropriate commensurate with the patient's level of strength and core spinal stability. Such a program would include stretching and strengthening to address areas of muscular imbalance as noted above and neuromuscular re-education to address maintenance of neutral spine via core stabilization with concomitant inhibition of lumbar paravertebral muscles. Patients who demonstrate a directional preference are usually not candidates for this procedure and should receive a trial of directional preference therapy.

Informed decision making must be documented including a discussion of possible complications and the likelihood of success. It is suggested that the individual be evaluated by a non-injection specialist to determine whether all reasonable treatment has been attempted and to verify the physical findings. Procedures should not be performed in patients who are unwilling to engage in the active therapy and manual therapy necessary to recover.

Evidence Statements Regarding Prolotherapy		
Good Evidence	Evidence Statement	Design
	Prolotherapy alone is not an effective treatment for chronic low back pain.	Systematic reviews of controlled clinical trials
Some Evidence	Evidence Statement	Design
	Prolotherapy of the sacroiliac (SI) joint is longer lasting, up to 15 months, than intra-articular steroid injections. The study was relatively small and long-term blinding was unclear; however, all injections were done under fluoroscopic guidance.	Randomized clinical trial

d. **Radio Frequency Ablation – Dorsal Nerve Root Ganglion**: Due to the combination of possible adverse side effects, time limited effectiveness, and mixed study results, this treatment is ***not recommended***.

e. **Radio Frequency Ablation – Genicular Nerves**: Neurotomy – There is currently inadequate evidence to support radiofrequency neurotomy for knee osteoarthritis failing conservative therapy. The one randomized controlled study identified was inadequate to support this invasive procedure. No long-term follow up is available, and there is a risk of charcot's joint. If an independent medical review is considering recommending it for functionally debilitation pain after failed knee arthroplasty, all of the usual criteria must be meet, including significant pain reduction and demonstrated objective functional improvement after diagnostic genicular injections.

f. **Radio Frequency (RF) Denervation - Medial Branch Neurotomy/Facet Rhizotomy**:

Description: a procedure designed to denervate the facet joint by ablating the corresponding sensory medial branches. Continuous percutaneous radiofrequency is the method generally used. Pulsed radiofrequency should not be used as it may result in incomplete denervation. Cooled radiofrequency is generally ***not recommended*** due to current lack of evidence.

There is good evidence in the lumbar spine that carefully selected patients who had 80% relief with medial branch controlled blinded blocks and then had RF neurotomy will have improved pain relief over 6 months and decreased impairment compared to those who had sham procedures. Pain relief was defined as one hour of 80% relief from the lidocaine injection and 2 hours of 80% relief with bupivacaine. Generally, pain relief lasts 7-9 months and repeat radiofrequency neurotomy can be successful and last longer. RF neurotomy is the procedure of choice over alcohol, phenol, or cryoablation. Precise positioning of the probe using fluoroscopic guidance is required because the maximum effective diameter of the device is a 5x8 millimeter oval. Permanent images should be recorded to verify placement of the device.

Needle Placement: Multi-planar fluoroscopic imaging is required for all injections. Injection of contrast dye to assure correct needle placement is required to verify the flow of medication. Permanent images are required to verify needle

placement.

Indications: those patients with proven, significant, facetogenic pain. A minority of low back patients would be expected to qualify for this procedure. This procedure is ***not recommended*** for patients with multiple pain generators or involvement of more than 3 levels of medial branch nerves or 2 facet levels unilateral or bilateral.

Individuals should have met all of the following indications:

- Physical exam findings consistent with facet origin pain; **and**
- Positive response to controlled medial branch blocks; **and**
- At least 3 months of pain, unresponsive to 6-8 weeks of conservative therapies, including manual therapy; **and**
- A psychosocial screening (e.g., thorough psychosocial history, screening questionnaire) with treatment as appropriate has been undergone.

Since one study found 67% false positives with controlled medical branch blocks, it is reasonable to delay radiotherapy if a false positive is suspected or pain has not returned.

All patients should continue appropriate exercise with functionally directed rehabilitation. Active treatment, which patients will have had prior to the procedure, will frequently require a repeat of the sessions previously ordered (Refer to Section G.18, Therapy-Active).

It is obligatory that sufficient data be accumulated by the examiner performing this procedure such that the value of the medial branch block is evident to other reviewers. This entails documentation of patient response regarding the degree and type of response to specific symptoms. As recommended by the SIS guidelines, the examiner should identify 3 or 4 measurable physical functions, which are currently impaired and can be objectively reassessed 30 minutes or more after the injection. A successful block requires documentation of positive functional changes by trained medical personnel experienced in measuring range-of-motion or assessing activity performance. The evaluator should be acquainted with the patient, in order to determine pre and post values, and preferably unaffiliated with the injectionist's office. Qualified evaluators include nurses, physician assistants, medical assistants, therapists, or non-injectionist physicians. To be successful, the results should occur within the expected time frame and there should be pain relief of approximately 80% demonstrated by pre and post Visual Analog Scale (VAS) scores. Examples of functional changes may include sitting, walking, and lifting. Additionally, a prospective patient completed pain diary must be recorded as part of the medical record that documents response hourly for a minimum requirement of the first 8 hours post injection or until the block has clearly worn off and preferably for the week following an injection. The diary results should be compared to the expected duration of the local anesthetic phase of the procedure. Responses must be identified as to specific body part (e.g., low back, leg). The practitioner must identify the local anesthetic used and the expected duration of response for assessment purposes.

In almost all cases, this will mean a reduction of pain to 1 or 2 on the 10-point

Visual Analog Scale (VAS) correlated with functional improvement. The patient should also identify activities of daily living (ADLs) (which may include measurements of ROM) that are impeded by their pain and can be observed to document objective functional improvement in the clinical setting. Ideally, these activities should be assessed throughout the observation period for function. The observer should not be the physician who performed the procedure. It is suggested that this be recorded on a form similar to SIS recommendations.

A separate comparative block on a different date should be performed to confirm the level of involvement prior to the rhizotomy. A comparative block uses anesthetics with varying lengths of activity. Medial Branch blocks are probably not helpful to determine the likelihood of success for spinal fusion.

The success rate of RF neurotomy is likely to decrease with lower percentages of pain relief from a medial branch block.

Informed decision making should also be documented for injections and all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. The purpose of spinal injections, as well as surgery, is to facilitate active therapy by providing short-term relief through reduction of pain. Patients should be encouraged to express their personal goals, outcome expectations and desires from treatment as well as any personal habits or traits that may be impacted by procedures or their possible side effects. All patients must commit to continuing appropriate exercise with functionally directed rehabilitation usually beginning within 7 days, at the injectionist's discretion. Since most patients with these conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment. All injections must be accompanied by active therapy.

i. Complications: bleeding, infection, or neural injury. The clinician must be aware of the risk of developing a localized neuritis, or rarely, a deafferentation centralized pain syndrome as a complication of this and other neuroablative procedures. Spinal musculature atrophy is likely to occur especially with repeat procedures as a rhizotomy denervates the multifidus-muscle in patients. For this reason, repeated rhizotomies and multiple level rhizotomies can be harmful by decreasing supportive spinal musculature. This is especially problematic for younger patients who may engage in athletic activities or workers with strenuous job requirements as the atrophy could result in increased injuries or pain, although this has not been documented.

ii. Post-Procedure Therapy — Active therapy: implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-procedure week, barring complications. Instruction and participation in a long-term, home-based program of ROM, core strengthening, postural or neuromuscular re-education, endurance, and stability exercises should be accomplished over a period of 4 to 10 visits post-procedure. Patients who are unwilling to engage in this therapy should not receive this procedure.

iii. Requirements for Repeat Radiofrequency Medial Branch Neurotomy: In some cases, pain may recur. Successful RF neurotomy usually provides from 6 to 18 months of relief.

Before a repeat RF neurotomy is done, a confirmatory medial branch injection should be performed if the patient's pain pattern presents differently than the initial evaluation. In occasional patients, additional levels of RF neurotomy may be necessary. The same indications and limitations apply.

It is recommended the total number of RF neurotomy sessions not exceed 12 in a lifetime as continued degradation of muscle strength is likely to result in other painful conditions.

Evidence Statements Regarding Radio Frequency (RF) Denervation - Medial Branch Neurotomy/Facet Rhizotomy		
Good Evidence	Evidence Statement	Design
	For the lumbar spine, carefully selected patients who had 80% relief with medial branch controlled blinded blocks and then had RF neurotomy will have improved pain relief over 6 months and decreased impairment compared to those who had sham procedures. Pain relief was defined as one hour of 80% relief from the lidocaine injection and two hours of 80% relief with bupivacaine.	Randomized clinical trials

g. **Radio Frequency Denervation - Sacro-iliac (SI) Joint Cooled:** This procedure requires neurotomy of multiple nerves, L5 dorsal ramus, and lateral branches of S1-S3 under C-arm fluoroscopy. There is good evidence that cooled RF neurotomy performed in a highly selected population results in better pain relief and functional gains than a sham procedure. The benefits persisted for 9 months. Approximate half of the patients had benefits initially, and approximately half of those reported the pain was completely relieved.

i. Needle Placement: Multi-planar fluoroscopic imaging is required for all steroid injections. Injection of contrast dye to assure correct needle placement is required to verify the flow of medication. Permanent images are required to verify needle placement.

ii. Indications: The following three requirements must be fulfilled:

iii. The patient has physical exam findings of at least 3 positive physical exam maneuvers (e.g., Patrick's sign, Faber's test, Ganslen distraction or gapping, or compression test). Insufficient functional progress after 6 months of an appropriate program that includes a combination of active therapy, manual therapy, and psychological evaluation and treatment.

At the minimum, manual therapy, performed on a weekly basis per guideline limits by a professional specializing in manual therapy (such as a doctor of osteopathy or chiropractor) would address any musculoskeletal imbalance causing sacroiliac joint pain such as lumbosacral or sacroiliac dysfunction, pelvic imbalance, or sacral base unleveling. This thorough evaluation would include identification and treatment to resolution of all causal conditions such as iliopsoas,

piriformis, gluteal or hamstring tonal imbalance, leg length inequality, loss of motion of the sacrum, lumbar spine or pelvic bones, and ligamentous, visceral or fascial restrictions.

An active therapy program would consist of a functionally appropriate rehabilitation program which is advanced in a customized fashion as appropriate commensurate with the patient's level of strength and stability. Such a program would include stretching and strengthening to address areas of muscular imbalance as noted above and neuromuscular re-education to address maintenance of neutral spine via core stabilization with concomitant inhibition of lumbar paravertebral muscles. Patients who demonstrate a directional preference are usually not candidates for this procedure and should receive a trial of directional preference therapy. Patients with confounding findings suggesting zygapophyseal joint or intervertebral disc pain generators should be excluded.

A) Two fluoroscopically guided comparative blocks of the appropriate branches with differing anesthetics, 80% relief of pain for the appropriate time periods, and functional improvement must be documented to meet standards for control blocks. Refer to Section F.5, Injections-Diagnostic.

It is obligatory that sufficient data be accumulated by the examiner performing this procedure such that the value of the procedure is evident to other reviewers. This entails documentation of patient response regarding the degree and type of response to specific symptoms. The examiner should identify 3 or 4 measurable provocative physical exam maneuvers (e.g., Patrick's sign, Faber's test, Gaenslen, distraction or gapping, or compression test), and physical functions, which are currently impaired and can be objectively reassessed 30 minutes or more after the injection. A successful block requires documentation of positive functional changes by trained medical personnel experienced in measuring range-of-motion or assessing activity performance. The evaluator should be acquainted with the patient, in order to determine pre and post values, and preferably unaffiliated with the injectionist's office. Qualified evaluators include nurses, physician assistants, medical assistants, therapists, or non-injectionist physicians. To be successful the results should occur within the expected time frame and there should be pain relief of approximately 80% demonstrated by pre and post Visual Analog Scale (VAS) scores. Examples of functional changes may include sitting, walking, and lifting. Additionally, a prospective patient completed pain diary must be recorded as part of the medical record that documents response hourly for a minimum requirement of the first 8 hours post injection or until the block has clearly worn off and preferably for the week following an injection. The diary results should be compared to the expected duration of the local anesthetic phase of the procedure. Responses must be identified as to specific body part (e.g., low back, leg). The practitioner must identify the local anesthetic used and the expected duration of response for assessment purposes.

B) Informed decision making must be documented including a discussion of possible complications and the likelihood of success. It is suggested that the individual be evaluated by a non-injection specialist to determine whether all reasonable treatment has been attempted and to verify the physical findings. Procedures should not be performed in patients who are unwilling to engage in the active therapy necessary to recover.

iv. Complications: damage to sacral nerve roots – issues with bladder dysfunction etc. Bleeding, infection, or neural injury. The clinician must be aware of the risk of developing a localized neuritis, or rarely, a deafferentation centralized pain syndrome as a complication of this and other neuroablative procedures.

v. Post-Procedure Therapy — Active Therapy: implementation of a gentle aerobic reconditioning program (e.g., walking) and back education within the first post-procedure week, barring complications. Instruction and participation in a long-term home-based program of ROM, core strengthening, postural or neuromuscular re-education, endurance, and stability exercises should be accomplished over a period of 4 to 10 visits post-procedure. Patients who are unwilling to engage in this therapy should not receive this procedure.

vi. Requirements for Repeat Radiofrequency SI Joint Neurotomy: In some cases, pain may recur. Successful RF neurotomy usually provides from 6 to 18 months of relief. Repeat neurotomy should only be performed if the initial procedure resulted in improved function for 6 months.

Due to denervation of spinal musculature, repeated neurotomy should be limited.

Evidence Statements Regarding Radio Frequency Denervation - Sacro-iliac (SI) Joint Cooled		
Good Evidence	Evidence Statement	Design
	Cooled RF neurotomy performed in a highly selected population results in better pain relief and functional gains than a sham procedure. The benefits persisted for 9 months. Approximate half of the patients had benefits initially, and approximately half of those reported the pain was completely relieved.	Randomized clinical trial

h. Transdiscal Biacuplasty:

Description: cooled radiofrequency procedure intended to coagulate fissures in the disc and surrounding nerves which could be pain generators.

It is not recommended due to lack of published data demonstrating effectiveness.

i. Trigger Point Injections:

Description: Trigger point injections are generally accepted treatments. Trigger

point treatments can consist of the injection of local anesthetic, with or without corticosteroid, into highly localized, extremely sensitive bands of skeletal muscle fibers. These muscle fibers produce local and referred pain when activated. Medication is injected in a four-quadrant manner in the area of maximum tenderness. Injection can be enhanced if treatments are immediately followed by myofascial therapeutic interventions, such as vapo-coolant spray and stretch, ischemic pressure massage (myotherapy), specific soft tissue mobilization and physical modalities. There is conflicting evidence regarding the benefit of trigger point injections. There is no evidence that injection of medications improves the results of trigger-point injections. Needling alone may account for some of the therapeutic response of injections. Needling must be performed by practitioners with the appropriate credentials in accordance with state and other applicable regulations.

There is no indication for conscious sedation for patients receiving trigger point injections. The patient must be alert to help identify the site of the injection.

Indications: Trigger point injections may be used to relieve myofascial pain and facilitate active therapy and stretching of the affected areas. They are to be used as an adjunctive treatment in combination with other treatment modalities such as active therapy programs. Trigger point injections should be utilized primarily for the purpose of facilitating functional progress. Patients should continue in an aggressive aerobic and stretching therapeutic exercise program, as tolerated, while undergoing intensive myofascial interventions. Myofascial pain is often associated with other underlying structural problems. Any abnormalities need to be ruled out prior to injection.

Trigger point injections are indicated in patients with consistently observed, well-circumscribed trigger points. This demonstrates a local twitch response, characteristic radiation of pain pattern, and local autonomic reaction such as persistent hyperemia following palpation. Generally, trigger point injections are not necessary unless consistently observed trigger points are not responding to specific, noninvasive, myofascial interventions within approximately a 6-week time frame. However, trigger point injections may be occasionally effective when utilized in the patient with immediate, acute onset of pain or in a post-operative patient with persistent muscle spasm or myofascial pain.

Complications: Potential but rare complications of trigger point injections include infection, pneumothorax, anaphylaxis, penetration of viscera, neurapraxia, and neuropathy. If corticosteroids are injected in addition to local anesthetic, there is a risk of local myopathy. Severe pain on injection suggests the possibility of an intraneural injection, and the needle should be immediately repositioned.

Time Frames for Trigger Point Injections	
Time to Produce Effect	Local anesthetic 30 minutes; 24 to 48 hours for no anesthesia.
Frequency	No more than 4 injection sites per session per week for acute exacerbations only, to avoid significant post-injection soreness.

Time Frames for Trigger Point Injections	
Optimum/Maximum Duration	4 sessions per year. Injections may only be repeated when the above functional and time goals are met.

9. INTERDISCIPLINARY REHABILITATION PROGRAMS

a. Overview:

Interdisciplinary Rehabilitation Programs are the gold standard of treatment for individuals who have not responded to less intensive modes of treatment. There is good evidence that interdisciplinary programs that include screening for psychological issues, identification of fear-avoidance beliefs and treatment barriers, and establishment of individual functional and work goals will improve function and decrease disability. There is good evidence that multidisciplinary rehabilitation (physical therapy and either psychological, social, or occupational therapy) shows small effects in reducing pain and improving disability compared to usual care and that multidisciplinary biopsychosocial rehabilitation is more effective than physical treatment for disability improvement after 12 months of treatment in patients with chronic low back pain. Patients with a significant psychosocial impact are most likely to benefit. The Agency for Healthcare Research and Quality (AHRQ) supports multidisciplinary rehabilitation as effective for chronic low back pain. These programs should assess the impact of pain and suffering on the patient's medical, physical, psychological, social, and/or vocational functioning.

The International Classification of Functioning, Disability and Health (ICF) model should be considered in patient program planning. The following factors should be addressed: body function and structures, activity expectations, participation barriers, and environmental and personal factors. In general, interdisciplinary programs evaluate and treat multiple and sometimes irreversible conditions, including but not limited to: painful musculoskeletal, neurological, and other chronic pain conditions and psychological issues; drug dependence, abuse, or addiction; high levels of stress and anxiety; failed surgery; and pre-existing or latent psychopathology. The number of professions involved on the team in a chronic pain program may vary due to the complexity of the needs of the person served. The Division recommends consideration of referral to an interdisciplinary program within 6 months post-injury in patients with delayed recovery, unless successful surgical interventions or other medical and/or psychological treatment complications intervene.

Chronic pain patients need to be treated as outpatients within a continuum of treatment intensity. Outpatient chronic pain programs are available with services provided by a coordinated interdisciplinary team within the same facility (formal) or as coordinated among practices by an authorized treating physician (informal). Formal programs are able to provide a coordinated, high-intensity level of services and are recommended for most chronic pain patients who have received multiple therapies during acute management.

Patients with addiction problems, high-dose opioid use, or abuse of other drugs may require inpatient and/or outpatient chemical dependency treatment programs before or in conjunction with other interdisciplinary rehabilitation. Guidelines from the American Society of Addiction Medicine are available and

may be consulted relating to the intensity of services required for different classes of patients in order to achieve successful treatment.

There is some evidence that a telephone-delivered collaborative care management intervention for primary care veteran patients produced clinically meaningful improvements in pain at 12-month follow-up compared with usual care by increasing non-opioid analgesic medications and without changing opioid usage for the management of chronic musculoskeletal pain. The management was directed by nurse case managers. Because the control group was usual care rather than an attention control, the non-specific effects of attention received in the intervention group could have contributed to the effectiveness of the intervention. If an attention control had been used as the control group, the effect size observed for improvement in pain in the intervention group may have been smaller. It is unknown how successful this would be with injured workers.

Informal interdisciplinary pain programs may be considered for patients who are currently employed, those who cannot attend all-day programs, those with language barriers, or those living in areas not offering formal programs. Before treatment has been initiated, the patient, physician, and insurer should agree on treatment approach, methods, and goals. Generally, the type of outpatient program needed will depend on the degree of impact the pain has had on the patient's medical, physical, psychological, social, and/or vocational functioning.

When referring a patient for formal outpatient interdisciplinary pain rehabilitation, an occupational rehabilitation program, or an opioid treatment program, the Division recommends the program meets the criteria of the Commission on Accreditation of Rehabilitation Facilities (CARF).

Inpatient pain rehabilitation programs are rarely needed but may be necessary for patients with any of the following conditions: (a) high risk for medical instability, (b) moderate-to-severe impairment of physical/functional status, (c) moderate-to-severe pain behaviors, (d) moderate impairment of cognitive and/or emotional status, (e) dependence on medications from which he/she needs to be withdrawn, and (f) the need for 24-hour supervised nursing. Whether formal or informal programs, they should be comprised of the following dimensions:

- Communication: To ensure positive functional outcomes, communication between the patient, insurer, and all professionals involved must be coordinated and consistent. Any exchange of information must be provided to all parties, including the patient. Care decisions should be communicated to all parties and should include the family and/or support system.

- Documentation: Thorough documentation by all professionals involved and/or discussions with the patient. It should be clear that functional goals are being actively pursued and measured on a regular basis to determine their achievement or need for modification. It is advisable to have the patient undergo objective functional measures.

- Risk assessments: The following should be incorporated into the overall assessment process, individual program planning, and discharge planning: aberrant medication related behavior, addiction, suicide, and other maladaptive behavior.

- Treatment Modalities: Use of modalities may be necessary early in the process to facilitate compliance with and tolerance to therapeutic exercise, physical conditioning, and increasing functional activities. Active treatments should be emphasized over passive treatments. Active and self-monitored passive treatments should encourage self-coping skills and management of pain, which can be continued independently at home or at work. Treatments that can foster a sense of dependency by the patient on the caregiver should be avoided. Treatment length should be decided based upon observed functional improvement. For a complete list of active and passive therapies, refer to Section G.18, Therapy – Active, and Section G.19, Therapy – Passive. All treatment time frames may be extended based on the patient's positive functional improvement.

- Therapeutic Exercise Programs: A therapeutic exercise program should be initiated at the start of any treatment rehabilitation. Such programs should emphasize education, independence, and the importance of an on-going exercise regimen. There is good evidence that exercise alone or as part of a multi-disciplinary program results in decreased disability for workers with non-acute low back pain. There is not sufficient evidence to support the recommendation of any particular exercise regimen over another exercise regimen.

- Return-to-Work: An authorized treating physician should continually evaluate the patients for their potential to return to work. For patients who are currently employed, efforts should be aimed at keeping them employed. Formal rehabilitation programs should provide assistance in creating work profiles. For more specific information regarding return to work, refer to Section G.17, Return-to-Work.

- Patient Education: Patients with pain need to re-establish a healthy balance in lifestyle. All providers should educate patients on how to overcome barriers to resuming daily activity, including pain management, decreased energy levels, financial constraints, decreased physical ability, and change in family dynamics.

- Psychosocial Evaluation and Treatment: Psychosocial evaluation should be initiated, if not previously done. Providers should have a thorough understanding of the patient's personality profile, especially if dependency issues are involved. Psychosocial treatment may enhance the patient's ability to participate in pain treatment rehabilitation, manage stress, and increase their problem-solving and self-management skills.

- Family/Support System Services as appropriate: The following should be considered in the initial assessment and program planning for the individual: ability and willingness to participate in the plan, coping, expectations, educational needs, insight, interpersonal dynamics, learning style, problem solving, responsibilities, and cultural and financial factors. Support would include counseling, education, assistive technology, and ongoing communication.

- Vocational Assistance: Vocational assistance can define future employment opportunities or assist patients in obtaining future

employment. Refer to Section G.17, Return-to-Work, for detailed information.

- Discharge Planning: Follow-up visits will be necessary to assure adherence to treatment plan. Programs should have community and/or patient support networks available to patients on discharge.

- Interdisciplinary Teams: Interdisciplinary programs are characterized by a variety of disciplines that participate in the assessment, planning, and/or implementation of the treatment program. These programs are for patients with greater levels of perceived disability, dysfunction, de-conditioning, and psychological involvement. Programs should have sufficient personnel to work with the individual in the following areas: behavioral, functional, medical, cognitive, communication, pain management, physical, psychological, social, spiritual, recreation and leisure, and vocational. Services should address impairments, activity limitations, participation restrictions, environmental needs, and personal preferences of the worker.

b. Formal Interdisciplinary Rehabilitation Programs:

i. Interdisciplinary Pain Rehabilitation: An Interdisciplinary Pain Rehabilitation Program provides outcome-focused, coordinated, goal-oriented interdisciplinary team services to measure and improve the functioning of persons with pain and encourage their appropriate use of health care system and services. The program can benefit persons who have limitations that interfere with their physical, psychological, social, and/or vocational functioning. The program shares information about the scope of the services and the outcomes achieved with patients, authorized providers, and insurers.

The interdisciplinary team maintains consistent integration and communication to ensure that all interdisciplinary team members are aware of the plan of care for the patient, are exchanging information, and are implementing the plan of care. The team members make interdisciplinary team decisions with the patient and then ensure that decisions are communicated to the entire care team.

Teams that assist in the accomplishment of functional, physical, psychological, social, and vocational goals must include: a medical director, pain team physician(s) who should preferably be board certified in an appropriate specialty, and a pain team psychologist. The Medical Director of the pain program and each pain team physician should be board certified in pain management or be board certified in his/her specialty area and have one of the following: 1) completed a one-year fellowship in interdisciplinary pain medicine or palliative care recognized by a national board, 2) two years of experience in an interdisciplinary pain rehabilitation program, or 3) if less than 2 years of experience, participate in a mentorship program with an experienced pain team physician. The pain team psychologist should have 1) one year's full-time experience in an interdisciplinary pain program, or 2) if less than 2 years of experience, participate in a mentorship program with an experienced pain team psychologist. Professionals from other disciplines on the team may include but are not limited to: a biofeedback therapist, an occupational therapist, a physical therapist, a registered nurse (RN), a

case manager, an exercise physiologist, a psychologist, a psychiatrist, and/or a nutritionist. A recent French interdisciplinary functional spine restoration program demonstrated increased return to work at 12 months.

Time Frames for Interdisciplinary Pain Rehabilitation	
Time to Produce Effect	3 to 4 weeks.
Frequency	Full time programs – No less than 5 hours per day, 5 days per week; part-time programs – 4 hours per day, 2–3 days per week.
Optimum Duration	3 to 12 weeks at least 2–3 times a week. Follow-up visits weekly or every other week during the first 1 to 2 months after the initial program is completed.
Maximum Duration	4 months for full-time programs and up to 6 months for part-time programs. Periodic review and monitoring thereafter for 1 year, and additional follow-up based on the documented maintenance of functional gains.

ii. Occupational Rehabilitation: This is a formal interdisciplinary program addressing a patient's employability and return to work. It includes a progressive increase in the number of hours per day in which a patient completes work simulation tasks until the patient can tolerate a full work day. A full work day is case specific and is defined by the previous employment of the patient. Safe workplace practices and education of the employer and family and/or social support system regarding the person's status should be included. This is accomplished by addressing the medical, psychological, behavioral, physical, functional, and vocational components of employability and return to work.

The following are best practice recommendations for an occupational rehabilitation program:

A) Work assessments including a work-site evaluation when possible (Refer to Section G.17, Return-To-Work).

B) Practice of component tasks with modifications as needed.

C) Development of strength and endurance for work tasks.

D) Education on safe work practices.

E) Education of the employer regarding functional implications of the worker when possible.

F) Involvement of family members and/or support system for the worker.

G) Promotion of responsibility and self-management.

H) Assessment of the worker in relationship to productivity, safety, and worker behaviors.

I) Identification of transferable skills of the worker.

J) Development of behaviors to improve the ability of the worker to return to work or benefit from other rehabilitation.

K) Discharge includes functional/work status, functional abilities as related to available jobs in the community, and a progressive plan for return to work if needed.

There is some evidence that an integrated care program, consisting of workplace interventions and graded activity teaching that pain need not limit activity, is effective in returning patients with chronic low back pain to work, even with minimal reported reduction of pain. The occupational medicine rehabilitation interdisciplinary team should, at a minimum, be comprised of a qualified medical director who is board certified with documented training in occupational rehabilitation, team physicians having experience in occupational rehabilitation, an occupational therapist, and a physical therapist. As appropriate, the team may also include any of the following: a chiropractor, an RN, a case manager, a psychologist, a vocational specialist, or a certified biofeedback therapist.

Time Frames for Occupational Rehabilitation	
Time to Produce Effect	2 weeks.
Frequency	2 to 5 visits per week, up to 8 hours per day.
Optimum Duration	2 to 4 weeks.
Maximum Duration	6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic and functional gains.

iii. Opioid/Chemical Treatment Programs: Refer to the Division's Chronic Pain Disorder Medical Treatment Guideline. Recent programs which incorporate both weaning from opioids and interdisciplinary therapy appear to demonstrate positive long-term results.

c. **Informal Interdisciplinary Rehabilitation Program**: A coordinated interdisciplinary pain rehabilitation program is one in which an authorized treating physician coordinates all aspects of care. This type of program is similar to the formal programs in that it is goal-oriented and provides interdisciplinary rehabilitation services to manage the needs of the patient in the following areas: (a) functional, (b) medical, (c) physical, (d) psychological, (e) social, and (f)

vocational.

This program is different from a formal program in that it involves lower frequency and intensity of services/treatment. Informal rehabilitation is geared toward those patients who do not need the intensity of service offered in a formal program or who cannot attend an all-day program due to employment, daycare, language, or other barriers.

Patients should be referred to professionals experienced in outpatient treatment of chronic pain. The Division recommends an authorized treating physician consult with physicians experienced in the treatment of chronic pain to develop the plan of care. Communication among care providers regarding clear objective goals and progress toward the goals is essential. Employers should be involved in return to work and work restrictions, and the family and/or social support system should be included in the treatment plan. Professionals from other disciplines likely to be involved include: a biofeedback therapist, an occupational therapist, a physical therapist, an RN, a psychologist, a case manager, an exercise physiologist, a psychiatrist, and/or a nutritionist.

Time Frames for Informal Interdisciplinary Rehabilitation Program	
Time to Produce Effect	3 to 4 weeks.
Frequency	Full-time programs – No less than 5 hours per day, 5 days per week; Part-time programs – 4 hours per day for 2–3 days per week.
Optimum Duration	3 to 12 weeks at least 2–3 times a week. Follow-up visits weekly or every other week during the first 1 to 2 months after the initial program is completed.
Maximum Duration	4 months for full-time programs and up to 6 months for part-time programs. Periodic review and monitoring thereafter for 1 year, and additional follow-up based upon the documented maintenance of functional gains.

Evidence Statements Regarding Interdisciplinary Rehabilitation Programs		
Good Evidence	Evidence Statement	Design
	Interdisciplinary programs that include screening for psychological issues, identification of fear-avoidance beliefs and treatment barriers, and establishment of individual functional and work goals will improve function and decrease disability.	Cluster randomized trial, Randomized clinical trial
	Multidisciplinary rehabilitation (physical therapy and either psychological, social, or occupational therapy) shows small effects in reducing pain and improving disability compared	Meta-analyses of randomized clinical trials

Good Evidence, continued	to usual care, and multidisciplinary biopsychosocial rehabilitation is more effective than physical treatment for disability improvement after 12 months of treatment in patients with chronic low back pain. Patients with a significant psychosocial impact are most likely to benefit.	
	Exercise alone or as part of a multi-disciplinary program results in decreased disability for workers with non-acute low back pain.	Meta-analysis of randomized clinical trials
Some Evidence	Evidence Statement	Design
	Telephone-delivered collaborative care management intervention for primary care veteran patients produced clinically meaningful improvements in pain at 12-month follow-up compared with usual care by increasing non-opioid analgesic medications and without changing opioid usage for the management of chronic musculoskeletal pain. The management was directed by nurse case managers. Because the control group was usual care rather than an attention control, the non-specific effects of attention received in the intervention group could have contributed to the effectiveness of the intervention. If an attention control had been used as the control group, the effect size observed for improvement in pain in the intervention group may have been smaller. It is unknown how successful this would be with injured workers.	Single-blind randomized clinical trial
	An integrated care program, consisting of workplace interventions and graded activity teaching that pain need not limit activity, is effective in returning patients with chronic low back pain to work, even with minimal reported reduction of pain.	Randomized clinical trial

10. MEDICATIONS AND MEDICAL MANAGEMENT

There is no single formula for pharmacological treatment of patients with chronic nonmalignant pain. A thorough medication history, including use of alternative and over-the-counter medications, should be performed at the time of the initial visit and updated periodically. The medication history may consist of evaluating patient refill records through pharmacies and the Physician Drug Monitoring Program (PDMP) to determine if the patient is receiving their prescribed regimen. Appropriate application of pharmacological agents depends on the patient's age, past history (including history of substance abuse), drug allergies, and the nature of all medical problems. It is incumbent upon the healthcare provider to thoroughly understand pharmacological principles when dealing with the different drug families, their respective side effects, drug interactions, and primary reason for each medication's usage. Patients should be aware that medications alone are unlikely to provide complete pain relief. In addition to pain relief, a primary goal of drug treatment is to improve the patient's function as measured behaviorally. Besides taking medications, continuing participation in exercise programs and using self-management techniques such as biofeedback, cognitive behavioral therapy, and other individualized physical and psychological practices are required elements for successful chronic pain management. Management must begin with

establishing goals and expectations, including shared decision making about risks and benefits of medications.

Medication reconciliation is the process of comparing the medications that the patient is currently taking with those for which the patient has orders. This needs to include drug name, dosage, frequency, and route. The reconciliation can assist in avoiding medications errors such as omissions, duplications, dosing errors, or drug interactions. The results can also be used to assist discussion with the patient regarding prescribing or changing medications and the likelihood of side effects, drug interactions, and achieving expected goals. At a minimum, medication reconciliation should be performed for all patients upon the initial visit and whenever refilling or prescribing new medications.

Control of chronic non-malignant pain is expected to frequently involve the use of medication. Strategies for pharmacological control of pain cannot be precisely specified in advance. Rather, drug treatment requires close monitoring of the patient's response to therapy, flexibility on the part of the prescriber, and a willingness to change treatment when circumstances change. Many of the drugs discussed in the medication section were originally licensed for indications other than analgesia but are effective in the control of some types of chronic pain.

It is generally wise to begin management with lower cost non-opioid medications whose efficacy equals higher cost medications and medications with a greater safety profile. Decisions to progress to more expensive, non-generic, and/or riskier products are made based on the drug profile, patient feedback, and improvement in function. The provider must carefully balance the untoward side effects of the different drugs with therapeutic benefits, as well as monitor for any drug interactions.

All medications should be given an appropriate trial in order to test for therapeutic effect. The length of an appropriate trial varies widely depending on the individual drug. Certain medications may take several months to determine the efficacy, while others require only a few doses. It is recommended that patients with chronic nonmalignant pain be maintained on drugs that have the least serious side effects. For example, patients need to be tried or continued on acetaminophen and/or low dose generic antidepressant medications whenever feasible, as part of their overall treatment for chronic pain. Patients with renal or hepatic disease may need increased dosing intervals with chronic acetaminophen use. Chronic use of NSAIDs is generally ***not recommended*** due to increased risk of cardiovascular events and GI bleeding.

The use of sedatives and hypnotics is not generally recommended for chronic pain patients. It is strongly recommended that such pharmacological management be monitored or managed by an experienced pain medicine physician. Multimodal therapy is the preferred mode of treatment for chronic pain patients whether or not these drugs were used acutely or sub-acutely.

Pharmaceutical neuropathic pain studies are limited. Diabetic peripheral neuropathy (DPN) and post-herpetic neuralgia (PHN) are the two most frequently studied noncancer neuropathic pain conditions in randomized clinical trials of drug treatment. Some studies enroll only DPN or PHN patients, while other studies may enroll both kinds of patients. There appear to be consistent differences between DPN and PHN with respect to placebo responses, with DPN showing greater placebo response than PHC. Thus, there is an increased likelihood of a "positive" trial result for clinical trials of drug treatment for PHN than for DPN.

Although many studies focus on mean change in pain, this may not be the most reliable result. It does not necessarily allow for subgroups that may have improved significantly.

Furthermore, the DPN and PHN studies do not represent the type of neurologic pain usually seen in workers' compensation.

For these reasons, few pharmaceutical agents listed in this Guideline are supported by high levels of evidence, but the paucity of evidence statements should not be construed as meaning that medication is not to be encouraged in managing chronic pain patients.

General Order for Trial of Neuropathic Pain Medications

Treating physician are encouraged to follow this sequence taking into consideration the patient's individual tolerance for types of medications, their side effects, and their other medical conditions will guide pharmaceutical choices.
1. Tricyclic anti-depressants. 2. Gabapentin or pregabalin and/or serotonin norepinephrine reuptake inhibitors. 3. Other anticonvulsants as listed. 4. Opioids low dose including, tramadol, tapentadol.

It is advisable to begin with the lowest effective dose proven to be useful for neuropathic pain in the literature. If the patient is tolerating the medication and clinical benefit is appreciated, maximize the dose for that medication or add another second line medication with another mechanism of action. If a medication is not effective, taper off the medication and start another agent. Maintain goal dosing for up to 8 weeks before determining its effectiveness. Many patients will utilize several medications from different classes to achieve maximum benefit.

It is also useful to remember that there is some evidence that in the setting of uncomplicated low back pain lasting longer than 3 months, patients who were willing to participate in a trial of capsules clearly labelled as placebo experienced short-term reductions in pain and disability after the principles of the placebo effect had been explained to them.

The preceding principles do not apply to chronic headache or trigeminal neuralgia patients. These patients should be referred to a physician specializing in the diagnosis and treatment of headache and facial pain (refer to the Division's Traumatic Brain Injury Medical Treatment Guideline).

For the clinician to interpret the following material, it should be noted that: (1) drug profiles listed are not complete; (2) dosing of drugs will depend upon the specific drug, especially for off-label use; and (3) not all drugs within each class are listed, and other drugs within the class may be appropriate for individual cases. Clinicians should refer to informational texts or consult a pharmacist before prescribing unfamiliar medications or when there is a concern for drug interactions.

Evidence Statements Regarding Medication Management		
Some Evidence	Evidence Statement	Design
	In the setting of uncomplicated low back pain lasting longer than 3 months, patients who were willing to participate in a trial of capsules clearly labelled as placebo experienced short-term reductions in pain and disability after the principles of the placebo effect had been explained to them.	Randomized clinical trial

The following drug classes are listed in alphabetical order, not in order of suggested use, which is outlined above for neuropathic pain.

a. **Alpha-Acting Agents**: Noradrenergic pain-modulating systems are present in the central nervous system and the alpha-2 adrenergic receptor may be involved in the functioning of these pathways. Alpha-2 agonists may act by stimulating receptors in the substantia gelatinosa of the dorsal horn of the spinal cord, inhibiting the transmission of nociceptive signals. Spasticity may be reduced by presynaptic inhibition of motor neurons. Given limited experience with their use, they cannot be considered first-line or second-line analgesics for neurogenic pain, but a trial of their use may be warranted in some cases of refractory pain.

i. Clonidine (Catapres, Kapvay, Nexiclon)

A) Description – central alpha 2 agonist.

B) Indications – sympathetically mediated pain, treatment of withdrawal from opioids.

As of the time of this guideline writing, formulations of clonidine have been FDA approved for hypertension.

C) Major Contraindications – severe coronary insufficiency, renal impairment.

D) Dosing and Time to Therapeutic Effect – increase dosage weekly to therapeutic effect.

E) Major Side Effects – sedation, hypotension, sexual dysfunction, thrombocytopenia, weight gain, agitation, rebound hypertension with cessation.

F) Drug Interactions – beta adrenergics, tricyclic antidepressants.

G) Laboratory Monitoring – renal function, blood pressure.

b. **Anticonvulsants**: Although the mechanism of action of anticonvulsant drugs in neuropathic pain states remains to be fully defined, some appear to act as channel blocking agents. A large variety of sodium channels are present in nervous tissue, and some of these are important mediators of nociception, as they are found primarily in unmyelinated fibers and their density increases following nerve injury. While the pharmacodynamic effects of the various

anticonvulsant drugs are similar, the pharmacokinetic effects differ significantly. Gabapentin and pregablin, by contrast, are relatively non-significant enzyme inducers, creating fewer drug interactions. Because anticonvulsant drugs may have more problematic side-effect profiles, their use should usually be deferred until tricyclic-related medications have failed to relieve pain. All patients on these medications should be monitored for suicidal ideation. Many of these medications are ***not recommended*** for women of child bearing age due to possible teratogenic effects.

Gabapentin and pregabalin are commonly prescribed for neuropathic pain. There is an association between older anticonvulsants including gabapentin and non-traumatic fractures for patients older than 50; this should be taken into account when prescribing these medications.

Gabapentin and pregabalin have indirect (not GABA A or GABA B receptor mediated) GABA-mimetic qualities rather than receptor mediated actions. This can potentially result in euphoria, relaxation, and sedation. It is likely that they also affect the dopaminergic "reward" system related to addictive disorders. Misuse of these medications usually involves doses 3-20 times that of the usual therapeutic dose. The medication is commonly used with alcohol or other drugs of abuse. Providers should be aware of the possibility and preferably screen patients for abuse before prescribing these medications. Withdrawal symptoms, such as insomnia, nausea, headache, or diarrhea, are likely when high doses of pregabalin have been used. Tolerance can also develop.

i. Gabapentin (Fanatrex, Gabarone, Gralise, Horizant, Neurontin)

A) Description: structurally related to gamma-aminobutyric acid (GABA) but does not interact with GABA receptors. Gabapentin affects the alpha-2-delta-1 ligand of voltage gated calcium channels, thus inhibiting neurotransmitter containing intra-cellular vesicles from fusing with the pre-synaptic membranes and reducing primary afferent neuronal release of neurotransmitters (glutamate, CGRP, and substance P). It may also modulate transient receptor potential channels, NMDA receptors, protein kinase C and inflammatory cytokines, as well as possibly stimulating descending norepinephrine mediated pain inhibition.

B) Indications: As of the time of this guideline writing, formulations of gabapentin have been FDA approved for post-herpetic neuralgia and partial onset seizures.

There is strong evidence that gabapentin is more effective than placebo in the relief of painful diabetic neuropathy and post-herpetic neuralgia.

There is some evidence that gabapentin may benefit some patients with post-traumatic neuropathic pain. There is good evidence that gabapentin is not superior to amitriptyline. There is some evidence that nortriptyline (Aventyl, Pamelor) and gabapentin are equally effective for pain relief of postherpetic neuralgia. There is some evidence that the combination of gabapentin and morphine may allow lower doses with greater analgesic effect than the drugs given separately. There is strong evidence that gabapentin is more effective than placebo for

neuropathic pain, even though it provides complete pain relief to a minority of patients. There is some evidence that a combination of gabapentin and nortriptyline provides more effective pain relief than monotherapy with either drug. Given the cost of gabapentin, it is recommended that patients who are medically appropriate receive a trial of tricyclics before use of gabapentin.

C) Relative Contraindications: renal insufficiency. Dosage may be adjusted to accommodate renal dysfunction.

D) Dosing and Time to Therapeutic Effect: Dosage should be initiated at a low dose in order to avoid somnolence and may require 4 to 8 weeks for titration. Dosage should be adjusted individually. It is taken 3 to 4 times per day, and the target dose is 1800 mg.

E) Major Side Effects: sedation, confusion, dizziness, peripheral edema. Patients should also be monitored for suicidal ideation and drug abuse.

F) Drug Interactions: antacids.

G) Laboratory Monitoring: renal function.

ii. Pregabalin (Lyrica)

A) Description: structural derivative of the inhibitory neuro transmitter gamma aminobutyric acid which inhibits calcium influx at the alpha-2-subunit of voltage-gated calcium channels of neurons. By inhibiting calcium influx, there is inhibition of release for excitatory neurotransmitters.

B) Indications: As of the time of this guideline writing, pregabalin is FDA approved for the treatment of neuropathic pain, post-herpetic neuralgia, fibromyalgia, diabetic peripheral neuropathy, and partial-onset seizure in adults with epilepsy.

There is an adequate meta-analysis supporting strong evidence that in the setting of painful diabetic neuropathy, pregabalin as a stand-alone treatment is more effective than placebo in producing a 50% pain reduction, but this goal is realized in only 36% of patients treated with pregabalin compared with 24% of patients treated with placebo. There is an absence of published evidence regarding its effectiveness in improving physical function in this condition. There is also some evidence that pregabalin may be effective in treating neuropathic pain due to spinal cord injury. Unfortunately, most of the studies reviewed used pain as the primary outcome. Only one study considered function and found no improvement.

When pregabalin is compared with other first line medications for the treatment of neuropathic pain and diabetic peripheral neuropathy, such as amitriptyline and duloxetine, there is good evidence that it is not superior to these medications. Additionally,

amitriptyline was found more effective compared to pregabalin for reducing pain scores and disability. Side effects were similar for the two medications. Therefore, amitriptyline is recommended as a first line drug for patients without contraindications, followed by duloxetine or pregabalin. This is based on improved effectiveness in treating neuropathic pain and a favorable side effect profile compared to pregabalin. Pregabalin may be added to amitriptyline therapy.

Pregabalin seems to be not effective and/or not well tolerated in a large percentage of patients. This is evident in several of the studies using run-in phases, enrichment, and partial enrichment techniques to strengthen the results. This analysis technique excludes placebo responders, non-responders, and adverse events prior to the treatment part of the study. This was done in the large meta-analysis, and one study had 60% of participants excluded in the run-in phase.

Duloxetine, pregabalin, and amitriptyline are approximately of equal benefit with respect to pain relief in the setting of diabetic peripheral neuropathy. There is some evidence that they exert different effects with respect to sleep variables. Total sleep time and REM sleep duration are likely to be greater with pregabalin than with duloxetine or amitriptyline. However, pregabalin is likely to lead to dizziness and fatigue more frequently than the other drugs, and oxygen desaturation during sleep also appears to be greater with pregabalin.

C) Relative Contraindications: Avoid use with hypersensitivity to pregabalin or other similar class of drugs, avoid abrupt withdrawal, avoid use with a CNS depressant or alcohol, and exercise caution when using:

- in the elderly,
- with renal impairment,
- with CHF class III/IV,
- with a history of angioedema,
- with depression.

D) Dosing and Time to Therapeutic Effect: Pregabalin comes in dosages ranging from 25mg to 300mg in 25mg and 50mg increments. For neuropathic pain, start at 75mg twice daily for one week and then increase to 150mg twice daily for 2 to 3 weeks if needed, with a possible final increase to 300mg twice daily with a max dose of 600mg/day. The full benefit may be achieved as quickly as 1 week, but it may take 6-8 weeks. To discontinue, taper the dose down for at least 1 week.

E) Major Side Effects: dizziness (≤ 45%), somnolence (≤ 36%), peripheral edema (≤ 16%), weight gain (≤ 16%), xerostomia (≤

15%), headache (≤ 14%), fatigue (≤ 11%), tremor (≤ 11%), blurred vision/diplopia (≤ 12%), constipation (≤ 10%), confusion (≤ 7%), euphoria (≤ 7%), impaired coordination (≤ 6%), thrombocytopenia (≥ 1%). Patients should be monitored for hypersensitivity reactions, angioedema, suicidality, withdrawal symptoms, and seizures during abrupt discontinuation.

F) In regards to euphoria, pregabalin has higher rates compared to gabapentin in patients with history of substance misuse. Thus, prescribers should be aware that there is a potential for misuse.

G) Drug Interactions: Avoid use with antiepileptic agents and any CNS depression medications. Specifically avoid use with carbinoxamine, doxylamine, and gingko. Monitor closely when pregabalin is use with opioids.

H) Laboratory Monitoring: creatinine at baseline.

iii. Other Anticonvulsants with Limited Third Line Use:

It is recommended that a physician experienced in pain management be involved in the care when these medications are used.

A) Topiramate (Topamax, Topiragen): sulfamate substitute monosacchride. FDA approved for epilepsy or prophylaxis for migraines. Topiramate is without evidence of efficacy in diabetic neuropathic pain, the only neuropathic condition in which it has been adequately tested. The data we have includes the likelihood of major bias due to last observation carried forward imputation, where adverse event withdrawals are much higher with active treatment than placebo control. Despite the strong potential for bias, no difference in efficacy between topiramate and placebo was apparent. There is good evidence that topiramate demonstrates minimal effect on chronic lumbar radiculopathy or other neuropathic pain. If it is utilized, this would be done as a third or fourth line medication in appropriate patients.

B) Lamotrigine (Lamictal): This anti-convulsant drug is not FDA approved for use with neuropathic pain. Due to reported deaths from toxic epidermal necrolysis and Stevens Johnson syndrome, increased suicide risk, and incidents of aseptic meningitis, it is used with caution for patients with seizure or mood disorders. There is insufficient evidence that lamotrigine is effective in treating neuropathic pain and fibromyalgia at doses of about 200 to 400 mg daily. Given the availability of more effective treatments including antiepileptics and antidepressant medicines, lamotrigine does not have a significant place in therapy based on the available evidence. The adverse effect profile of lamotrigine is also of concern. If it is utilized, this would be done as a third or fourth line medication in appropriate patients.

C) Zonisamide: There is insufficient evidence that zonisamide provides pain relief in any neuropathic pain condition. There are

a number of drug interactions and other issues with its use. If it is utilized, this would be done as a third or fourth line medication in appropriate patients.

D) Carbamazepine: Has important effects as an inducer of hepatic enzymes and may influence the metabolism of other drugs enough to present problems in patients taking interacting drugs. Dose escalation must be done carefully, since there is good evidence that rapid dose titration produces side-effects greater than the analgesic benefits. Carbamazepine is likely effective in some people with chronic neuropathic pain but with caveats. No trial was longer than 4 weeks, had good reporting quality, nor used outcomes equivalent to substantial clinical benefit. In these circumstances, caution is needed in interpretation, and meaningful comparison with other interventions is not possible. Carbamazepine is generally ***not recommended***; however, it may be used as a third or fourth line medication. It may be useful for trigeminal neuralgia.

E) Valproic Acid: There is insufficient evidence to support the use of valproic acid or sodium valproate as a first-line treatment for neuropathic pain. It should be avoided in women of child bearing age. There is more robust evidence of greater efficacy for other medications. However, some guidelines continue to recommend it. If it is utilized, this would be done as a third or fourth line medication in appropriate patients.

F) Levetiracetam: There is no evidence that levetiracetam is effective in reducing neuropathic pain. It is associated with an increase in participants who experienced adverse events and who withdrew due to adverse events. Therefore, this is ***not recommended***.

G) Lacosamide: Has limited efficacy in the treatment of peripheral diabetic neuropathy. Higher doses did not give consistently better efficacy but were associated with significantly more adverse event withdrawals. Where adverse event withdrawals are high with active treatment compared with placebo and when last observation carried forward imputation is used, as in some of these studies, significant overestimation of treatment efficacy can result. It is likely, therefore, that lacosamide is without any useful benefit in treating neuropathic pain; any positive interpretation of the evidence should be made with caution if at all. Therefore, this is ***not recommended***.

Evidence Statements Regarding Anticonvulsants: Gabapentin (Fanatrex, Gabarone, Gralise, Horizant, Neurontin)		
Strong Evidence	Evidence Statement	Design
	Gabapentin is more effective than placebo in the relief of painful diabetic neuropathy and post-herpetic neuralgia.	Meta-analysis of randomized clinical trials

Evidence Statements Regarding Anticonvulsants: Gabapentin (Fanatrex, Gabarone, Gralise, Horizant, Neurontin)		
Strong Evidence, continued	Gabapentin is more effective than placebo for neuropathic pain, even though it provides complete pain relief to a minority of patients.	Randomized clinical trial, Meta-analysis of randomized trials
Good Evidence	Evidence Statement	Design
	Gabapentin is not superior to amitriptyline.	Randomized crossover trial, Meta-analysis of randomized trials
Some Evidence	Evidence Statement	Design
	Gabapentin may benefit some patients with post-traumatic neuropathic pain.	Randomized clinical trial
	Nortriptyline (Aventyl, Pamelor) and gabapentin are equally effective for pain relief of post-herpetic neuralgia.	Randomized clinical trial
	The combination of gabapentin and morphine may allow lower doses with greater analgesic effect than the drugs given separately.	Randomized crossover trial
	A combination of gabapentin and nortriptyline provides more effective pain relief than monotherapy with either drug.	Randomized crossover trial

Evidence Statements Regarding Anticonvulsants: Pregabalin (Lyrica)		
Strong Evidence	Evidence Statement	Design
	In the setting of painful diabetic neuropathy, pregabalin as a stand-alone treatment is more effective than placebo in producing a 50% pain reduction, but this goal is realized in only 36% of patients treated with pregabalin compared with 24% of patients treated with placebo.	Meta-analysis of randomized clinical trials
Good Evidence	Evidence Statement	Design
	When pregabalin is compared with other first line medications for the treatment of neuropathic pain and diabetic peripheral neuropathy, such as amitriptyline and duloxetine, it is not superior to these medications. Additionally, amitriptyline was found more effective compared to pregabalin for reducing pain scores and disability. Side effects were similar for the two medications.	Randomized clinical trial, Open label parallel randomized clinical trial, Randomized clinical trial

Evidence Statements Regarding Anticonvulsants: Pregabalin (Lyrica)		
Some Evidence	Evidence Statement	Design
	Pregabalin may be effective in treating neuropathic pain due to spinal cord injury.	Randomized parallel group clinical trial
	Duloxetine, pregabalin, and amitriptyline exert different effects with respect to sleep variables. Total sleep time and REM sleep duration are likely to be greater with pregabalin than with duloxetine or amitriptyline. However, pregabalin is likely to lead to dizziness and fatigue more frequently than the other drugs, and oxygen desaturation during sleep also appears to be greater with pregabalin.	Randomized clinical trial

Evidence Statements Regarding Anticonvulsants: Topiramate (Topamax, Topiragen)		
Good Evidence	Evidence Statement	Design
	Topiramate demonstrates minimal effect on chronic lumbar radiculopathy or other neuropathic pain.	Randomized crossover trial, Randomized clinical trials

Evidence Statements Regarding Anticonvulsants: Carbamazepine		
Good Evidence	Evidence Statement	Design
	Rapid dose titration produces side-effects greater than the analgesic benefits.	Randomized clinical trials

c. **Antidepressants**: Are classified into a number of categories based on their chemical structure and their effects on neurotransmitter systems. Their effects on depression are attributed to their actions on disposition of norepinephrine and serotonin at the level of the synapse; although these synaptic actions are immediate, the symptomatic response in depression is delayed by several weeks. When used for chronic pain, the effects may in part arise from treatment of underlying depression, but may also involve additional neuromodulatory effects on endogenous opioid systems, raising pain thresholds at the level of the spinal cord.

Pain responses may occur at lower drug doses with shorter times to symptomatic response than are observed when the same compounds are used in the treatment of mood disorders. Neuropathic pain, diabetic neuropathy, post-herpetic neuralgia, and cancer-related pain may respond to antidepressant doses low enough to avoid adverse effects that often complicate the treatment of depression. First line drugs for neuropathic pain are the tricyclics with the newer formulations having better side effect profiles. SNRIs are considered second line drugs due to their costs and the number needed to treat for a response. Duloxetine may be considered for first line use in a patient who is a candidate for

pharmacologic treatment of both chronic pain and depression. SSRIs are used generally for depression rather than neuropathic pain and should not be combined with moderate to high-dose tricyclics.

All patients being considered for anti-depressant therapy should be evaluated and continually monitored for suicidal ideation and mood swings.

i. Tricyclics and Older Agents (e.g., amitriptyline, nortriptyline, doxepin (Adapin, Silenor, Sinequan), desipramine (Norpramin, Pertofrane), imipramine (Tofranil), trazodone (Desyrel, Oleptro)).

A) Description: Serotonergics, typically tricyclic antidepressants (TCAs), are utilized for their serotonergic properties as increasing CNS serotonergic tone can help decrease pain perception in non-antidepressant dosages. TCAs decrease reabsorption of both serotonin and norepinephrine. They also impact Na channels. Amitriptyline is known for its ability to repair Stage 4 sleep architecture, a frequent problem found in chronic pain patients and to treat depression, frequently associated with chronic pain. However, higher doses may produce more cholinergic side effects than newer tricyclics such as nortriptyline and desipramine. Doxepin and trimipramine also have sedative effects.

There is some evidence that in the setting of chronic low back pain with or without radiculopathy, amitriptyline is more effective than pregabalin at reducing pain and disability after 14 weeks of treatment. There is some evidence that in the setting of neuropathic pain, a combination of morphine plus nortriptyline produces better pain relief than either monotherapy alone, but morphine monotherapy is not superior to nortriptyline monotherapy, and it is possible that it is actually less effective than nortriptyline. There is insufficient low quality evidence supporting the use of desipramine to treat neuropathic pain. Effective medicines with much greater supportive evidence are available. There may be a role for desipramine in patients who have not obtained pain relief from other treatments. There is no good evidence of a lack of effect; therefore, amitriptyline should continue to be used as part of the treatment of neuropathic pain. Only a minority of people will achieve satisfactory pain relief. Limited information suggests that failure with one antidepressant does not mean failure with all. There is insufficient evidence to support the use of nortriptyline as a first line treatment. However, nortriptyline has a lower incidence of anticholinergic side effects than amitriptyline. It may be considered for patients who are intolerant to the anticholinergic effects of amitriptyline. Effective medicines with greater supportive evidence are available, such as duloxetine and pregabalin.

There is some evidence that a combination of some gabapentin and nortriptyline provides more effective pain relief than monotherapy with either drug, without increasing side effects of either drug.

B) Indications: Some formulations are FDA approved for depression and anxiety. For the purposes of this guideline, they are recommended for neuropathic pain and insomnia. They are ***not recommended*** as a first line drug treatment for depression. There is good evidence that gabapentin is not superior to amitriptyline. Given the cost of gabapentin, it is recommended that patients who are medically appropriate to undergo a trial of lower cost tricyclic before use of gabapentin.

C) Major Contraindications: cardiac disease or dysrhythmia, glaucoma, prostatic hypertrophy, seizures, high suicide risk, uncontrolled hypertension and orthostatic hypotension. A screening cardiogram may be done for those 40 years of age or older, especially if higher doses are used. Caution should be utilized in prescribing TCAs. They are not recommended for use in elderly patients 65 years of age or older, particularly if they are at fall risk.

D) Dosing and Time to Therapeutic Effect: varies by specific tricyclic. Low dosages, less than 100 mg are commonly used for chronic pain and/or insomnia. Lower doses decrease side effects and cardiovascular risks.

E) Major Side Effects: Side effects vary according to the medication used; however, the side effect profile for all of these medications is generally higher in all areas except GI distress, which is more common among the SSRIs and SNRIs. Anticholinergic side effects include, but not limited to, dry mouth, sedation, orthostatic hypotension, cardiac arrhythmia, urinary retention, and weight gain. Dry mouth leads to dental and periodontal conditions (e.g., increased cavities). Patients should also be monitored for suicidal ideation and drug abuse. Anticholinergic side effects are more common with tertiary amines (amitriptyline, imipramine, doxepin) than with secondary amines (nortriptyline and desipramine).

F) Drug Interactions: Tramadol (may cause seizures, both also increase serotonin/norepinephrine, so serotonin syndrome is a concern), clonidine, cimetidine (Tagemet), sympathomimetics, valproic acid (Depakene, Depakote, Epilim, Stavzor), warfarin (Coumadin, Jantoven, Marfarin), carbamazepine, bupropion (Aplezin, Budeprion, Buproban, Forfivo, Wellbutrin, Zyban), anticholinergics, quinolones.

G) Recommended Laboratory Monitoring: renal and hepatic function. EKG for those on high dosages, or with cardiac risk.

ii. Selective serotonin reuptake inhibitors (SSRIs) (e.g., citalopram (Celexa), fluoxetine (Prozac, Rapiflux, Sarafem, Selfemra), paroxetine (Paxil, Pexeva), sertraline (Zoloft)) are ***not recommended*** for neuropathic pain. They may be used for depression.

iii. Selective Serotonin Nor-epinephrine Reuptake Inhibitor (SSNRI)/Serotonin Nor-epinephrine Reuptake Inhibitors (SNRI).

A) Description: Venlafaxine (Effexor), desvenlafaxine (Pristiq), duloxetine, and milnacipran (Savella).

There is strong evidence that duloxetine monotherapy is more effective than placebo in relieving the pain of diabetic peripheral neuropathy; however, monotherapy leads to a 50% pain reduction in only half of patients who receive a therapeutic dose.

AHRQ supports the use of duloxetine for chronic low back pain.

There is good evidence that in patients with painful diabetic neuropathy who have not had good responses to monotherapy with 60 mg of duloxetine or 300 mg of pregabalin, a clinically important benefit can be achieved by either of two strategies: doubling the dose of either drug, or combining both drugs at the same dose. It is likely that the strategy of combining the two drugs at doses of 60 and 300 mg respectively is more beneficial overall.

There was no evidence to support the use of milnacipran to treat neuropathic pain conditions, although it is used for fibromyalgia. It is not generally recommended but may be used if patients cannot tolerate other medications.

There is insufficient evidence to support the use of venlafaxine in neuropathic pain. However, it may be useful for some patients who fail initial recommended treatments. Venlafaxine is generally reasonably well tolerated, but it can precipitate fatigue, somnolence, nausea, and dizziness in a minority of people. The sustained release formulations are generally more tolerable as inter-dose withdrawal symptoms can be avoided. They should be trialed if the patient cannot tolerate the immediate release formulation.

B) Indications: At the time of writing this guideline, duloxetine has been FDA approved for treatment of diabetic neuropathic pain and chronic musculoskeletal pain. Therefore, best evidence supports the use of duloxetine alone or with pregabalin if patients do not have sufficient relief from a tricyclic or cannot take a tricyclic.

C) Relative Contraindications: seizures, eating disorders.

D) Major Side Effects: depends on the drug, but commonly includes dry mouth, nausea, fatigue, constipation, and abnormal bleeding. Serotonin syndrome is also a risk. GI distress, drowsiness, sexual dysfunction less than other classes. Hypertension and glaucoma with venlafaxine. Cardiac issues with venlafaxine and withdrawal symptoms unless tapered. Studies show increased suicidal ideation and attempts in adolescents and young adults. Patients should also be monitored for suicidal ideation and drug abuse.

E) Drug Interactions: drug specific.

F) Laboratory Monitoring: drug specific. Hepatic and renal monitoring, venlafaxine may cause cholesterol or triglyceride increases.

iv. Atypical Antidepressants/Other Agents. May be used for depression; however, are not appropriate for neuropathic pain.

Evidence Statements Regarding Antidepressants: Tricyclics and older agents (e.g., amitriptyline, nortriptyline, doxepin (Adapin, Silenor, Sinequan), desipramine (Norpramin, Pertofrane), imipramine (Tofranil), trazodone Desyrel, Oleptro)		
Good Evidence	Evidence Statement	Design
	Gabapentin is not superior to amitriptyline.	Randomized crossover trial, Meta-analysis of randomized trials
Some Evidence	Evidence Statement	Design
	In the setting of chronic low back pain with or without radiculopathy, amitriptyline is more effective than pregabalin at reducing pain and disability after 14 weeks of treatment.	Open label parallel randomized clinical trial
	In the setting of neuropathic pain, a combination of morphine plus nortriptyline produces better pain relief than either monotherapy alone, but morphine monotherapy is not superior to nortriptyline monotherapy, and it is possible that it is actually less effective than nortriptyline.	Crossover randomized trial
	A combination of some gabapentin and nortriptyline provides more effective pain relief than monotherapy with either drug, without increasing side effects of either drug.	Randomized crossover trial

Evidence Statements Regarding Antidepressants: Selective Serotonin Nor-epinephrine Reuptake Inhibitor (SSNRI)/Serotonin Nor-epinephrine Reuptake Inhibitors (SNRI).		
Strong Evidence	Evidence Statement	Design
	Duloxetine monotherapy is more effective than placebo in relieving the pain of diabetic peripheral neuropathy; however, monotherapy leads to a 50% pain reduction in only half of patients who receive a therapeutic dose.	Meta-analysis of randomized clinical trials
Good Evidence	Evidence Statement	Design
	In patients with painful diabetic neuropathy who have not had good responses to monotherapy with 60 mg of duloxetine or 300 mg of pregabalin, a clinically important benefit can be achieved by either of two strategies:	Randomized clinical trial

Evidence Statements Regarding Antidepressants: Selective Serotonin Nor-epinephrine Reuptake Inhibitor (SSNRI)/Serotonin Nor-epinephrine Reuptake Inhibitors (SNRI).		
Good Evidence, continued	doubling the dose of either drug, or combining both drugs at the same dose. It is likely that the strategy of combining the two drugs at doses of 60 and 300 mg respectively is more beneficial overall.	

d. Cannabinoid Products

At the time of writing, marijuana use is illegal under federal law and ***cannot be recommended*** for use in this guideline. The Colorado Constitution also states that insurers are not required to pay for marijuana.

Marijuana produces many cannabinoids. Only a few of these substances have been explored in detail. Cannabis is currently procured in Colorado through a registry program. Products are labeled for strength of tetrahydrocannabinol (THC) and cannabidiol (CBD). THC content increased from 2% in 1980 to 8.5% in 2007 and is likely higher in current products. Individual strains and products may have an even higher THC potency, thus making it difficult to correctly determine effects of a specific plant on an individual. Because smoked marijuana reaches its effect quickly, it is thought that most smokers titrate their dosage when using higher potency agents. Edible products increase the time to effect. Generally, products with higher CBD are marketed for chronic pain, epilepsy, and sleep, while products with higher THC are used for the psychoactive effects. Higher CBD products are believed to have better efficacy for chronic pain without creating the psychoactive effects of higher concentrated THC. It has been suggested that elevated THC in the presence of elevated CBD may be associated with less cognitive impairment.

There are a number of studies evaluating the health effects of cannabinoids. Cannabis is associated with the subsequent development of psychosis in adolescents and can cause transient episodes of paranoia and psychotic symptoms in some individuals. It is not known whether or not the association with psychosis is causal. Cannabis increases heart rate in a dose related fashion and some studies suggest it may increase the risk for myocardial infarction and stroke in those less than 55 years. Because smoked marijuana contains many of the same carcinogens as smoked tobacco, it has been postulated that cancer risk may be increased in heavy marijuana smokers. However, the association has not been established epidemiologically. Cannabis dependence occurs in some users. In some individuals, withdrawal symptoms have been demonstrated after 20 days of high dose use and consist of decreased mood and appetite with irritability, insomnia, anxiety, and depression.

Unlike alcohol and many other sedating drugs of abuse, marijuana does not appear to be lethal for adults at any dose consumed by heavier users when used in isolation, probably because it is not a respiratory depressant. There is only one study that evaluated the use of marijuana in conjunction with chronic opioid management, thus no recommendations can be made to clinicians regarding this combination. Clinicians should keep in mind that there are an increasing number of deaths due to the toxic misuse of opioids with other medications and alcohol. Drug screening is a mandatory component of chronic opioid management. It is appropriate to screen for alcohol and marijuana use and to have a contractual policy regarding both alcohol and marijuana use during chronic opioid management. A recent study of chronic pain patients in Michigan using

marijuana found decreased use of opioids and other medication and increased quality of life. Another multi-state study of chronic pain patients on marijuana found a decrease in prescription drug use in states with legal marijuana.

There is good evidence that cannabinoids containing THC are associated with a small to moderate improvement in chronic pain compared to placebo; however, the dosage needed to produce an analgesic effect is undefined and uncertain.

Marijuana is likely to increase work-related driving accidents. It is recommended that less than weekly users wait 6 hours after smoking and 8 hours after eating to drive. Some studies have shown a decrease in reaction time and some association with motor vehicle accidents. However, the risk appears to be less than half the risk of driving under alcohol intoxication. A number of studies suggest that chronic use of THC results in some tolerance to effects on cognitive function.

The contraindications and major side effects for cannabinoid are listed below. No laboratory monitoring is necessary.

- Relative Contraindications: history of psychosis or risk factors for psychosis, seizure history, cardiovascular risk history, history of addiction, hypersensitivity to cannabinoids.

- Major Side Effects: dizziness or fatigue, rapid heart rate, dry mouth, euphoria. Less common effects: paranoia or hallucinations, seizures. A withdrawal reaction can occur when high doses are discontinued. It may include sweating and rhinorrhea with anorexia. Cyclic vomiting (cannabinoid hyperemesis) may occur with daily users.

- Psychological Reactions: Intoxication from cannabis frequently results in impaired motor coordination, euphoria, anxiety, sensation of slowed time, impaired judgment, social withdrawal, and hallucinations. Psychotic and anxiety disorders can occur from the use of cannabis. Paranoid ideation ranging from suspiciousness to frank delusions, hallucinations, and depersonalization or derealization has been reported. Use of THC cannabinoids in adolescents may create or unmask schizophrenia**.** Some of these findings may be related to the higher level of THC (delta-9-tetrahydrocannabinol) found in the marijuana currently sold.

There are only two oral pharmaceutical cannabinoid products on the market. These medications were developed initially for nausea due to oncological drug therapy but have been trialed in other settings and are described below. A buccal spray is accepted in Europe and Canada and may be approved by the FDA for use with neuropathic pain. Initial studies were done on neuropathic pain associated with multiple sclerosis.

The following pharmaceutical cannabinoid products are ***generally not recommended for pain***, but providers may choose to prescribe them off-label.

i. <u>Dronabinal</u> (Marinol):

A) Description: Dronabinol is a synthetic delta-9-tetrahydrocannabinol, which is also a naturally occurring component of Cannabis sativa L. (marijuana).

B) Indications: As of the time of writing this guideline, formulations of dronabinol have been FDA approved for nausea and vomiting with cancer therapy and weight loss associated with AIDS.

C) Dosing and Time to Therapeutic Effect: 2.5 mg twice a day titrated up to 20 mg total per day.

ii. Nabilone (Cesamet):

A) Description: Nabilone is a synthetic cannabinoid which is also a naturally occurring component of Cannabis sativa L. (marijuana).

B) Indications: As of the time of writing this guideline, formulations of nabilone have been FDA approved for nausea and vomiting with cancer therapy.

C) Dosing and Time to Therapeutic Effect: 1 to 2 mg twice a day titrated up to 6 mg per day.

iii. Nabiximols (Sativex):

A) Description: tetrahydrocannabinol (THC) and cannabidiol (CBD) in a one-to-one ratio, plus other components of cannabis extracts such as terpenoids and flavonoids mixed in a tincture. In the UK, nabiximols has just been approved for spasticity due to multiple sclerosis. In Canada, nabiximols is approved under Health Canada's Notice of Compliance with Conditions (NOC/c) policy for the relief of neuropathic pain and advanced cancer pain. It has not been approved in the United States as of the time of writing this guideline. This drug is not intended to provide the euphoria produced with smoking marijuana.

B) Indications: in other countries, for neuropathic pain and spasticity of multiple sclerosis (MS), cancer pain. There is some evidence that nabiximols can modestly decrease peripheral neuropathic pain with allodynia in some patients who were concomitantly treated with opioids or anticonvulsants; however, the drop-out rate for those who continued the medication longer term was high.

C) Dosing and Time to Therapeutic Effect: spray administered under the tongue. Up to 8 sprays every 3 hours with a maximum of 48 per day.

Evidence Statements Regarding Cannabinoid Products		
Good Evidence	Evidence Statement	Design
	Cannabinoids containing THC are associated with a small to moderate improvement in chronic pain compared to placebo; however, the dosage needed to produce an analgesic effect is undefined and uncertain.	Systematic review and meta-analysis of randomized clinical trials

Evidence Statements Regarding Cannabinoid Products		
Some Evidence	Evidence Statement	Design
	Nabiximols can modestly decrease peripheral neuropathic pain with allodynia in some patients who were concomitantly treated with opioids or anticonvulsants; however, the drop-out rate for those who continued the medication longer term was high.	Randomized clinical trial

e. **Hypnotics and Sedatives**: Sedative and hypnotic drugs decrease activity and induce drowsiness and may cause moderate agitation in some individuals. Many other medications, such as antihistamines and antidepressants also produce these side effects. Due to the addiction potential, withdrawal symptoms, and sedating side effects, benzodiazepines and other similar drugs found in this class, are not generally recommended to be initiated or continued if previously prescribed for another condition. There is an increased likelihood of death when opioids and benzodiazepines are used together; therefore, it is recommended that no more than 30 morphine milligram equivalents (MMEs) should be used when hypnotics or sedatives are prescribed. If a patient has been regularly taking these medications prior to the injury, they should be assessed by a psychiatrist to determine the need for continued treatment. When used, extensive patient education should be documented. Some of these medications have long half-lives and sleep apnea can occur or be aggravated on these medications. Many unintentional drug deaths are related to concomitant opioid and benzodiazepine drug use. Retrograde amnesia can occur and is implicated in "sleep driving," "sleep eating," and other activities. Nocturnal oximetry or other sleep studies may be appropriate to identify hypoxia.

Most insomnia in chronic pain patients should be managed primarily through behavioral interventions. Medications are a rare secondary measure (refer to Section G.5, Disturbances of Sleep). Episodic use should be limited to 2 weeks.

i. Zaleplon (Sonata), Eszopiclone (Lunesta, Lunestar), Zolpidem (Ambien, Edluar, Intermezzo, Zolpimist).

A) Description: a nonbenzodiazepine hypnotic.

B) Indications: As of the time of this guideline writing, formulations of zaleplon, eszopiclonem, and zolpidem have been FDA approved for insomnia. There is some evidence that zolpidem does not appreciably enhance the effectiveness of Cognitive Behavioral Therapy.

C) Dosing and Time to Therapeutic Effect: time of onset is 30 to 60 minutes.

D) Major Side Effects: dizziness, dose-related amnesia.

E) Drug Interactions: increases sedative effect of other central nervous system (CNS) depressant drugs.

F) Laboratory Monitoring**:** none required, based on individual patient history.

ii. Benzodiazepine-based hypnotics include temazepam (Restoril, Temazepam, Gelthix), triazolam (Halcion), and flurazepam (Dalmane). None are recommended because of habit-forming potential, withdrawal symptoms, and sedating side effects. Flurazepam has an active metabolite with a very long half-life, resulting in drug accumulation and next-day somnolence. These medications are ***not recommended*** for use in the working populations.

Evidence Statements Regarding Hypnotics and Sedatives		
Some Evidence	Evidence Statement	Design
	There is some evidence that zolpidem does not appreciably enhance the effectiveness of Cognitive Behavioral Therapy.	Randomized clinical trial

f. Nonsteroidal Anti-Inflammatory Drugs (NSAIDs):

NSAIDs are useful for pain and inflammation. In mild cases, they may be the only drugs required for analgesia. There are several classes of NSAIDs. The response of the individual injured worker to a specific medication is unpredictable. For this reason, a range of NSAIDs may be tried in each case, with the most effective preparation being continued. Patients should be closely monitored for adverse reactions. The FDA advises that many NSAIDs may cause an increased risk of serious cardiovascular thrombotic events, myocardial infarction, and stroke, which can be fatal. Administration of proton pump inhibitors, Histamine 2 Blockers, or prostaglandin analog misoprostol along with these NSAIDs may reduce the risk of duodenal and gastric ulceration in patients at higher risk for this adverse event (e.g., age > 60, concurrent antiplatelet or corticosteroid therapy). They do not impact possible cardiovascular complications. Due to the cross-reactivity between aspirin and NSAIDs, NSAIDs should not be used in aspirin-sensitive patients, and they should be used with caution in all asthma patients. NSAIDs are associated with abnormal renal function, including renal failure, as well as abnormal liver function. Patients with renal or hepatic disease may need increased dosing intervals with chronic use. Chronic use of NSAIDs is generally ***not recommended*** due to increased risk of cardiovascular events and GI bleeding.

Topical NSAIDs may be more appropriate for some patients as there is some evidence that topical NSAIDs are associated with fewer systemic adverse events than oral NSAIDs.

NSAIDs may be associated with non-unions. Thus, their use with fractures is questionable.

Certain NSAIDs may have interactions with various other medications. Individuals may have adverse events not listed above. Intervals for metabolic screening are dependent on the patient's age and general health status and should be within parameters listed for each specific medication. Complete Blood Count (CBC) and liver and renal function should be monitored at least every 6

months in patients on chronic NSAIDs and initially when indicated.

There is no evidence to support or refute the use of oral NSAIDs to treat neuropathic pain conditions.

AHRQ supports the use of NSAIDs for chronic low back pain.

i. Non-Selective Non-Steroidal Anti-Inflammatory Drugs: Includes NSAIDs and acetylsalicylic acid. Serious GI toxicity, such as bleeding, perforation, and ulceration can occur at any time, with or without warning symptoms, in patients treated with traditional NSAIDs. Physicians should inform patients about the signs and/or symptoms of serious GI toxicity and what steps to take if they occur. Anaphylactoid reactions may occur in patients taking NSAIDs. NSAIDs may interfere with platelet function. Fluid retention and edema have been observed in some patients taking NSAIDs.

Time Frames for Non-Selective Non-Steroidal Anti-Inflammatory Drugs	
Optimum Duration	1 week.
Maximum Duration	1 year. Use of these substances long-term (3 days per week or greater) is associated with rebound pain upon cessation.

ii. Selective Cyclo-oxygenase-2 (COX-2) Inhibitors: COX-2 inhibitors differ from the traditional NSAIDs in adverse side effect profiles. The major advantages of selective COX-2 inhibitors over traditional NSAIDs are that they have less GI toxicity and no platelet effects. COX-2 inhibitors can worsen renal function in patients with renal insufficiency; thus, renal function may need monitoring.

There is good evidence that celecoxib (Celebrex) in a dose of 200 mg per day, administered over a long period, does not have a worse cardiovascular risk profile than naproxen at a dose of up to 1000 mg per day or ibuprofen at a dose of up to 2400 mg per day. There is good evidence that celecoxib has a more favorable safety profile than ibuprofen or naproxen with respect to serious GI adverse events, and it has a more favorable safety profile than ibuprofen with respect to renal adverse events. There is an absence of evidence concerning the relative safety of celecoxib at doses greater than 200 mg per day.

COX-2 inhibitors should not be first-line for low risk patients who will be using an NSAID short-term. COX-2 inhibitors are indicated in select patients who do not tolerate traditional NSAIDs. Serious upper GI adverse events can occur even in asymptomatic patients. Patients at high risk for GI bleed include those who use alcohol, smoke, are older than 65 years of age, take corticosteroids or anti-coagulants, or have a longer duration of therapy. Celecoxib is contraindicated in sulfonamide allergic patients.

Time Frames for Selective Cyclo-oxygenase-2 (COX-2) Inhibitors	
Optimum Duration	7 to 10 days.
Maximum Duration	Chronic use is appropriate in individual cases. Use of these substances long-term (3 days per week or greater) is associated with rebound pain upon cessation.

Evidence Statements Regarding Nonsteroidal Anti-Inflammatory Drugs (NSAIDs)		
Good Evidence	Evidence Statement	Design
	Celecoxib in a dose of 200 mg per day, administered over a long period, does not have a worse cardiovascular risk profile than naproxen at a dose of up to 1000 mg per day or ibuprofen at a dose of up to 2400 mg per day.	Randomized noninferiority trial
	Celecoxib has a more favorable safety profile than ibuprofen or naproxen with respect to serious GI adverse events, and it has a more favorable safety profile than ibuprofen with respect to renal adverse events.	
Some Evidence	Evidence Statement	Design
	Topical NSAIDs are associated with fewer systemic adverse events than oral NSAIDs.	Meta-analysis of randomized clinical trials

g. **Opioids**: Opioids are the most powerful analgesics. Their use in acute pain and moderate-to-severe cancer pain is well accepted. Their use in chronic nonmalignant pain, however, is fraught with controversy and lack of scientific research. Deaths in the United States from opioids have escalated in the last 15 years. The CDC states the following in their 2016 guideline for prescribing opioids: Opioid pain medication use presents serious risk, including overdose and opioid use disorder. From 1999 to 2014, more than 165,000 persons died from overdose related to opioid pain medication in the United States. In the past decade, while the death rates for the top leading causes of death such as heart disease and cancer have decreased substantially, the death rate associated with opioid pain medication has increased markedly. Sales of opioid pain medication have increased in parallel with opioid-related overdose deaths. The Drug Abuse Warning Network estimated that >420,000 emergency department visits were related to the misuse or abuse of narcotic pain relievers in 2011, the most recent year for which data are available.

Effectiveness and Side Effects: Opioids include some of the oldest and most effective drugs used in the control of severe pain. The discovery of opioid receptors and their endogenous peptide ligands has led to an understanding of effects at the binding sites of these naturally occurring substances. Most of their analgesic effects have been attributed to their modification of activity in pain pathways within the central nervous system; however, it has become evident that they also are active in the peripheral nervous system. Activation of receptors on

the peripheral terminals of primary afferent nerves can mediate anti-nociceptive effects, including inhibition of neuronal excitability and release of inflammatory peptides. Some of their undesirable effects on inhibiting GI motility are peripherally mediated by receptors in the bowel wall.

Most studies show that only around 50% of patients tolerate opioid side effects and receive an acceptable level of pain relief. Depending on the diagnosis and other agents available for treatment, the incremental benefit can be small.

There is strong evidence that in the setting of chronic nonspecific low back pain, the short and intermediate term reduction in pain intensity of opioids, compared with placebo, falls short of a clinically important level of effectiveness. There is an absence of evidence that opioids have any beneficial effects on function or reduction of disability in the setting of chronic nonspecific low back pain. AHRQ found that opioids are effective for treating chronic low back pain. However, the report noted no evidence regarding the long-term effectiveness or safety for chronic opioids.

There is good evidence that opioids are more efficient than placebo in reducing neuropathic pain by clinically significant amounts. There is a lack of evidence that opioids improve function and quality of life more effectively than placebo. There is good evidence that opioids produce significantly more adverse effects than placebo such as constipation, drowsiness, dizziness, nausea, and vomiting. There is a lack of evidence that they are superior to gabapentin or nortriptyline for neuropathic pain reduction.

Patients should have a thorough understanding of the need to pursue many other pain management techniques in addition to medication use in order to function with chronic pain. They should also be thoroughly aware of the side effects and how to manage them. There is strong evidence that adverse events such as constipation, dizziness, and drowsiness are more frequent with opioids than with placebo. Common side effects are drowsiness, constipation, nausea, and possible testosterone decrease with longer term use.

There is some evidence that in the setting of chronic low back pain with disc pathology, a high degree of anxiety or depressive symptomatology is associated with relatively less pain relief in spite of higher opioid dosage than when these symptoms are absent. A study comparing Arkansas Medicaid and a national commercial insurance population found that the top 5% of opioid users accounted for 48-70% of total opioid use. Utilization was increased among those with mental health and substance use disorders and those with multiple pain conditions. Psychological issues should always be screened for and treated in chronic pain patients. Therefore, for the majority of chronic pain patients, chronic opioids are unlikely to provide meaningful increase in function in daily activities. However, a subpopulation of patients may benefit from chronic opioids when properly prescribed and all requirements from medical management are followed.

Hyperalgesia: Administration of opioid analgesics leads not only to analgesia, but may also lead to a paradoxical sensitization to noxious stimuli. Opioid induced hyperalgesia has been demonstrated in animals and humans using electrical or mechanical pain stimuli. This increased sensitivity to mildly painful stimuli does not occur in all patients and appears to be less likely in those with cancer, clear inflammatory pathology, or clear neuropathic pain. When hyperalgesia is suspected, opioid tapering is appropriate.

Opioid Induced Constipation (OIC): Some level of constipation is likely ubiquitous among chronic opioid users. An observational study of chronic opioid users who also used some type of laxative at least 4 times per week noted that approximately 50% of the patients were dissatisfied and they continue to report stool symptoms. Seventy-one percent used a combination of natural and dietary treatment, 64.3% used over-the-counter laxatives, and 30% used prescription laxatives. Other studies report similar percentages. There are insufficient quality studies to recommend one specific type of laxative over others.

The easiest method for identifying constipation, which is also recommended by a consensus, multidisciplinary group, is the Bowel Function Index. It assesses the patient's impression over the last 7 days for ease of defecation, feeling of incomplete bowel evacuation, and personal judgment re-constipation.

Stepwise treatment for OIC is recommended, and all patients on chronic opioids should receive information on treatment for constipation. Dietary changes increasing soluble fibers are less likely to decrease OIC and may cause further problems if GI motility is decreased. Stool softeners may be tried, but stimulant and osmotic laxatives are likely to be more successful. Osmotic laxatives include lactulose and polyethylene glycol. Stimulants include bisacodyl, sennosides, and sodium picosulfate, although there may be some concern regarding use of stimulants on a regular basis.

Opioid rotation or change in opioids may be helpful for some patients. It is possible that sustained release opioid products cause more constipation than short acting agents due to their prolonged effect on the bowel opioid receptors. Tapentadol is a u-opioid agonist and norepinephrine reuptake inhibitor. It is expected to cause less bowel impairment then oxycodone or other traditional opioids. Tapentadol may be the preferred opioid choice for patients with OIC.

Other prescription medications may be used if constipation cannot adequately be controlled with the previous measures. Naloxegol is a pegylaped naloxone molecule that does not pass the blood brain barrier and thus can be given with opioid therapy. There is good evidence that it can alleviate OIC and that 12.5 mg starting dose has an acceptable side effect profile.

Methylnaltrexone does not cross the blood brain barrier and can be given subcutaneously or orally. It is specifically recommended for opioid induced constipation for patients with chronic non-cancer pain.

Misoprostol is a synthetic prostaglandin E1 agonist and has the side effect of diarrhea in some patients. It also has been tried for opioid induced constipation, although it is not FDA approved for this use.

Lubiprostone is a prostaglandin E1 approved for use in opioid constipation.

Most patients will require some therapeutic control for their constipation. The stepwise treatment discussed should be followed initially. If that has failed and the patient continues to have recurrent problems with experiencing severe straining, hard or lumpy stool with incomplete evacuation, or infrequent stools for 25% of the time despite the more conservative measures, it may be appropriate to use a pharmaceutical agent.

Evidence Statements Regarding Effectiveness and Side Effects of Opioids		
Strong Evidence	Evidence Statement	Design
	In the setting of chronic nonspecific low back pain, the short and intermediate term reduction in pain intensity of opioids, compared with placebo, falls short of a clinically important level of effectiveness.	Systematic review and meta-analysis
	Adverse events such as constipation, dizziness, and drowsiness are more frequent with opioids than with placebo.	
Good Evidence	Evidence Statement	Design
	Opioids are more efficient than placebo in reducing neuropathic pain by clinically significant amounts.	Systematic review and meta-analysis of randomized clinical trials
	Opioids produce significantly more adverse effects than placebo such as constipation, drowsiness, dizziness, nausea, and vomiting.	
	There is good evidence that Naloxegol can alleviate opioid induced constipation and that 12.5 mg starting dose has an acceptable side effect profile.	Two identical and simultaneous multicenter randomized double-blind studies
Some Evidence	Evidence Statement	Design
	In the setting of chronic low back pain with disc pathology, a high degree of anxiety or depressive symptomatology is associated with relatively less pain relief in spite of higher opioid dosage than when these symptoms are absent.	Prospective cohort study

Physiologic Responses to Opioids: Physiologic responses to opioids are influenced by variations in genes which code for opiate receptors, cytochrome P450 enzymes, and catecholamine metabolism. Interactions between these gene products significantly affect opiate absorption, distribution, and excretion. Hydromorphone, oxymorphone, and morphine are metabolized through the glucuronide system. Other opioids generally use the cytochrome P450 system. Allelic variants in the mu opiate receptor may cause increased analgesic responsiveness to lower drug doses in some patients. The genetic type can predict either lower or higher needs for opioids. For example, at least 10% of Caucasians lack the CYP450 2D6 enzyme that converts codeine to morphine. In some cases genetic testing for cytochrome P450 type may be helpful. When switching patients from codeine to other medications, assume the patient has little or no tolerance to opioids. Many gene-drug associations are poorly understood and of uncertain clinical significance. The treating physician needs to be aware of the fact that the patient's genetic makeup may influence both the therapeutic response to drugs and the occurrence of adverse effects.

Adverse Events: Physicians should be aware that deaths from unintentional drug overdoses exceed the number of deaths from motor vehicle accidents in the US. Most of these deaths are due to the use of opioids, usually in combination with other respiratory depressants such as alcohol or benzodiazepines. The risk for out of hospital deaths not involving suicide was also high. The prevalence of drug abuse in the population of patients undergoing pain management varies according to region and other issues. One study indicated that ¼ of patients being monitored for chronic opioid use have abused drugs occasionally, and ½ of those have frequent episodes of drug abuse. Eighty percent of patients admitted to a large addiction program reported that their first use of opioids was from prescribed medication.

There is good evidence that in generally healthy patients with chronic musculoskeletal pain, treatment with long-acting opioids, compared to treatments with anticonvulsants or antidepressants, is associated with an increased risk of death of approximately 69%, most of which arises from non-overdose causes, principally cardiovascular in nature. The excess cardiovascular mortality principally occurs in the first 180 days from starting opioid treatment.

There is some evidence that compared to an opioid dose under 20 MME per day, a dose of 20-50 mg nearly doubles the risk of death, a dose of 50 to 100 mg may increase the risk more than fourfold, and a dose greater than 100 mg per day may increase the risk as much as sevenfold. However, the absolute risk of fatal overdose in chronic pain patients is fairly low and may be as low as 0.04%. There is good evidence that prescription opioids in excess of 200 MME average daily doses are associated with a near tripling of the risk of opioid-related death, compared to average daily doses of 20 MME. Average daily doses of 100-200 mg and doses of 50-99 mg per day may be associated with a doubling of mortality risk, but these risk estimates need to be replicated with larger studies.

Doses of opioids in excess of 120 MME have been observed to be associated with increased duration of disability, even when adjusted for injury severity in injured workers with acute low back pain. Higher doses are more likely to be associated with hypo-gonadism, and the patient should be informed of this risk. Higher doses of opioids also appear to contribute to the euphoric effect. The CDC recommends limiting to 90 MME per day to avoid increasing risk of overdose.

In summary, there is strong evidence that any dose above 50 MME per day is associated with a higher risk of death and 100 mg or greater appears to significantly increase the risk.

Workers who eventually are diagnosed with opioid abuse after an injury are also more likely to have higher claims cost. A retrospective observational cohort study of workers' compensation and short-term disability cases found that those with at least one diagnosis of opioid abuse cost significantly more in days lost from work for both groups and in overall healthcare costs for the short-term disability groups. About 0.5% of eligible workers were diagnosed with opioid abuse.

Evidence Statements Regarding Opioids and Adverse Events		
Good Evidence	Evidence Statement	Design
	In generally healthy patients with chronic musculoskeletal pain, treatment with long-acting opioids, compared to treatments with anticonvulsants or antidepressants, is associated with an increased risk of death of approximately 69%, most of which arises from non-overdose causes, principally cardiovascular in nature. The excess cardiovascular mortality principally occurs in the first 180 days from starting opioid treatment.	Retrospective matched cohort study
	Prescription opioids in excess of 200 MME average daily doses are associated with a near tripling of the risk of opioid-related death, compared to average daily doses of 20 MME. Average daily doses of 100-200 mg and doses of 50-99 mg per day may be associated with a doubling of mortality risk, but these risk estimates need to be replicated with larger studies.	Nested case-control study with incidence density sampling
Some Evidence	Evidence Statement	Design
	Compared to an opioid dose under 20 MME per day, a dose of 20-50 mg nearly doubles the risk of death, a dose of 50 to 100 mg may increase the risk more than fourfold, and a dose greater than 100 mg per day may increase the risk as much as sevenfold. However, the absolute risk of fatal overdose of in chronic pain patients is fairly low, and may be as low as 0.04%.	Case-cohort study
Summary of Evidence Regarding Opioids and Adverse Events		
Based on the studies with good evidence and some evidence listed above, there is strong evidence that any dose above 50 MME per day is associated with a higher risk of death and 100 mg or greater appears to significantly increase the risk.		

Dependence versus Addiction: The central nervous system actions of these drugs account for much of their analgesic effect and for many of their other actions, such as respiratory depression, drowsiness, mental clouding, reward effects, and habit formation. With respect to the latter, it is crucial to distinguish between two distinct phenomena: dependence and addiction.

- Dependence is a physiological tolerance and refers to a set of disturbances in body homeostasis that leads to withdrawal symptoms, which can be produced with abrupt discontinuation, rapid reduction, decreasing blood levels, and/or by administration of an antagonist.

- Addiction is a primary, chronic, neurobiological disease, with genetic, psychological, and environmental factors influencing its development and manifestations. It is a behavioral pattern of drug craving and seeking which leads to a preoccupation with drug procurement and an aberrant pattern of use. The drug use is frequently associated with negative

consequences.

Dependence is a physiological phenomenon, which is expected with the continued administration of opioids, and need not deter physicians from their appropriate use. Before increasing the opioid dose, the physician should review other possible causes for the decline in analgesic effect. Increasing the dose may not result in improved function or decreased pain. Remember that it is recommended for total morphine milligram equivalents (MME) per day to remain at 50 or below. Consideration should be given to possible new psychological stressors or an increase in the activity of the nociceptive pathways. Other possibilities include new pathology, low testosterone level that impedes delivery of opioids to the central nervous system, drug diversion, hyperalgesia, or abusive use of the medication.

Choice of Opioids: No long-term studies establish the efficacy of opioids over one year of use or superior performance by one type. There is no evidence that one long-acting opioid is more effective than another, or more effective than other types of medications, in improving function or pain. There is some evidence that long-acting oxycodone (Dazidox, Endocodone, ETH-oxydose, Oxycontin, Oxyfast, OxyIR, Percolone, Roxicodone) and oxymorphone have equal analgesic effects and side effects, although the milligram dose of oxymorphone (Opana) is ½ that of oxycodone. There is no evidence that long-acting opioids are superior to short-acting opioids for improving function or pain or causing less addiction. A number of studies have been done assessing relief of pain in cancer patients. A recent systematic review concludes that oxycodone does not result in better pain relief than other strong opioids including morphine and oxymorphone. It also found no difference between controlled release and immediate release oxycodone. There is some evidence that extended release hydrocodone has a small and clinically unimportant advantage over placebo for relief of chronic low back pain among patients who are able to tolerate the drug and that 40% of patients who begin taking the drug do not attain a dose which provides pain relief without unacceptable adverse effects. Hydrocodone ER does not appear to improve function in comparison with placebo. A Cochrane review of oxycodone in cancer pain also found no evidence in favor of the longer acting opioid. There does not appear to be any significant difference in efficacy between once daily hydromorphone and sustained release oxycodone. Nausea and constipation are common for both medications between 26-32%.

There is some evidence that in the setting of neuropathic pain, a combination of morphine plus nortriptyline produces better pain relief than either monotherapy alone, but morphine monotherapy is not superior to nortriptyline monotherapy, and it is possible that it is actually less effective than nortriptyline.

Long-acting opioids should not be used for the treatment of acute, sub-acute, or post-operative pain, as this is likely to lead to drug dependence and difficulty tapering the medication. Additionally, there is a potential for respiratory depression to occur. The FDA requires that manufacturers develop Risk Evaluation and Mitigation Strategies (REMS) for most opioids. Physicians should carefully review the plans or educational materials provided under this program. Clinical considerations should determine the need for long-acting opioids given their lack of evidence noted above.

Addiction and abuse potentials of commonly prescribed opioid drugs may be estimated in a variety of ways, and their relative ranking may depend on the measure which is used. One systematic study of prescribed opioids estimated

rates of drug misuse were estimated at 21-29% and addiction at 8-12%. There is good evidence that in the setting of new onset chronic non-cancer pain, there is a clinically important relationship between opioid prescription and subsequent opioid use disorder. Compared to no opioid use, short-term opioid use approximately triples the risk of opioid use disorder in the next 18 months. Use of opioids for over 90 days is associated with very pronounced increased risks of the subsequent development of an opioid use disorder, which may be as much as one hundredfold when doses greater than 120 MME are taken for more than 90 days. The absolute risk of these disorders is very uncertain but is likely to be greater than 6.1% for long duration treatment with a high opioid dose.

Hydrocodone is the most commonly prescribed opioid in the general population and is one of the most commonly abused opioids in the population. However, the abuse rate per 1000 prescriptions is lower than the corresponding rates for extended release oxycodone, hydromorphone (Dilaudid, Palladone), and methadone. Extended release oxycodone appears to be the most commonly abused opioid, both in the general population and in the abuse rate per 1000 prescriptions. Tramadol, by contrast, appears to have a lower abuse rate than for other opioids. Newer drug formulations such as oxymorphone, have been assumed to be relatively abuse-resistant, but their abuse potential is unknown and safety cannot be assumed in the absence of sound data.

Types of opioids are listed below:

i. Buprenorphine: (various formulations) is prescribed as an intravenous injection, transdermal patch, buccal film, or sublingual tablet due to lack of bioavailability of oral agents. Depending upon the formulation, buprenorphine may be indicated for the treatment of pain or for the treatment of opioid dependence (addiction).

   Buprenorphine for Opioid Dependence (addiction): FDA has approved a number of buccal films including those with naloxone and a sublingual tablet to treat opioid dependence (addiction).

   Buprenorphine for Pain: The FDA has approved specific forms of an intravenous and subcutaneous injectable, transdermal patch, and a buprenorphine buccal film to treat pain. However, by law, the transdermal patch and the injectable forms cannot be used to treat opioid dependence (addiction), even by DATA-2000 waivered physicians authorized to prescribe buprenorphine for addiction. Transdermal forms may cause significant skin reaction. Buprenorphine is ***not recommended*** for most chronic pain patients due to methods of administration, reports of euphoria in some patients, and lack of proof for improved efficacy in comparison with other opioids.

   There is insufficient evidence to support or refute the suggestion that buprenorphine has any efficacy in any neuropathic pain condition.

   There is good evidence transdermal buprenorphine is noninferior to oral tramadol in the treatment of moderate to severe musculoskeletal pain arising from conditions like osteoarthritis and low back pain. The population of patients for whom it is more appropriate than tramadol is not established but would need to be determined on an individual patient basis if there are clear reasons not to use oral tramadol.

In a well done study, 63% of those on buccal buprenorphine achieved a 30% or more decrease in pain at 12 weeks compared to a 47% placebo response. Approximately 40% of the initial groups eligible for the study dropped out during the initial phase when all patients received the drug to test for incompatibility.

There is strong evidence that in patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine. There is strong evidence that buprenorphine is superior to placebo with respect to retention in treatment, and good evidence that buprenorphine is superior to placebo with respect to positive urine testing for opiates.

There is an adequate meta-analysis supporting good evidence that transdermal fentanyl and transdermal buprenorphine are similar with respect to analgesia and sleep quality, and they are similar with respect to some common adverse effects such as constipation and discontinuation due to lack of effect. However, buprenorphine probably causes significantly less nausea than fentanyl, and it probably carries a lower risk of treatment discontinuation due to adverse events. It is also likely that both transdermal medications cause less constipation than oral morphine.

Overall, due to cost and lack of superiority, buprenorphine is not a front line opioid choice. However, it may be used in those with a history of addiction or at high risk for addiction who otherwise qualify for chronic opioid use. It is also appropriate to consider buprenorphine products for tapering strategies and those on high dose morphine 90 MME

ii. Codeine with Acetaminophen: Some patients cannot genetically metabolize codeine and therefore have no response. Codeine is not generally used on a daily basis for chronic pain. Acetaminophen dose per day should be limited to 2 grams.

iii. Fentanyl (Actiq, Duragesic, Fentora, Sublimaze): is ***not recommended*** for use with musculoskeletal chronic pain patients. It has been associated with a number of deaths and has high addiction potential. Fentanyl should never be used transbuccally in this population. If it is being considered for a very specific patient population, it requires support from a pain specialist.

iv. Meperidine (Demerol): is ***not recommended*** for chronic pain. It and its active metabolite, normeperidine, present a serious risk of seizure and hallucinations. It is not a preferred medication for acute pain as its analgesic effect is similar to codeine.

v. Methadone: requires special precautions given its unpredictably long half-life and non-linear conversion from other opioids such as morphine. It may also cause cardiac arrhythmias due to QT prolongation and has been linked with a greater number of deaths due to its prolonged half-life. No conclusions can be made regarding differences in efficacy or safety between methadone and placebo, other opioids, or other treatments. There is strong evidence that in patients being treated with opioid

agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine. Methadone should only be prescribed by those with experience in managing this medication. Conversion from another opioid to methadone (or the other way around) can be very challenging, and dosing titration must be done very slowly (no more than every 7 days). Unlike many other opioids, it should not be used on an "as needed" basis, as decreased respiratory drive may occur before the full analgesic effect of methadone is appreciated. If methadone is being considered, genetic screening is appropriate. CYP2B6 polymorphism appears to metabolize methadone more slowly than the usual population and may cause more frequent deaths.

vi. Morphine: may be used in the non-cancer pain population. A study in chronic low back pain suggested that individuals with a greater amount of endogenous opioids will have a lower pain relief response to morphine.

vii. Oxycodone and Hydromorphone: There is no evidence that oxycodone (as oxycodone CR) is of value in treating people with painful diabetic neuropathy, postherpetic neuralgia, or other neuropathic conditions. There was insufficient evidence to support or refute the suggestion that hydromorphone has any efficacy in any neuropathic pain condition. Oxycodone was not associated with greater pain relief in cancer patients when compared to morphine or oxymorphone.

viii. Propoxyphene (Darvon, Davon-N, PP-Cap): has been withdrawn from the market due to cardiac effects including arrhythmias.

ix. Tapentadol (Nucynta): is a mu opioid agonist which also inhibits serotonin and norepinephrine reuptake activity. It is currently available in an intermediate release formulation and may be available as extended release if FDA approved. Due to its dual activity, it can cause seizures or serotonin syndrome, particularly when taken with other SSRIs, SNRIs, tricyclics, or MAO inhibitors. It has not been tested in patients with severe renal or hepatic damage. It has similar opioid abuse issues as other opioid medication; however, it is promoted as having fewer GI side effects, such as constipation. There is good evidence that extended release tapentadol is more effective than placebo and comparable to oxycodone. In that study, the percent of patients who achieved 50% or greater pain relief was: placebo, 18.9%, tapentadol, 27.0%, and oxycodone, 23.3%. There is some evidence that tapentadol can reduce pain to a moderate degree in diabetic neuropathy, average difference 1.4/10 pain scale, with tolerable adverse effects. However, a high quality systematic review found inadequate evidence to support tapentadol to treat chronic pain. Tapentadol is ***not recommended*** as a first line opioid for chronic, subacute, or acute pain due to the cost and lack of superiority over other analgesics. There is some evidence that tapentadol causes less constipation than oxycodone. Therefore, it may be appropriate for patients who cannot tolerate other opioids due to GI side effects.

x. Tramadol (Rybix, Ryzolt, Ultram):

A) Description: an opioid partial agonist that does not cause GI ulceration or exacerbate hypertension or congestive heart failure. It also inhibits the reuptake of norepinephrine and serotonin which may contribute to its pain relief mechanism. There are side effects similar to opioid side effects and may limit its use. They include nausea, sedation, and dry mouth.

B) Indications: mild to moderate pain relief. As of the time of this guideline writing, formulations of tramadol has been FDA approved for management of moderate to moderately severe pain in adults. This drug has been shown to provide pain relief equivalent to that of commonly prescribed NSAIDs. Unlike other pure opioids agonists, there is a ceiling dose to tramadol due to its serotonin activity (usually 300-400 mg per day). There is some evidence that it alleviates neuropathic pain following spinal cord injury. There is inadequate evidence that extended-release tramadol/acetaminophen in a fixed-dose combination of 75mg/650 mg is more effective than placebo in relieving chronic low back pain; it is not more effective in improving function compared to placebo. There is some evidence that tramadol yields a short-term analgesic response of little clinical importance relative to placebo in post-herpetic neuralgia which has been symptomatic for approximately 6 months. However, given the effectiveness of other drug classes for neuropathic pain, tramadol should not be considered a first line medication. It may be useful for patients who cannot tolerate tricyclic antidepressants or other medications.

C) Contraindications: use cautiously in patients who have a history of seizures, who are taking medication that may lower the seizure threshold, or taking medications that impact serotonin reuptake and could increase the risk for serotonin syndrome, such as monoamine oxidase inhibitors (MAO) inhibitors, SSRIs, TCAs, and alcohol. Use with caution in patients taking other potential QT prolonging agents. ***Not recommended*** in those with prior opioid addiction. Has been associated with deaths in those with an emotional disturbance or concurrent use of alcohol or other opioids. Significant renal and hepatic dysfunction requires dosage adjustment.

D) Side Effects: may cause impaired alertness or nausea. This medication has physically addictive properties, and withdrawal may follow abrupt discontinuation.

E) Drug Interactions: opioids, sedating medications, any drug that affects serotonin and/or norepinephrine (e.g., SNRIs, SSRIs, MAOs, and TCAs).

F) Laboratory Monitoring: renal and hepatic function.

Health care professionals and their patients must be particularly conscientious regarding the potential dangers of combining over-the-counter acetaminophen with prescription medications that also contain acetaminophen. Opioid and acetaminophen combination medication are limited due to the acetaminophen component. Total acetaminophen dose per day should not exceed 4 grams per

any 24-hour period and is preferably limited to 2 grams per day to avoid possible liver damage.

Indications: The use of opioids is well accepted in treating cancer pain, where nociceptive mechanisms are generally present due to ongoing tissue destruction, expected survival may be short, and symptomatic relief is emphasized more than functional outcomes. In chronic non-malignant pain, by contrast, tissue destruction has generally ceased, meaning that central and neuropathic mechanisms frequently overshadow nociceptive processes. Expected survival in chronic pain is relatively long, and return to a high-level of function is a major goal of treatment. Therefore, approaches to pain developed in the context of malignant pain may not be transferable to chronic non-malignant pain. Opioids are generally not the best choice of medication for controlling neuropathic pain. Tricyclics, SNRIs, and anticonvulsants should be tried before considering opioids for neuropathic pain.

In most cases, analgesic treatment should begin with acetaminophen, aspirin, and NSAIDs. While maximum efficacy is modest, they may reduce pain sufficiently to permit adequate function. When these drugs do not satisfactorily reduce pain, medications specific to the diagnosis should be used (e.g., neuropathic pain medications as outlined in Section G.10, Medications).

There is good evidence from a prospective cohort study that in the setting of common low back injuries, when baseline pain and injury severity are taken into account, a prescription for more than 7 days of opioids in the first 6 weeks is associated with an approximate doubling of disability one year after the injury. Therefore, prescribing after 2 weeks in a non-surgical case requires a risk assessment. If prescribing beyond 4 weeks, a full opioid trial is suggested including toxicology screen. **Best practice suggests that whenever there is use of opioids for more than 7 days, providers should follow all recommendations for screening and follow-ups of chronic pain use.**

Consultation or referral to a pain specialist behavioral therapist should be considered when the pain persists but the underlying tissue pathology is minimal or absent and correlation between the original injury and the severity of impairment is not clear. Consider consultation if suffering and pain behaviors are present and the patient manifests risk behaviors described below, or when standard treatment measures have not been successful or are not indicated.

A psychological consultation including psychological testing (with validity measures) is indicated for all chronic pain patients as these patients are at high risk for unnecessary procedures and treatment and prolonged recovery.

Many behaviors have been found related to prescription-drug abuse patients. None of these are predictive alone, and some can be seen in patients whose pain is not under reasonable control; however, the behaviors should be considered warning signs for higher risk of abuse or addiction by physicians prescribing chronic opioids. Refer to subsection ix, High Risk Behavior, below.

Recommendations for Opioid Use: When considering opioid use for moderate to moderately severe chronic pain, a trial of opioids must be accomplished as described below and the patient must have failed other chronic pain management regimes. Physicians should complete the education recommended by the FDA, risk evaluation and mitigation strategies (REMS) provided by drug manufacturing companies.

General Indications: There must be a clear understanding that opioids are to be used for a limited term as a trial (see trial indications below). The patient should have a thorough understanding of all of the expectations for opioid use. The level of pain relief is expected to be relatively small, 2 to 3 points on a VAS pain scale, although in some individual patients it may be higher. For patients with a high response to opioid use, care should be taken to assure that there is no abuse or diversion occurring. The physician and patient must agree upon defined functional goals as well as pain goals. If functional goals are not being met, the opioid trial should be reassessed. The full spectrum of side effects should be reviewed. The shared decision making agreement signed by the patient must clarify under what term the opioids will be tapered. Refer to subsection vii.E, on the shared decision making agreement, below.

Therapeutic Trial Indications: A therapeutic trial of opioids should not be employed unless the patient has begun multi-disciplinary pain management. The trial shall last one month. If there is no functional effect, the drug should be tapered.

Chronic use of opioids should not be prescribed until the following have been met:

i. The failure of pain management alternatives by a motivated patient including active therapies, cognitive behavioral therapy, pain self-management techniques, and other appropriate medical techniques.

ii. Physical and psychological and/or psychiatric assessment including a full evaluation for alcohol or drug addiction, dependence or abuse, performed by two specialists including the authorized treating physician and a physician or psychologist specialist with expertise in chronic pain. The patient should be stratified as to low, medium, or high risk for abuse based on behaviors and prior history of abuse. High risk patients are those with active substance abuse of any type or a history of opioid abuse. These patients should generally not be placed on chronic opioids. If it is deemed appropriate to do so, physician addiction specialists should be monitoring the care. Moderate risk factors include a history of non-opioid substance abuse disorder, prior trauma particularly sexual abuse, tobacco use, widespread pain, poor pain coping, depression, and dysfunctional cognitions about pain and analgesic medications (see below). Pre-existing respiratory or memory problems should also be considered. Patients with a past history of substance abuse or other psychosocial risk factors should be co-managed with a physician addiction specialist.

Risk Factors to Consider:

History of severe post-operative pain
Opioid analgesic tolerance (daily use for months)
Current mixed opioid agonist/antagonist treatment (e.g., buprenorphine, naltrexone)
Chronic pain (either related or unrelated to the surgical site)
Psychological comorbidities (e.g., depression, anxiety, catastrophizing)
History of substance use disorder

History of “all over body pain”
History of significant opioid sensitivities (e.g., nausea, sedation)
History of intrathecal pump use or nerve stimulator implanted for pain control

iii. Employment requirements are outlined. The patient’s employment requirements should also be discussed as well as the need to drive. It is generally ***not recommended*** to allow workers in safety sensitive positions to take opioids. Opioid naïve patients or those changing doses are likely to have decreased driving ability. Some patients on chronic opioids may have nominal interference with driving ability; however, effects are specific to individuals. Providers may choose to order certified driver rehabilitation assessment.

iv. Urine drug screening for substances of abuse and substances currently prescribed. Clinicians should keep in mind that there are an increasing number of deaths due to the toxic misuse of opioids with other medications and alcohol. Drug screening is a mandatory component of chronic opioid management. It is appropriate to screen for alcohol and marijuana use and have a contractual policy regarding both alcohol and marijuana use during chronic opioid management. Alcohol use in combination with opioids is likely to contribute to death.

v. Review of the Physician Prescription Drug Monitoring Program.

vi. Informed, written, witnessed consent by the patient including the aspects noted above. Patients should also be counseled on safe storage and disposal of opioids.

The trial, with a short-acting agent, should document sustained improvement of pain control, at least a 30% reduction, and of functional status, including return-to-work and/or increase in activities of daily living. It is necessary to establish goals which are specific, measurable, achievable, and relevant prior to opioid trial or adjustment to measure changes in activity/function. Measurement of functional goals may include patient completed validated functional tools such as those recommended by the Division as part of Quality Performance and Outcomes Payments (QPOP, see Rule 18-8) and/or the Patient Specific Functional Scale can provide useful additional confirmation. Frequent follow-up at least every 2 to 4 weeks may be necessary to titrate dosage and assess clinical efficacy.

vii. On-Going, Long-Term Management after a successful trial should include:

A) Prescriptions from a single practitioner;

B) Ongoing review and documentation of pain relief, functional status, appropriate medication use, and side effects; full review at least every 3 months;

C) Ongoing effort to gain improvement of social and physical function as a result of pain relief;

D) Review of the Physician Drug Monitoring Program (PDMP);

E) Shared decision making agreement detailing the following:

- Side effects anticipated from the medication;
- Requirement to continue active therapy;
- Need to achieve functional goals including return to work for most cases;
- Reasons for termination of opioid management, referral to addiction treatment, or for tapering opioids (tapering is usually for use longer than 30 days). Examples to be included in the contract include, but are not limited to:
  - Diversion of medication
  - Lack of functional effect at higher doses
  - Non-compliance with other drug use
  - Drug screening showing use of drugs outside of the prescribed treatment or evidence of non-compliant use of prescribed medication
  - Requests for prescriptions outside of the defined time frames
  - Lack of adherence identified by pill count, excessive sedation, or lack of functional gains
  - Excessive dose escalation with no decrease in use of short-term medications
  - Apparent hyperalgesia
  - Shows signs of substance use disorder (including but not limited to work or family problems related to opioid use, difficulty controlling use, craving)
  - Experiences overdose or other serious adverse event
  - Shows warning signs for overdose risk such as confusion, sedation, or slurred speech

Patient Agreements should be written at a 6th grade reading level to accommodate the majority of patients.

F) Use of drug screening initially, randomly at least once a year and as deemed appropriate by the prescribing physician. Drug screening is suggested for any patients who have been receiving

opioids for 8 to 90 days. A discussion regarding how screens positive for marijuana or alcohol will be handled should be included in the opioid contract. The concept of opioid misuse encompasses a variety of problems distinct from the development of addiction, such as nonmedical use, diversion, consultation with multiple prescribers, and unintentional overdose. In office only drug screening is insufficient as it does not identify metabolites of drugs prescribed.

Urine testing, when included as one part of a structured program for pain management, has been observed to reduce abuse behaviors in patients with a history of drug misuse. Clinicians should keep in mind that there are an increasing number of deaths due to the toxic misuse of opioids with other medications and alcohol. Drug screening is a mandatory component of chronic opioid management. Clinicians should determine before drug screening how they will use knowledge of marijuana use. It is appropriate to screen for alcohol and marijuana use and have a contractual policy regarding both alcohol and marijuana use during chronic opioid management. Alcohol use in combination with opioids is likely to contribute to death. From a safety standpoint, it is more important to screen for alcohol use than marijuana use as alcohol is more likely to contribute to unintended overdose.

Physicians should recognize that occasionally patients may use non-prescribed substances because they have not obtained sufficient relief on the prescribed regime.

Although drug screens done for chronic pain management should not be routinely available to employers, as screens are part of the treatment record to which employers have limited access, patients should be aware that employers might obtain the records through attorneys or the insurer.

G) Chronic use limited to 2 oral opioids.

H) Transdermal medication use, other than buprenorphine, is generally ***not recommended***.

I) Use of acetaminophen-containing medications in patients with liver disease should be limited, including over-the-counter medications. Acetaminophen dose should not exceed 4 grams per day for short-term use or 2-3 grams/day for long-term use in healthy patients. A safer chronic dose may be 1800mg/day.

J) Continuing review of overall therapy plan with regard to non-opioid means of pain control and functional status.

K) Tapering of opioids may be necessary for many reasons including the development of hyperalgesia, decreased effects from an opioid, lack of compliance with the opioid contract, or intolerance of side effects. Some patients appear to experience allodynia or hyperalgesia on chronic opioids. This premise is supported by a study of normal volunteers who received opioid

infusions and demonstrated an increase in secondary hyperalgesia. Options for treating hyperalgesia include withdrawing the patient from opioids and reassessing their condition. In some cases, the patient will improve when off of the opioid. In other cases, another opioid may be substituted.

Tapering may also be appropriate by patient choice, to accommodate "fit-for-duty" demands, prior to major surgery to assist with post-operative pain control, to alleviate the effects of chronic use including hypogonadism, medication side effects, or in the instance of a breach of drug agreement, overdose, other drug use aberrancies, or lack of functional benefit. It is also appropriate for any of the tapering criteria listed in section E above.

Generally tapering can be accomplished by decreasing the dose 10% per week. This will generally take 6 to 12 weeks and may need to be done one drug class at a time. Behavioral support is required during this service. Tapering may occur prior to MMI or in some cases during maintenance treatment.

L) Medication assisted treatment with buprenorphine or methadone may be considered for opioid abuse disorder, in addition to behavioral therapy. Refer to Section G.12, Opioid Addiction Treatment.

M) Inpatient treatment may be required for addiction or opioid tapering in complex cases. Refer to Section G.9, Interdisciplinary Rehabilitation Programs, for detailed information on inpatient criteria.

viii. Relative Contraindications: Extreme caution should be used in prescribing controlled substances for workers with one or more "relative contraindications." Consultation with a pain or addiction specialist may be useful in these cases.

A) History of alcohol or other substance abuse, or a history of chronic, benzodiazepine use.

B) Sleep apnea: If patient has symptoms of sleep apnea, diagnostic tests should be pursued prior to chronic opioid use.

C) Off work for more than 6 months with minimal improvement in function from other active therapy.

D) Severe personality disorder or other known severe psychiatric disease per psychiatrist or psychologist**.**

E) Monitoring of behavior for signs of possible substance abuse indicating an increased risk for addiction and possible need for consultation with an addiction specialist.

ix. High Risk Behavior: The following are high risk warning signs for possible drug abuse or addiction. Patients with these findings may need a consultation by a physician experienced in pain management and/or

addiction. Behaviors in the left hand column are warning signs, not automatic grounds for dismissal, and should be followed up by a reevaluation with the provider. Repeated behaviors in the left hand column may be more indicative of addiction. Behaviors in the right hand column should be followed by a substance abuse evaluation.

Less suggestive for addiction but are increased in depressed patients	More suggestive of addiction and are more prevalent in patients with substance use disorder
• Frequent requests for early refills; claiming lost or stolen prescriptions • Opioid(s) used more frequently, or at higher doses than prescribed • Using opioids to treat non-pain symptoms • Borrowing or hoarding opioids • Using alcohol or tobacco to relieve pain • Requesting more or specific opioids • Recurring emergency room visits for pain • Concerns expressed by family member(s) • Unexpected drug test results • Inconsistencies in the patient's history	• Buying opioids on the street; stealing or selling drugs • Multiple prescribers ("doctor shopping") • Trading sex for opioids • Using illicit drugs, + urine drug tests for illicit drugs • Forging prescriptions • Aggressive demands for opioids • Injecting oral/topical opioids • Signs of intoxication (ETOH odor, sedation, slurred speech, motor instability, etc.)

Both daily and monthly users of nicotine were at least 3 times more likely to report non-medical use of opioid in the prior year. At least one study has demonstrated a prevalence of smokers and former smokers among those using opioids and at higher doses compared to the general population. It also appeared that smokers and former smokers used opioids more frequently and in higher doses than never smokers. Thus, tobacco use history may be a helpful prognosticator.

In one study, four specific behaviors appeared to identify patients at risk for current substance abuse: increasing doses on their own, feeling intoxicated, early refills, and oversedating oneself. A positive test for cocaine also appeared to be related.

One study found that half of patients receiving 90 days of continuous opioids remained on opioids several years later and that factors

associated with continual use included daily opioid greater than 120 MME prior opioid exposure, and likely opioid misuse.

One study suggested that those scoring at higher risk on the Screener and Opioid Assessment for Patients with Pain-Revised (SOAPP-R), also had greater reductions in sensory low back pain and a greater desire to take morphine. It is unclear how this should be viewed in practice.

x. Dosing and Time to Therapeutic Effect: Oral route is the preferred route of analgesic administration because it is the most convenient and cost-effective method of administration. Transbuccal administration should be avoided other than for buprenorphine. When patient's dosage exceeds 50 MME per day and/or the patient is sedentary with minimal function, consideration should be given to lowering the dosage. If the patient reaches a dose above 90 MME per day, it is appropriate to taper or refer to a pain or addiction specialist. In some cases buprenorphine may be a preferred medication for pain control in those patients. Consultation may be necessary.

xi. Major Side Effects: There is great individual variation in susceptibility to opioid-induced side effects and clinicians should monitor for these potential side effects. Common initial side-effects include nausea, vomiting, drowsiness, unsteadiness, and confusion. Occasional side-effects include dry mouth, sweating, pruritus, hallucinations, and myoclonus. Rare side effects include respiratory depression and psychological dependence. Constipation and nausea/vomiting are common problems associated with long-term opioid administration and should be anticipated, treated prophylactically, and monitored constantly. Stool softeners, laxatives, and increased dietary fluid may be prescribed. Refer to Section G.10.g, Opioid Induced Constipation. Chronic sustained release opioid use is associated with decreased testosterone in males and females and estradiol in pre-menopausal females. Patients should be asked about changes in libido, sexual function, and fatigue.

xii. Naloxone: may be prescribed when any risk factors are present. The correct use of Naloxone should be discussed with the patient and family.

xiii. Benzodiazepines: should not be prescribed when opioids are used. Refer to Section G.10.e, Hypnotics and Sedatives, for more information.

xiv. Sedation: driving and other tasks – Although some studies have shown that patients on chronic opioids do not function worse than patients not on medication, caution should be exerted, and patients should be counseled never to mix opioids with the use of alcohol or other sedating medication. When medication is increased or trials are begun, patients should not drive for at least 5 days. Chronic untreated pain and disordered sleep can also impair driving abilities.

xv. Drug Interactions: Patients receiving opioid agonists should not be given a mixed agonist-antagonist such as pentazocine (Talacen, Talwin) or butorphanol (Stadol) because doing so may precipitate a withdrawal syndrome and increase pain.

All sedating medication, especially benzodiazepines, should be avoided or limited to very low doses. Over-the-counter medications such as

antihistamines, diphenhydramine, and prescription medications such as hydroxyzine (Anx, Atarax, Atazine, Hypam, Rezine, Vistaril) should be avoided except when being used to manage withdrawal during tapering of opioids. Alcohol should not be used.

xvi. Recommended Laboratory Monitoring: Primary laboratory monitoring is recommended for acetaminophen/aspirin/NSAIDs combinations (renal and liver function, blood dyscrasia), although combination opioids are ***not recommended*** for long-term use. Morphine and other medication may require renal testing and other screening.

F) Sleep Apnea Testing: Both obstructive and central sleep apnea are likely to be exaggerated by opioid use or may occur secondary to higher dose chronic opioid use and combination medication use, especially benzodiazepines and sedative hypnotics. Patients should be questioned about sleep disturbance and family members or sleeping partners questioned about loud snoring or gasping during sleep. If present, qualified sleep studies and sleep medicine consultation should be obtained. Portable sleep monitoring units are generally not acceptable for diagnosing primary central sleep apnea. Type 3 portable units with 2 airflow samples and an 02 saturation device may be useful for monitoring respiratory depression secondary to opioids, although there are no studies on this topic.

xvii. Regular consultation of the Prescription Drug Monitoring Program (PDMP): Physicians should review their patients on the system whenever drug screens are done. This information should be used in combination with the drug screening results, functional status of the patient, and other laboratory findings to review the need for treatment and level of treatment appropriate for the patient. There is a separate billing code created by the DOWC to cover this service. Refer to Rule 18, Medical Fee Schedule.

xviii. Addiction: If addiction occurs, patients will require treatment. Refer to Section G.12, Opioid Addiction Treatment. After detoxification, they may need long-term treatment with naltrexone (Depade, ReVia), an antagonist which can be administered in a long-acting form or buprenorphine which requires specific education per the Drug Enforcement Agency (DEA).

xix. Potentiating Agents: There is some evidence that dextromethorphan does not potentiate the effect of morphine opioids and therefore is ***not recommended*** to be used with opioids.

Evidence Statements Regarding Choice of Opioids, Indications, and Recommendations for Use		
Strong Evidence	Evidence Statement	Design
	In patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine.	Meta-analysis of randomized clinical trials
	Buprenorphine is superior to placebo with respect to retention in treatment.	
Good Evidence	Evidence Statement	Design
	Buprenorphine is superior to placebo with respect to positive urine testing for opiates.	Meta-analysis of randomized clinical trials
	In the setting of new onset chronic noncancer pain, there is a clinically important relationship between opioid prescription and subsequent opioid use disorder. Compared to no opioid use, short-term opioid use approximately triples the risk of opioid use disorder in the next 18 months. Use of opioids for over 90 days is associated with very pronounced increased risks of the subsequent development of an opioid use disorder, which may be as much as one hundredfold when doses greater than 120 MME are taken for more than 90 days. The absolute risk of these disorders is very uncertain but is likely to be greater than 6.1% for long duration treatment with a high opioid dose.	Retrospective cohort study using claims data from a large health care database
	Extended release tapentadol is more effective than placebo and comparable to oxycodone. The percent of patients who achieved 50% or greater pain relief was: placebo, 18.9%, tapentadol, 27.0%, and oxycodone, 23.3%.	Randomized clinical trial
	Transdermal buprenorphine is noninferior to oral tramadol in the treatment of moderate to severe musculoskeletal pain arising from conditions like osteoarthritis and low back pain. The population of patients for whom it is more appropriate than tramadol is not established but would need to be determined on an individual patient basis if there are clear reasons not to use oral tramadol.	Phase III noninferiority trial
	Transdermal fentanyl and transdermal buprenorphine are similar with respect to analgesia and sleep quality, and they are similar with respect to some common adverse effects such as constipation and discontinuation due to lack of effect. However, buprenorphine probably causes significantly less nausea than fentanyl, and it probably carries a lower risk of treatment discontinuation due to	Network meta-analysis of randomized clinical trials

Evidence Statements Regarding Choice of Opioids, Indications, and Recommendations for Use		
	adverse events. It is also likely that both transdermal medications cause less constipation than oral morphine.	
Good Evidence, continued	In the setting of common low back injuries, when baseline pain and injury severity are taken into account, a prescription for more than seven days of opioids in the first 6 weeks is associated with an approximate doubling of disability one year after the injury.	Prospective cohort study
Some Evidence	Evidence Statement	Design
	Long-acting oxycodone (Dazidox, Endocodone, ETH-oxydose, Oxycontin, Oxyfast, OxyIR, Percolone, Roxicodone) and oxymorphone have equal analgesic effects and side effects, although the milligram dose of oxymorphone (Opana) is ½ that of oxycodone.	Randomized clinical trial
	Extended release hydrocodone has a small and clinically unimportant advantage over placebo for relief of chronic low back pain among patients who are able to tolerate the drug and that 40% of patients who begin taking the drug do not attain a dose which provides pain relief without unacceptable adverse effects. Hydrocodone ER does not appear to improve function in comparison with placebo.	Randomized trial with a screening period of 7-14 days followed by an open-label titration period of up to 6 weeks followed by a double blind treatment period of up to 12 weeks
	In the setting of neuropathic pain, a combination of morphine plus nortriptyline produces better pain relief than either monotherapy alone, but morphine monotherapy is not superior to nortriptyline monotherapy, and it is possible that it is actually less effective than nortriptyline.	Crossover randomized trial
	Tapentadol can reduce pain to a moderate degree in diabetic neuropathy, average difference 1.4/10 pain scale, with tolerable adverse effects.	Randomized clinical trial
	Tapentadol causes less constipation than oxycodone.	Meta-analysis of randomized clinical trials
	Dextromethorphan does not potentiate the effect of morphine opioids and therefore is ***not recommended*** to be used with opioids.	Three randomized clinical trials
	Tramadol alleviates neuropathic pain following spinal cord injury.	Randomized clinical trial
	Tramadol yields a short-term analgesic response of little clinical importance relative to placebo in postherpetic neuralgia which has been symptomatic for approximately 6 months.	Randomized clinical trial

h. **Post-Operative Pain Management**: Proper post-operative pain management may avoid overuse and misuse of opioids. A recent practice guideline strongly recommends a multi-modal approach to post-operative pain. Suggestions include use of TENS, cognitive behavioral therapy, use of oral medication over parenteral medication and patient controlled analgesia when parenteral medication is used, use of NSAIDS (for appropriate procedures) or acetaminophen, gabapentin or pregabalin may also be used, and peripheral regional anesthesia when appropriate. Ketamine is also suggested for major surgeries, patients with high opioid tolerance or those who have difficulty tolerating opioids. However, ketamine does have side effects such as hallucination and nightmares. It is ***not recommended*** as a first line medication for most patients.

Pre-operative psychological preparation or neuroscience education may improve post-operative pain management. Pre-operative cognitive-behavioral therapy or other psychological intervention likely improves in-hospital mobilization and analgesic use for lumbar spinal fusion patients and for other surgical patients. One randomized study compared patients who received one session of pre-operative pain neuroscience education from physical therapist prior to lumbar discectomy and those who did not. There was no change in the primary outcomes from surgery. However, significant changes occurred in secondary outcomes which included preparation for surgery, surgery meeting their expectations, and a 45% decrease in health expenditure for the follow up year. Thus, pre-operative pain neuroscience education may prove a useful addition for any patient prior to surgical decisions. Refer to Section G.18, Therapy-Active, for a description of Pain Neuroscience Education. Optimal surgical outcomes are more likely when the patient commits to a post-operative active therapy program.

Generally, post-operative pain management is under the supervision of the surgeon and hospitalist with the goal of returning to the pre-operative level of pharmaceutical management. For a specific procedure's post-operative management, refer to the related medical treatment guideline.

Surgical procedures may be necessary for patients already taking chronic opioids, and they may encounter difficulty with pain control post-operatively. These patients will usually require higher doses of opioids during their post-operative phase and may benefit the most from multimodal therapy and/or ketamine as described in Section G.10.k., Topical Drug Delivery. It is strongly advised that physicians consult a pain specialist or addiction specialist when caring for post-operative patients with a history of substance abuse or previous addiction. Refer to Section G.10.h, Post-Operative Pain Management.

i. **Skeletal Muscle Relaxants**: are most useful for acute musculoskeletal injury or exacerbation of injury. Refer to Section G.10.e, Hypnotics and Sedatives, for benzodiazepines. Chronic use of benzodiazepines or any muscle relaxant is ***not recommended*** due to their habit-forming potential, seizure risk following abrupt withdrawal, and documented contribution to deaths of patients on chronic opioids due to respiratory depression.

i. Baclofen (intrathecal):

A) Description: may be effective due to stimulation of Gamma Aminobutyric Acid (GABA) receptors.

B) Indications: pain from muscle rigidity. As of the time of this guideline writing, formulations of baclofen injection have been FDA approved for the management of severe spasticity of a spinal cord or cerebral origin.

C) Side Effects: exacerbation of psychotic disorders, may precipitate seizures in epileptics, dry mouth, and sexual dysfunction.

D) Recommended Laboratory Monitoring: renal and hepatic function.

E) Caution: Abrupt discontinuation of baclofen can precipitate a withdrawal syndrome and has been seen with both low and high doses. The most common side effects of baclofen withdrawal include pruritis, tremor, and mood disturbance. In extreme circumstances, seizures, muscle rigidity (resembling neuroleptic malignant syndrome), and even death can occur.

ii. Cyclobenzaprine (Amrix, Fexmid, Flexeril):

A) Description: structurally related to tricyclics.

B) Indications: acute exacerbated chronic pain associated with muscle spasm. As of the time of this guideline writing, formulations of this drug are FDA approved as an adjunct to rest and physical therapy for relief of muscle spasm associated with acute, painful musculoskeletal conditions. It should only be used for short periods (less than 2 weeks) because of lack of evidence for effectiveness with prolonged use.

C) Major Contraindications: cardiac dysrhythmias.

D) Dosing and Time to Therapeutic Effect: variable, onset of action is 1 hour.

E) Major Side Effects: sedation, anticholinergic, blurred vision. Patients should also be monitored for suicidal ideation and drug abuse.

F) Drug Interactions: contraindicated for use with MAO inhibitors; interacts with tramadol, duloxetine, escitalopram, and fluoxetine. Likely interactions with other SSRIs and SNRIs. Drug interactions are similar to those for tricyclics. Refer also to information on tricyclics in Section G.10, Medications.

G) Recommended Laboratory Monitoring: hepatic and renal function.

iii. Carisoprodol (Soma, Soprodal, Vanadom): This medication should **not** be used in chronic pain patients due to its addictive nature secondary to the active metabolite meprobamate.

iv. Metaxalone (Skelaxin):

A) Description: central acting muscle relaxant.

B) Indications: acute exacerbated chronic pain associated with muscle spasm. As of the time of this guideline writing, formulations of this drug are FDA approved as an adjunct to rest and physical therapy for relief of muscle spasm associated with acute, painful musculoskeletal conditions. It should only be used for short periods (less than 2 weeks) because of lack of evidence for effectiveness with prolonged use.

C) Major Contraindications: significantly impaired renal or hepatic disease, pregnancy, and disposition to drug induced hemolytic anemia.

D) Dosing and Time to Therapeutic Effect: 800 mg, 3 to 4 times per day, onset of action 1 hour.

E) Major Side Effects: sedation, hematologic abnormalities.

F) Drug Interactions: other sedating drugs (e.g., opioids, benzodiazepines).

G) Recommended Laboratory Monitoring:hepatic function, CBC.

v. Methocarbamol:

A) Description: central action muscle relaxant.

B) Indications: muscle spasm.

C) Major Contraindications: hypersensitivity, possible renal compromise.

D) Dosing and Time to Therapeutic Effect: 1500 mg. 4 times per day. Longer dosing 4000 to 4500 mg per day.

E) Major Side Effects: decreased cognition, light headedness, GI effects among other.

F) Drug Interactions: alcohol and other CNS depressants.

vi. Tizanidine (Zanaflex):

A) Description: alpha 2 adrenergic agonist.

B) Indications: true centrally mediated spasticity, musculoskeletal disorders. As of the time of this guideline writing, formulations of tizanidine have been FDA approved for the management of spasticity in spinal cord injury and multiple sclerosis.

C) Major Contraindications: concurrent use with ciprofloxacin (Cipro, Proquin) or fluvoxamine (Luvox); or hepatic disease.

D) Dosing and Time to Therapeutic Effect: 4 mg/day orally and gradually increase in 2-4 mg increments on an individual basis over 2 to 4 weeks; maintenance, 8 mg orally every 6 to 8 hr (max dose 36 mg/day).

E) Major Side Effects: hypotension, sedation, hepatotoxicity, hallucinations and psychosis, dry mouth.

F) Drug Interactions: Alcohol can increase sedation, and concurrent use with ciprofloxacin or fluvoxamine is contraindicated. Several other medications increase tizanidine plasma concentrations (e.g., oral contraceptives, verapamil, and cimetidine). Use with caution with other alpha agonists and other antihypertensives as they may increase the risk of hypotension.

G) Laboratory Monitoring: hepatic function, blood pressure.

j. Smoking Cessation Medications and Treatment: Tobacco dependence is chronic and may require repeated attempts to quit. All smoking cessation programs should be accompanied by behavioral support which may include practical counseling sessions and social support, which usually includes telephone follow-up. A variety of medications have been used including Bupropion SR, nicotine patches, gum, inhaler, lozenges or nasal spray, and varenicline. When nicotine supplements are used, cotinine testing will be positive. Urine anabasine or exhaled carbon monoxide 5 ppm or less may be used to check tobacco abstinence.

There is some evidence that among adults motivated to quit smoking, 12 weeks of open-label treatment including counseling and one of the following: nicotine patch, varenicline, or combination nicotine replacement therapy (nicotine patch and nicotine lozenge) are equally effective in assisting motivated smokers to quit smoking over a period of one year.

There is some evidence that among adults motivated to quit smoking, abrupt smoking cessation is the more effective method that leads to lasting abstinence over a period of 4 weeks to 6 months compared to gradual cessation, even for smokers who initially prefer to quit by gradual reduction.

Evidence Statements Regarding Smoking Cessation Medications and Treatment		
Some Evidence	Evidence Statement	Design
	There is some evidence that among adults motivated to quit smoking, 12 weeks of open-label treatment including counseling and one of the following: nicotine patch, varenicline, or combination nicotine replacement therapy (nicotine patch and nicotine lozenge) are equally effective in assisting motivated smokers to quit smoking over a period of one year.	Randomized clinical trial
	There is some evidence that among adults motivated to quit smoking, abrupt smoking cessation is the more	Randomized controlled non-inferiority trial

Evidence Statements Regarding Smoking Cessation Medications and Treatment		
Some Evidence, continued	effective method that leads to lasting abstinence over a period of 4 weeks to 6 months compared to gradual cessation, even for smokers who initially prefer to quit by gradual reduction.	

k. **Topical Drug Delivery**:

i. Description: topical creams and patches may be an alternative treatment of localized musculoskeletal and neuropathic disorders. If ordered compounded topicals are reviewed by the payer, the payer must evaluate and approve or deny each ingredient separately.

ii. Indications: neuropathic pain for many agents; episodic use of NSAIDs and salicylates for joint pain or musculoskeletal disorders. All topical agents should be used with strict instructions for application as well as maximum number of applications per day to obtain the desired benefit and avoid potential toxicity.

iii. Dosing and Time to Therapeutic Effect: all topical agents should be prescribed with clear instructions for application and maximum number of applications per day to obtain the desired benefit and avoid potential toxicity. For most patients, the effects of long-term use are unknown. Thus, episodic use may be preferred for some agents.

iv. Side Effects: localized skin reactions may occur, depending on the medication agent used.

v. Topical Agents:

A) Capsaicin: As of the time of this guideline writing, formulations of capsaicin have been FDA approved for management of pain associated with post-herpetic neuralgia. Capsaicin offers a safe and effective alternative to systemic NSAID therapy. Although it is quite safe, effective use of capsaicin is limited by the local stinging or burning sensation that typically dissipates with regular use, usually after the first 7 to 10 days of treatment. Patients should be advised to apply the cream on the affected area with a plastic glove or cotton applicator and to avoid inadvertent contact with eyes and mucous membranes.

There is good evidence that low dose capsaicin (0.075%) applied 4 times per day will decrease pain up to 50%. There is strong evidence that a single application of 8% capsaicin is more effective than a control preparation of 0.04% capsaicin for up to 12 weeks. However, there may be a need for frequent application, and it is not known whether subsequent applications of capsaicin are likely to be as effective as the first application. There is some evidence that in patients who are being treated with capsaicin 8% patches, two methods of pre-treatment are equally effective in controlling application pain and in enabling patients to tolerate the patch: topical 4% lidocaine cream applied to the area for one hour before placement of the capsaicin patch

and 50 mg oral tramadol taken 30 minutes before patch placement.

B) Clonidine: There is good evidence that topical clonidine gel 0.1% is likely to alleviate pain from diabetic peripheral neuropathy in patients who display a nociceptive response to the application of 0.1% capsaicin applied to the pretibial area. It is likely that patients who do not display a pain response to pretibial capsaicin are not likely to have a clinically meaningful analgesic response to clonidine gel. It is unknown if this screening test applies to other types of neuropathic pain. Clonidine gel may be used for neuropathic pain.

C) Ketamine and Tricyclics: Topical medications, such as the combination of ketamine and amitriptyline, have been proposed as an alternative treatment for neuropathic disorders including CRPS. A study using a 10% concentration showed no signs of systemic absorption. This low-quality study demonstrated decreased allodynia at 30 minutes for some CRPS patients. However, as of the time of this guideline writing, neither tricyclic nor ketamine topicals are FDA approved for topical use in neuropathic pain. Furthermore, there is good evidence that neither 2% topical amitriptyline nor 1% topical ketamine reduces neuropathic pain syndromes. Despite the lack of evidence, it is physiologically possible that topical tricyclics and a higher dose of ketamine could have some effect on neuropathic pain. Other less expensive topicals and compounds, including over-the-counter, should be trialed before more expensive compounds are ordered. The use of topical tricyclics and/or ketamine should be limited to patients with neuritic and/or sympathetically mediated pain with documented supporting objective findings such as allodynia and/or hyperalgesia. Continued use of these agents beyond the initial prescription requires documentation of effectiveness, including functional improvement, and/or decreased use of other medications, particularly decreased use of opioids or other habituating medications.

D) Lidocaine: As of the time of this guideline writing, formulations of lidocaine (patch form) have been FDA approved for pain associated with post-herpetic neuralgia. Evidence is mixed for long-term use of lidocaine topically. Physicians should always take into account the blood level that may be achieved with topical use as toxic levels have been reported and there is variability and systemic absorption among individuals. There is good evidence that lidocaine 5% plasters, applied for up to 12 hours to the lower extremities of patients with post-herpetic neuralgia and diabetic painful neuropathy, is non-inferior to pregabalin for the same indications. The topical lidocaine is associated with significantly fewer drug-related adverse events over 4 weeks of observation. There is some evidence that a 5% lidocaine patch may be used as a secondary option for patients with focal neuropathic pain. A 30 to 50% pain reduction may be achieved in those who tolerate the patch. Up to three patches may be used simultaneously for 12 hours per day. It should be applied only to intact skin. Metered dose 8% pump sprays have

also been used and usually require a three times per day reapplication. There is some evidence that the 8% sprays are effective for short-term, 2 week use. However, the effects of long-term use are unknown.

E) Topical Salicylates and Nonsalicylates: have been shown to be effective in relieving pain in acute musculoskeletal conditions and single joint osteoarthritis. Topical salicylate and nonsalicylates achieve tissue levels that are potentially therapeutic, at least with regard to COX inhibition.

There is insufficient evidence to support the use of topical rubefacients containing salicylates for acute injuries or chronic conditions. They seem to be relatively well tolerated in the short-term, based on limited data. The amount and quality of the available data mean that uncertainty remains about the effects of salicylate-containing rubefacients.

There is good evidence that diclofenac gel (Voltaren, Solaraze) reduces pain and improves function in mild-to-moderate hand osteoarthritis. There is good evidence that topical diclofenac and ketoprofen are more effective than placebo preparations for purposes of relieving pain attributable to knee osteoarthritis. There is good evidence that topical NSAIDs probably reduce the risk of GI adverse effects by approximately 1/3 compared to oral NSAIDs. Topical diclofenac does not appear to affect the anti-platelet properties of aspirin unlike the oral version. The topical solution of 2% sodium diclofenac applied thrice a day is equal to 1.5% 4 times per day.

Diclofenac gel has been FDA approved for acute pain due to minor strains, pains, and contusions and for relief of pain due to osteoarthritis of the joints amenable to topical treatment, such as those of the knees and hands (refer to the Division's Cumulative Trauma Conditions Medical Treatment Guideline). It is likely that other NSAIDs would also be effective topically. Thus, topical NSAIDs are permitted when patients show functional improvement.

Other than local skin reactions, the side effects of therapy are minimal, although not non-existent. The usual contraindications to use of these compounds needs to be considered. Local skin reactions are rare and systemic effects are even less common. Their use in patients receiving warfarin therapy may result in alterations in bleeding time. Overall, the low level of systemic absorption can be advantageous. This allows the topical use of these medications when systemic administration is relatively contraindicated, such as is the case in patients with hypertension, cardiac failure, or renal insufficiency (refer to the Division's Cumulative Trauma Conditions Medical Treatment Guideline). Both topical salicylates and NSAIDs are appropriate for many chronic pain patients. However, in order to receive refills, patients should demonstrate increased function, decreased pain, or decreased need for oral medications.

F) Other Compounded Topical Agents: At the time of writing this guideline, no studies identified evidence for the effectiveness of compounded topical agents other than those recommended above. Therefore, other compounded topical agents are not generally recommended. In rare cases, they may be appropriate for patients who prefer a topical medication to chronic opioids or who have allergies or side effects from other more commonly used oral agents.

G) Prior authorization is required for all agents that have not been recommended above. Please refer to Rule 18-6(N), Prescription Strength Topical Compounds regarding requirements for reviewing, approving, denying, and refilling.

Evidence Statements Regarding Topical Drug Delivery: Capsaicin		
Strong Evidence	Evidence Statement	Design
	A single application of 8% capsaicin is more effective than a control preparation of 0.04% capsaicin for up to 12 weeks. However, there may be a need for frequent application, and it is not known whether subsequent applications of capsaicin are likely to be as effective as the first application.	Meta-analysis of randomized clinical trials
Good Evidence	Evidence Statement	Design
	Low dose capsaicin (0.075%) applied 4 times per day will decrease pain up to 50%.	Meta-analysis of randomized trials
Some Evidence	Evidence Statement	Design
	In patients who are being treated with capsaicin 8% patches, two methods of pre-treatment are equally effective in controlling application pain and in enabling patients to tolerate the patch: topical 4% lidocaine cream applied to the area for one hour before placement of the capsaicin patch and 50 mg oral tramadol taken 30 minutes before patch placement.	Randomized clinical trial

Evidence Statements Regarding Topical Drug Delivery: Clonidine		
Good Evidence	Evidence Statement	Design
	Topical clonidine gel 0.1% is likely to alleviate pain from diabetic peripheral neuropathy in patients who display a nociceptive response to the application of 0.1% capsaicin applied to the pretibial area. It is likely that patients who do not display a pain response to pretibial capsaicin are not likely to have a clinically meaningful analgesic response to	Randomized clinical trial

Evidence Statements Regarding Topical Drug Delivery: Clonidine		
	clonidine gel. It is unknown if this screening test applies to other types of neuropathic pain.	

Evidence Statements Regarding Topical Drug Delivery: Ketamine and Tricyclics		
Good Evidence	Evidence Statement	Design
	Neither 2% topical amitriptyline nor 1% topical ketamine reduces neuropathic pain syndromes.	Randomized clinical trial

Evidence Statements Regarding Topical Drug Delivery: Lidocaine		
Good Evidence	Evidence Statement	Design
	Lidocaine 5% plasters, applied for up to 12 hours to the lower extremities of patients with post-herpetic neuralgia and diabetic painful neuropathy, is non-inferior to pregabalin for the same indications. The topical lidocaine is associated with significantly fewer drug-related adverse events over 4 weeks of observation.	Non-inferiority randomized trial
Some Evidence	Evidence Statement	Design
	A 5% lidocaine patch may be used as a secondary option for patients with focal neuropathic pain.	Randomized crossover trial
	The 8% sprays are effective for short-term, 2 week use.	Randomized crossover trial and open label study

Evidence Statements Regarding Topical Drug Delivery: Topical Salicylates and Nonsalicylates		
Good Evidence	Evidence Statement	Design
	Diclofenac gel (Voltaren, Solaraze) reduces pain and improves function in mild-to-moderate hand osteoarthritis.	Randomized clinical trial
	Topical diclofenac and ketoprofen are more effective than placebo preparations for purposes of relieving pain attributable to knee osteoarthritis.	Meta-analysis of randomized clinical trials
	Topical NSAIDs probably reduce the risk of GI adverse effects by approximately 1/3 compared to oral NSAIDs.	

I. Other Agents:

i. Glucosamine:

There is good evidence that glucosamine does not improve pain related disability in those with chronic low back pain and degenerative changes on radiologic studies; therefore, it is ***not recommended*** for chronic lower spinal or non-joint pain. For chronic pain related to joint osteoarthritis, see specific extremity guidelines. Glucosamine should not be combined with chondroitin as it is ineffective.

ii. Oral Herbals:

There is insufficient evidence due to low quality studies that an oral herbal medication, Compound Qishe Tablet, reduced pain more than placebo. There is also insufficient evidence that Jingfukang and a topical herbal medicine, Compound Extractum Nucis Vomicae, reduced pain more than Diclofenac Diethylamine Emulgel. Further research is very likely to change both the effect size and our confidence in the results. Currently, no oral herbals are recommended.

iii. Vitamin D:

A large beneficial effect of vitamin D across different chronic painful conditions is unlikely. Therefore, it is ***not recommended***.

iv. Alpha-Lipoic Acid:

An adequate meta-analysis shows that there is some evidence that alpha-lipoic acid at a dose of 600 mg per day may reduce the symptoms of painful diabetic neuropathy in the short term of 3 to 5 weeks. The effect of the intravenous route appears to be greater than that of the oral route, but the oral route may have a clinically relevant effect. Doses of 1200 or 1800 mg have not been shown to have additional therapeutic benefit. This medication may be used for neuropathic pain.

Evidence Statements Regarding Other Agents: Glucosamine		
Good Evidence	Evidence Statement	Design
	Glucosamine does not improve pain related disability in those with chronic low back pain and degenerative changes on radiologic studies; therefore, it is ***not recommended*** for chronic lower spinal or non-joint pain.	Randomized clinical trial

Evidence Statements Regarding Other Agents: Alpha-Lipoic Acid		
Some Evidence	Evidence Statement	Design
	Alpha-lipoic acid at a dose of 600 mg per day may reduce	Meta-analysis of

Evidence Statements Regarding Other Agents: Alpha-Lipoic Acid		
	the symptoms of painful diabetic neuropathy in the short term of 3 to 5 weeks. The effect of the intravenous route appears to be greater than that of the oral route, but the oral route may have a clinically relevant effect.	randomized clinical trials

11. **NON-INVASIVE BRAIN STIMULATION**: This has been proposed as a treatment for chronic pain. Varieties include repetitive transcranial magnetic stimulation (rTMS), cranial electrotherapy stimulation (CES), and transcranial direct current stimulation (tDCS).

Single doses of high-frequency rTMS of the motor cortex may have small short-term effects on chronic pain. It is likely that multiple sources of bias may exaggerate this observed effect. The effects do not meet the predetermined threshold of minimal clinical significance and multiple-dose studies do not consistently demonstrate effectiveness. The available evidence suggests that low-frequency rTMS, rTMS applied to the pre-frontal cortex, CES, and tDCS are not effective in the treatment of chronic pain.

Therefore, these devices are ***not recommended*** due to lack of evidence and safety concerns.

12. **OPIOID ADDICTION TREATMENT**:

The DSM-V renames opioid addiction as substance use disorder (SUD) and classifies opioid use disorder according to categories defined as mild (2 – 3 features of stated criteria), moderate (4 – 5 features of stated criteria), or severe (6 – 7 features of stated criteria).

Definitions:

- Opioid physical dependence: opioid withdrawal symptoms (withdrawals) which occur as a result of abrupt discontinuation of an opioid in an individual who became habituated to the medication or through administration of an antagonist. Opioid physical dependency is not in and of itself consistent with the diagnosis of addiction/substance use disorder.

- Tolerance: a physiologic state caused by the regular use of an opioid in which increasing doses are needed to maintain the same affect. In patients with "analgesic tolerance," increased doses of the opioid may be needed to maintain pain relief.

- Opioid misuse: the utilization of opioid medications outside of the prescribing instructions for which it was originally prescribed. Misuse may be as innocuous as taking slightly more or less medications than prescribed to crushing or snorting an opioid.

- Opioid abuse: the use of any substance for a non-therapeutic purpose or the use of a medication for purposes other than those for which the agent is prescribed. Abuse includes intentional use for altering a state of consciousness. Abuse frequently affects the individual's ability to fulfill normal societal roles, resulting in difficulty with employment, or legal, or interpersonal problems.

- Pseudo-addiction: addiction-like behaviors consistent with overutilization of medications outside of the prescribing provider's instructions and

recommendations for the express purpose of improved pain management. This occurs when a patient believes there is insufficient pain relief. Once pain is adequately managed with a higher dose of medications than initially prescribed or with improved therapy, the behaviors consistent with addiction are discontinued.

- Addiction: a primary chronic neurobiological disease influenced by genetic, psychosocial, and/or environmental factors. It is characterized by impaired control over drug use, compulsive drug use, and continued drug use despite harm and because of craving.

Substance use disorder/addiction in the workers' compensation system can be encountered in three ways. First, the individual has an active substance use disorder at the time of injury. The party responsible for treatment of the substance use disorder may be outside of the workers' compensation system. However, if there is no other paying party and the treatment is necessary in order to recover from the current workers' compensation injury, treatment may be covered by the workers' compensation payor. The second possibility is that a patient with a substance use disorder, who is currently in recovery at the time of the workers' compensation injury, relapses as a result of the medications which are prescribed by the treating provider. This patient may become re-addicted and will manifest substance use disorder characteristics and symptoms consistent with the diagnosis. The third possibility is an individual with no history of substance use disorder who is injured as a result of an occupational accident. This particular individual becomes "addicted" to the medications as a result of the medications being prescribed. This is most likely to occur with the use of opioids but could possibly occur with use of other medications such as benzodiazepines or specific muscle relaxants such as carisoprodol.

If the treating provider is suspicious of a patient exhibiting opioid misuse, abuse, or addiction, the patient should preferably be evaluated by a specialist in the field of addiction medicine. It would be the responsibility of the specialist to identify medication misuse, abuse, addiction, or pseudo-addiction and to determine what additional treatment, if any, needs to be implemented.

During the initial injury evaluation, an authorized treating provider should obtain an addiction history as part of a complete history and physical. If it is determined at the time of the initial evaluation by the treating provider that there is the pre-existing condition of active SUD or history of opioid addiction/SUD, then it is prudent to consider an evaluation with an addiction medicine physician prior to issuing opioid treatments if possible. The addiction medication specialist will be able to counsel the patient accordingly, determine medication needs, and determine the appropriate follow-up to hopefully avoid aggravation or relapse of substance abuse disorders which will complicate the recovery process. Many patients exhibit opioid misuse, opioid abuse, and pseudo-addictive behaviors. These issues can be managed once the problem is identified and a discussion is carried out with the patient regarding these abnormal behaviors.

Once the diagnosis of SUD is confirmed, an addiction medicine specialist familiar with addiction treatment should assist in co-managing the patient's care and the problematic drug prescriptions. This co-management technique is critical for the injured worker with a SUD diagnosis during the initial injury phase, recovery, and stabilization phase until he/she has reached MMI. If it is determined during the active treatment and recovery phase that there is no longer a need for opioids, then the addiction medicine specialist will be in charge of the transition from use of opioids to safe taper/discontinuation of the opioids while monitoring for relapse of addiction.

Co-management is equally important for managing the chronic pain patient that has a concomitant opioid addiction/SUD with a legitimate need for analgesic medications. The addiction medicine specialist in all likelihood will monitor the patient more closely including judicious prescribing, PDMP reviews, urine drug testing, drug counts, and clarifying functional improvement as a result of the medications prescribed and frequent follow-ups which may initially seem excessive.

All abstinence addiction treatment begins with a discontinuation of the addicting substance; this is referred to as the detox phase of the treatment and can be performed in a number of ways. However, detoxification alone is not considered adequate addiction treatment. Detoxification is simply a method of discontinuing the medications in an effort to stabilize the patient prior to more extensive treatment.

Phase 1:

The methods of detoxification can include 1) abrupt discontinuation – ***not recommended*** due to high rate of relapse due to craving and withdrawal symptoms, 2) slow but progressive taper – 10% of total dosage per week as an outpatient treatment, 3) conversion to a different medication opioid (buprenorphine/naloxone) to enable a more stable and comfortable taper occasionally done as an outpatient but commonly done as part of a more comprehensive treatment program, and 4) rapid detox under anesthesia – ***not recommended*** due to relatively high incidence of complications and high expense. The methodology chosen for phase 1 detoxification is left up to the specialist and is simply the initial phase of stabilization prior to considering the need for a phase 2 of addiction treatment program.

Phase 2:

Once a patient is safely through the detoxification phase and the condition is stabilized regardless of the method chosen, then successful addiction treatment begins generally utilizing a number of techniques to prevent the return to active substance use and addiction. This phase of treatment generally involves teaching the patient to develop control over the compulsions, psychosocial factors, and associated mental health issues which are critical to maintain abstinence. This phase of treatment is generally managed in a 30 – 90 day non-hospital residential treatment program. The treatment prescribed in a residential treatment program generally includes individual and group therapy with certified addiction counselors and psychologists. Phase 2 of treatment may or may not be combined with opioid substitution therapy with medications such as buprenorphine/naloxone (partial agonist of the opioid receptor), methadone, or naltrexone. Injectable depot naltrexone may be used.

Buprenorphine/naloxone therapy utilizes a sublingual partial opioid receptor agonist which binds to the opioid receptor, reducing craving and resulting in analgesia when necessary. Due to its high affinity to the opioid receptor, it blocks the effect of non-approved additional opioid use. The buprenorphine is administered either sublingually or, when FDA approved, as a subcutaneous implant. Naloxone was added to the sublingual drug formulation to discourage using this medication intravenously. With intravenous administration of buprenorphine/naloxone, the naloxone becomes absorbed neutralizing the effects of opioids. Buprenorphine/naloxone can be an excellent option in patients requiring analgesic medications with a prior history of opioid addiction because buprenorphine results in less sedation and euphoria then the other standard schedule II opioid medications. Prescribing Suboxone film (buprenorphine/naloxone) for addiction purposes can only be done by a physician and requires special training and certification. Once special training is completed, an application is filed with the DEA to obtain a special DEA license referred to as an X-DEA number. This X–DEA number needs to accompany

all prescription for Suboxone when delivered to the pharmacy and identifies the prescription is being issued specifically for the treatment of addiction/SUD.

Methadone may be an option if the patient is admitted to a federally licensed methadone treatment facility where a daily dose of medication is administered and the patient continues to utilize therapeutic treatments/cognitive behavioral therapies as noted above. There is strong evidence that in patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine. The methodology and rationale for methadone treatment is to saturate the opioid receptors with methadone (a slow onset and prolonged duration opioid), reducing the opioid craving. The majority of the opioid receptors are bound by the methadone leaving very few unbound opioid receptors available in the event additional opioids are utilized in an attempt to achieve the euphoric effect. When the patient is stabilized on a methadone dose determined by the federally licensed methadone clinic and their associated physicians, the patient's drug-seeking, craving, legal issues, and attempts to utilize non-approved medications is reduced. Patients will frequently return to more productive lives free of the compulsions, cravings, and legal issues and are usually able to maintain jobs and improve family dynamics.

Other medications which may be useful and can be utilized during the phase 2 and 3 treatment include opioid receptor antagonists such as naltrexone (ReVia, Vivitrol) which produces no euphoria. The purpose of naltrexone therapy is to add an additional layer of protection and treatment for the patients by allowing them to receive a daily oral dose of naltrexone (ReVia) or a monthly injection of naltrexone (Vivitrol). Administration of naltrexone will bind with very high affinity to the opioid receptor resulting in the opioid receptors being non-responsive to other opioid utilization thereby preventing any euphoric response or reinforcement with unsanctioned opioid use. This treatment method can be problematic in an individual receiving intramuscular naltrexone therapy especially if that individual requires surgery and post-operative pain management because the analgesics needed for post-operative pain management will be significantly less effective because of the prolonged opioid antagonist properties of the naltrexone.

In Summary:

Medication assisted treatment for patients addicted to opioids is the treatment recommended by most experts. A Canadian evidence-based guideline recommends long-term treatment with buprenorphine/naloxone, or methadone for some patients, based on the high relapse rate without medication assistance. The likelihood of relapse in the workers' compensation population for individuals who have become addicted through prescription drug use is unknown. Buprenorphine implants are likely equally effective as sublingual buprenorphine for preventing illicit opioid use. Implants are significantly more costly. Naltrexone treatment, an opioid agonist, has also been used to maintain abstinence. It can be provided in monthly injections or orally 3 times per week. Choice of these medications should be made by the addiction specialist.

Phase 3:

Aftercare begins after discharge from the non-hospital residential treatment program and is designed for long-term management of addiction. This phase is potentially the time when relapse is most likely to occur if the patient has not developed significant skills necessary to deal with the compulsions, cravings, and associated psychosocial factors contributing to SUD. Long-term strategies include 1) intense outpatient programs (IOP), 2) group therapy/meetings such as Narcotics Anonymous, and 3) residential communities (RC) which are groups of patients living together in a community for up to 6 months for

the express purpose of maintaining abstinence from their drug of choice but at the same time transitioning and learning how to live in the general community. Residential communities are extremely useful to give patients an opportunity to be reintroduced to employment and psychosocial interactions with family and friends while maintaining contact with the community supporting their addiction recovery. In addition, phase 3 medication treatment may include utilization of opioid substitution therapy (buprenorphine/naloxone) or opioid receptor antagonist therapy as noted above.

It must be noted that relapse is common despite the utilization of intense cognitive behavioral therapy, addiction treatment strategies, and long-term phase 3 treatment and medication. Risk monitoring should be continued, including checking for behavioral aberrancies, checking the PDMP, and drug testing,. Additional treatment or readmission for repeat treatment is not uncommon.

Evidence Statements Regarding Opioid Addiction Treatment		
Strong Evidence	Evidence Statement	Design
	In patients being treated with opioid agonists for heroin addiction, methadone is more successful than buprenorphine at retaining patients in treatment. The rates of opiate use, as evidenced by positive urines, are equivalent between methadone and buprenorphine.	Meta-analysis of randomized clinical trials

13. OPIOID/CHEMICAL TREATMENT PROGRAM REQUIREMENTS:

Chemical dependency for workers' compensation issues will usually be related to opioids, anxiolytics, or hypnotics as prescribed for the original workers' compensation injury. Chemical dependency should be treated with specific programs providing medical and psychological assessment, treatment planning, and individual as well as group counseling and education. Established functional goals which are measurable, achievable, and time specific are required.

Inpatient or outpatient programs may be used, depending upon the level of intensity of services required. Formal inpatient treatment programs are appropriate for patients who have more intense (e.g., use extraordinarily excessive doses of prescription drugs to which they have developed tolerance) or multiple drug abuse issues (e.g., benzodiazepines and/or alcohol) and those with complex medical conditions or psychiatric issues related to drug misuse. A medical physician with appropriate training and preferably board certified in addiction medicine should provide the initial evaluation and oversee the program. Full primary assessment should include behavioral health assessment; medical history; physical examination; mental status; current level of functioning; employment history; legal history; history of abuse, violence, and risk taking behavior; education level; use of alcohol, tobacco and other drugs; and social support system. The initial medical exam should include appropriate laboratory testing such as liver function, screening for sexual diseases, etc.

Addiction specialists, alcohol and drug counselors, psychologists, psychiatrists, and other trained health care providers as needed, are involved in the program. Peer and group support is an integral part of the program and families are encouraged to attend. Peer support specialists should receive competency based training. A designated individual is assigned to each worker to assist in coordinating care. There should be good communication between the program and other external services, external health care

providers, Al-Anon, Alcoholics Anonymous (AA), and pain medicine providers. Drug screening should be performed as appropriate for the individual, at least weekly during the initial detoxification and intensive treatment phases. At least 8 random drug screens per year should be completed for those on medication assisted treatment and drug diversion control methods should be in place.

Clear withdrawal procedures are delineated for voluntary, against medical advice, and involuntary withdrawal. Withdrawal programs must have a clear treatment plan and include description of symptoms of medical and emotional distress, significant signs of opioid withdrawal, and actions taken. All programs should have clear direction on how to deal with violence in order to assure safety for all participants. Transition and discharge should be carefully planned with full communication to outside resources. Duration of inpatient programs are usually 4 weeks while outpatient programs may take 12 weeks.

Drug detoxification may be performed on an outpatient or inpatient basis. Detoxification is unlikely to succeed in isolation when not followed by prolonged chemical dependency treatment. Isolated detoxification is usually doomed to failure with very high recidivism rates.

Both ultra-rapid and rapid-detoxification are ***not recommended*** due to possible respiratory depression and death and the lack of evidence for long range treatment success. Refer to Section G.12, Opioid Addiction Treatment, for more specific details on treatment plans.

Tapering opioids on an outpatient basis requires a highly motivated patient and diligent treatment team and may be accomplished by decreasing the current dose 10% per day or per week. Tapering programs under the supervision of physicians with pain expertise may proceed more aggressively. Tapering should be accompanied by addiction counseling. Failing a trial of tapering, a patient should be sent to a formal addiction program. When the dose has reached 1/3 of the original dose, the taper should proceed at half or less of the initial rate. Doses should be held or possibly increased if severe withdrawal symptoms, pain, or reduced treatment failure otherwise occurs. This method is tedious, time consuming, and more likely to fail than more rapid and formalized treatment programs.

Time Frames for Opioid / Chemical Treatment Programs	
Time to Produce Effect	3 to 4 weeks
Frequency	Full time programs - no less than 5 hours/day, 5 days/week; part time programs - 4 hours/day for 2-3 days per week.
Optimum Duration	2 to 12 weeks at least 2-3 times a week. With follow-up visits weekly or every other week during the first 1 to 2 months after the initial program is completed.
Maximum Duration	4 months for full time programs and up to 6 months for part-time programs. Periodic review and monitoring thereafter for 1 year, additional follow-up based upon the documented maintenance of functional gains.

14. ORTHOTICS/PROSTHETICS/EQUIPMENT: Devices and adaptive equipment may be necessary in order to reduce impairment and disability, to facilitate medical recovery, to avoid re-aggravation of the injury, and to maintain maximum medical improvement. Indications would be to provide relief of the industrial injury, prevent further injury, and control neurological and orthopedic injuries for reduced stress during functional activities. In addition, they may be used to modify tasks through instruction in the use of a device or physical modification of a device. Equipment needs may need to be reassessed periodically. Refer to Section G.17, Return-to-work, for more detailed information.

Equipment may include high and low technology assistive devices, computer interface or seating, crutch or walker training, and self-care aids. It should improve safety and reduce risk of re-injury. Standard equipment to alleviate the effects of the injury on the performance of activities of daily living may vary from simple to complex adaptive devices to enhance independence and safety. Certain equipment related to cognitive impairments may also be required.

Ergonomic modifications may be necessary to facilitate medical recovery, to avoid re-aggravation of the injury, and to maintain maximum medical improvement. Ergonomic evaluations with subsequent recommendations may assist with the patient's return-to-work. (Refer to Section F.6.c, Jobsite Evaluation and Alterations, for further information.)

For chronic pain disorders, equipment such as foot orthoses may be helpful. The injured worker should be educated as to the potential harm from using a lumbar support for a period of time greater than which it is prescribed. Harmful effects include de-conditioning of the trunk musculature, skin irritation, and general discomfort. Use of cervical collars is ***not recommended*** for chronic cervical myofascial pain. Special cervical orthosis and/or equipment may have a role in the rehabilitation of a cervical injury such as those injuries to a cervical nerve root resulting in upper extremity weakness, a spinal cord injury with some degree of paraparesis or tetraparesis, or post spinal fusion surgery. Use of such devices would be in a structured rehabilitation setting as part of a comprehensive rehabilitation program.

Fabrication/modification of orthotics, including splints, would be used when there is need to normalize weight-bearing, facilitate better motion response, stabilize a joint with insufficient muscle or proprioceptive/reflex competencies, to protect subacute conditions as needed during movement, and correct biomechanical problems. Orthotic/prosthetic training is the skilled instruction (preferably by qualified providers) in the proper use of orthotic devices and/or prosthetic limbs.

For information regarding specific types of orthotics/prosthetics/equipment, refer to individual medical treatment guideline.

15. PERSONALITY/PSYCHOLOGICAL/PSYCHOSOCIAL INTERVENTION

a. Introduction

Psychosocial treatment is a well-established therapeutic and diagnostic intervention with selected use in acute pain populations and more widespread use in sub-acute and chronic pain populations. Psychosocial treatment is recommended as an important component in the total management of a patient with chronic pain and should be implemented as soon as the problem is identified.

Studies have noted that there is not a direct connection between impairment and disability nor is there a direct connection been lumbar imaging and pain. It

appears that the lack of connections is likely accounted for by differences among individuals in level of depression, coping strategies, or other psychological distress.

There is some evidence that in the setting of chronic low back pain when disc pathology is present, a high degree of anxiety or depressive symptomatology is associated with relatively less pain relief in spite of higher opioid dosage than when these symptoms are absent. Therefore, psychological issues should always be screened for and treated in chronic pain patients.

Psychological treatments for pain can be conceptualized as having a neuropsychological basis. These treatments for pain have been shown to decrease physiological reactivity to stress, alter patterns of brain activation as demonstrated by functional MRI (fMRI), alter the volume of grey matter and other structures in the brain, and alter blood flow patterns in the brain. The most researched psychological treatment is Cognitive Behavioral Therapy (CBT) which is summarized in this section.

The screening or diagnostic workup should clarify and distinguish between pre-existing, aggravated, and/or purely causative psychological conditions. Therapeutic and diagnostic modalities include, but are not limited to, individual counseling and group therapy. Treatment can occur within an individualized model, a multi-disciplinary model, or a structured pain management program.

A psychologist with a PhD, PsyD, or EdD credentials or a psychiatric MD/DO may perform psychosocial treatments. The following professionals may also perform treatment in consultation with a psychologist with a PhD, PsyD, or EdD or psychiatric MD/DO: other licensed mental health providers, licensed health care providers with training in CBT, or providers certified as CBT therapists who have experience in treating chronic pain disorders in injured workers.

If a diagnosis consistent with the standards of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM) or most current ICD has been determined, the patient should be evaluated for the potential need for psychiatric medications. Use of any medication to treat a diagnosed condition may be ordered by an authorized treating physician or by the consulting psychiatrist. Visits for management of psychiatric medications are medical in nature and are not a component of psychosocial treatment. Therefore, separate visits for medication management may be necessary, depending on the patient and medications selected.

Psychosocial interventions include psychotherapeutic treatments for behavioral health conditions, as well as behavioral medicine treatments. These interventions may similarly be beneficial for patients without psychiatric conditions but who may need to make major life changes in order to cope with pain or adjust to disability. Examples of these treatments include Cognitive Behavioral Therapy (CBT), relaxation training, mindfulness training, and sleep hygiene psychoeducation.

CBT refers to a group of psychological therapies that are sometimes referred to by more specific names such as Rational Emotive Behavior Therapy, Rational Behavior Therapy, Rational Living Therapy, Cognitive Therapy, and Dialectic Behavior Therapy. Variations of CBT methods can be used to treat a variety of conditions, including chronic pain, depression, anxiety, phobias, and post-traumatic stress disorder (PTSD). For patients with multiple diagnoses, more

than one type of CBT might be needed. The CBT used in research studies is often “manualized CBT,” meaning that the treatment follows a specific protocol in a manual. In clinical settings, CBT may involve the use of standardized materials, but it is also commonly adapted by a psychologist or psychiatrist to the patient’s unique circumstances. If the CBT is being performed by a non-mental health professional, a manual approach would be strongly recommended.

CBT must be distinguished from neuropsychological therapies used to teach compensatory strategies to brain injured patients, which are also called “cognitive therapy.” Many other clinical providers also provide a spectrum of cognitive interventions including: motivational interviewing, pain neuroscience education, and other interventions aimed at patient education and change in behavior. Refer to patient education in Section G.18, Therapy-Active, for details.

It should be noted that most clinical trials on CBT exclude subjects who have significant psychiatric diagnoses. Consequently, the selection of patients for CBT should include the following considerations. CBT is instructive and structured, using an educational model with homework to teach inductive rational thinking. Because of this educational model, a certain level of cognitive ability and literacy is assumed for most CBT protocols. Patients who lack the cognitive and educational abilities required by a CBT protocol are unlikely to be successful. Further, given the highly structured nature of CBT, it is more effective when a patient’s circumstances are relatively stable. For example, if a patient is about to be evicted, is actively suicidal, or is coming to sessions intoxicated, these matters will generally preempt CBT treatment for pain and require other types of psychotherapeutic response. Conversely, literate patients whose circumstances are relatively stable, but who catastrophize or cope poorly with pain or disability, are often good candidates for CBT for pain. Similarly, literate patients whose circumstances are relatively stable, but who exhibit unfounded medical phobias, are often good candidates for CBT for anxiety.

CBT is often combined with active therapy in an interdisciplinary program, whether formal or informal. It must be coordinated with a psychologist or psychiatrist. CBT can be done in a small group or individually, and the usual number of treatments varies between 8 and 16 sessions.

Before CBT or other psychological treatments are performed, the patient must have a full psychological evaluation. The CBT program must be done under the supervision of a psychologist with a PhD, PsyD, or EdD or a psychiatric MD/DO.

Psychological disorders associated with distress and dysfunction are common in chronic pain. One study demonstrated that the majority of patients who had failed other therapy and participated in an active therapy program also suffered from major depression. However, in a program that included CBT and other psychological counseling, the success rate for return to work was similar for those with and without an ICD diagnosis. This study further strengthens the argument for having some psychological intervention included in all chronic pain treatment plans.

b. Hypnosis

i. The term hypnosis can encompass a number of therapy types including relaxation, imagery, focused attention, interpersonal processing, and suggestion. Hypnosis has been used in depression and for distress related to medical procedures.

ii. A number of studies support the use of hypnosis for chronic pain management. At least one pilot study suggested that hypnotic cognitive therapy assists recovery in chronic pain. Other imaging studies support the concept that hypnosis can actively affect cortical areas associated with pain. Thus, this therapy may be used at the discretion of the psychologist. A more recent meta-analysis was completed which purported to show evidence for hypnosis. However, the heterogeneity of the studies included prevents this study from meeting our standards for evidence.

For all psychological/psychiatric interventions, an assessment and treatment plan must be provided to the treating physician prior to initiating treatment. The treatment plan must include specific, measurable, achievable, and realistic behavioral goals, with specific interventions and time frames to achieve those goals. The report should also address pertinent issues such as pre-existing, exacerbated or aggravated, and/or causative issues, as well as a realistic functional prognosis.

Evidence Statements Regarding Psychosocial Intervention		
Good Evidence	Evidence Statement	Design
	Cognitive behavioral therapy, but not behavioral therapy such as biofeedback, shows weak to small effects in reducing pain and small effects on improving disability, mood, and catastrophizing in the treatment of patients with chronic pain.	Meta-analysis of randomized clinical trials
	CBT may reduce pain and disability in patients with chronic pain, but the magnitude of the benefit is uncertain.	Meta-analysis of randomized clinical trials
	There are no clinically significant differences for pain and disability between physical versus behavioral/psychologically informed and combined interventions for nonspecific chronic spinal pain.	Systematic review and meta-analyses of randomized clinical trials
	Psychological interventions, especially CBT, are superior to no psychological intervention for chronic low back pain.	Meta-analysis of controlled clinical trials
	Self-regulatory interventions, such as biofeedback and relaxation training, may be equally effective.	Meta-analysis of controlled clinical trials
	Six group therapy sessions lasting 90 minutes each focused on CBT skills improved function and alleviated pain in uncomplicated sub-acute and chronic low back pain patients.	Group randomized clinical trial
	In the setting of chronic low back pain, 8 weeks of 2 hour weekly group sessions of either mindfulness based stress reduction meditation program with yoga or CBT results in small, significant improvements in physical function and reduction in pain compared to usual care at 26 weeks with	Single-blind randomized clinical trial

Evidence Statements Regarding Psychosocial Intervention		
Good Evidence, continued	no significant differences in outcomes between the 2 treatments.	
	A stepped care program including CBT is more effective than usual care in veterans with chronic musculoskeletal pain. The stepped care program consists of (1) 12 weeks during which nurse case managers take a medication use history and adjust medication dosage and scheduling through telephone contacts with patients every other week, followed by (2) a 12 week step in which CBT is administered by 45 minute individual sessions by telephone every other week. Disability and pain interference with daily activity with stepped care were both superior to usual care in which patients were given printed handouts and were followed for all care by their primary treating physicians.	Randomized clinical trial
	In the short-term, operant therapy focused on increasing function shows small effects in reducing pain compared to waiting list controls. Most studies demonstrated a positive effect. However, it was usually below the minimal clinical significant standard. There is good evidence that no specific type of behavioral therapy is more effective than another in the treatment of patients with chronic pain.	Meta-analyses of randomized clinical trials
Some Evidence	Evidence Statement	Design
	A 6-week program of cognitive-behavioral group intervention with or without physical therapy can reduce sick leave, health care utilization, and the risk for developing long-term sick leave disability (≥ 15 days) in workers with nonspecific low back or neck pain compared with simple verbal instruction by a physician.	Randomized clinical trial
	Intensive exercise coupled with CBT is as effective as posterolateral fusion for chronic un-operated low back pain.	Randomized clinical trial
	In the setting of chronic pain, both an 8-week mindfulness based stress reduction meditation program with yoga and an 8-week multidisciplinary pain intervention program with exercise resulted in small, significant reductions in pain intensity and pain-related distress post-intervention. However, there were no significant differences in outcomes between the 2 programs.	Single-blind randomized clinical trial
	CBT provided in 7 2-hour small group sessions can reduce the severity of insomnia in chronic pain patients.	Randomized clinical trial
	In the setting of chronic low back pain for older adults (mean age 74.5 years), an 8-week mind-body program that taught mindfulness meditation methods resulted in	Single-blind randomized clinical trial

Evidence Statements Regarding Psychosocial Intervention		
Some Evidence, continued	significant, but clinically small improvements in (1) physical function in the short-term (8 weeks) and (2) current and most severe pain in the past week in the long term (6 months) compared to a healthy aging education program.	

Additional Studies Not Resulting in Evidence Statements
A study using functional magnetic imaging compared mindful practitioners with controls and found that mindfulness did not decrease pain but did decrease pain unpleasantness by 22% and anxiety by 23%. Further studies would be needed to establish this as a recommendation.
Another recent Cochrane review found only low quality studies of cognitive behavioral therapy for chronic neck pain which suggested some benefit but with low clinical significance.

Summary of Evidence Regarding Psychosocial Intervention
Based on the multiple studies with good evidence listed above, there is strong evidence supporting CBT, particularly in conjunction with other active therapy, to decrease pain and disability for chronic pain patients. However, the magnitude of the change is not likely to be large.

Time Frames for Cognitive Behavioral Therapy (CBT) or Similar Treatment	
Time to Produce Effect	12-16 hours of treatment (1-hour individual sessions or alternately 1- to 2-hour group sessions).
Frequency	1 to 2 times weekly for the first 2 weeks, decreasing to 1 time per week thereafter.
Maximum Duration	24 1-hour sessions.
Note	Before CBT or other psychological/psychiatric interventions are done, the patient must have a full psychological evaluation. The CBT program must be done under the supervision of a psychologist with a PhD, PsyD, or EdD, or a Psychiatric MD/DO.

Time Frames for Other Psychological/Psychiatric Interventions	
Time to Produce Effect	6 to 8 weeks.
Frequency	1 to 2 times weekly for the first 2 to 4 weeks (excluding hospitalization, if required), decreasing to 1 time per week for the second month. Thereafter, 2 to 4 times monthly with the exception of exacerbations, which may require

Time Frames for Other Psychological/Psychiatric Interventions	
	increased frequency of visits. Not to include visits for medication management.
Optimum Duration	2 to 6 months.
Maximum Duration	Commonly 6 months for most cases. Extensions under conditions as noted below. (Not to include visits for medication management). For select patients (e.g., ongoing medical procedures or complications, medication dependence, diagnostic uncertainty, delays in care due to patient or systemic variables), less intensive but longer supervised psychological/psychiatric treatment may be required. If counseling beyond 6 months is indicated, the nature of the psychosocial risks being managed or functional progress must be documented. Progress notes for each appointment should include goal setting, with specific, measurable, achievable, and realistic goals, and a timetable with an expected end point. In complex cases, goal setting may include maintaining psychological equilibrium while undergoing invasive procedures.

16. **RESTRICTION OF ACTIVITIES:** Continuation of normal daily activities is the recommendation for most patients since immobility will negatively affect rehabilitation. Prolonged immobility results in a wide range of deleterious effects, such as a reduction in aerobic capacity and conditioning, loss of muscle strength and flexibility, increased segmental stiffness, promotion of bone demineralization, impaired disc nutrition, and the facilitation of the illness role.

Some level of immobility may occasionally be appropriate which could include splinting/casting or as part of a structured schedule that includes energy conservation or intentional rest breaks between activities. While these interventions may occasionally have been ordered in the acute phase, the provider should be aware of their impact on the patient's ability to adequately comply with and successfully complete rehabilitation. Activity should be increased based on the improvement of core strengthening.

Patients should be educated regarding the detrimental effects of immobility versus the efficacious use of limited rest periods. Adequate rest allows the patient to comply with active treatment and benefit from the rehabilitation program. In addition, complete work cessation should be avoided, if possible, since it often further aggravates the pain presentation and promotes disability. Modified return to work is almost always more efficacious and rarely contraindicated in the vast majority of injured workers.

17. **RETURN-TO-WORK**: Return-to-work and/or work-related activities whenever possible is one of the major components in treatment and rehabilitation. Return to work is a subject that should be addressed by each workers' compensation provider at the first meeting with the injured employee and updated at each additional visit. A return-to-work format should be part of a company's health plan, knowing that return to work can decrease anxiety, reduce the possibility of depression, and reconnect the worker with society.

A prolonged time off work is likely to lead to chronic disability. In complex cases, experienced nurse case managers may be required to assist in return to work. Other services, including psychological evaluation and/or treatment, jobsite analysis, and vocational assistance, may be employed.

Two counseling sessions with an occupational physician, and work site visit if necessary, may be helpful for workers who are concerned about returning to work.

At least one study suggests that health status is worse for those patients who do not return to work than those who do. Self-employment and injury severity predict return to work. Difficulty with pain control, ADLs, and anxiety and depression were common among patients who did not return to work.

The following should be considered when attempting to return an injured worker with chronic pain to work.

a. **Job History Interview**: An authorized treating physician should perform a job history interview at the time of the initial evaluation and before any plan of treatment is established. Documentation should include the worker's job demands, stressors, duties of current job, and duties of job at the time of the initial injury. In addition, cognitive and social issues should be identified, and treatment of these issues should be incorporated into the plan of care.

b. **Coordination of Care**: Management of the case is a significant part of return to work and may be the responsibility of an authorized treating physician, occupational health nurse, risk manager, or others. Case management is a method of communication between the primary provider, referral providers including occupational and physical therapists, insurer, employer, and employee. Because case management may be coordinated by a variety of professionals, the case manager should be identified in the medical record.

c. **Communication**: This is essential between the patient, authorized treating physician, employer, and insurer. Employers should be contacted to verify employment status, job duties and demands, and policies regarding injured workers. In addition, the availability and duration of temporary and permanent restrictions, as well as other placement options, should be discussed and documented. All communications in the absence of the patient are required to be documented and made available to the patient.

d. **Establishment of Return-To-Work Status**: Return to work for persons with chronic pain should be considered therapeutic, assuming that work is not likely to aggravate the basic problem or increase the discomfort. In some cases of chronic pain, the worker may not be currently working or even employed. The goal of return to work would be to return the worker to any level of employment with the current employer or to return him/her to any type of new employment. Temporary restrictions may be needed while recommended ergonomic or adaptive equipment is obtained; employers should obtain recommended equipment in a timely manner.

e. **Establishment of Activity Level Restrictions**: A formal job description for the injured worker is necessary to identify physical demands at work and assist in the creation of modified duty. A jobsite evaluation may be utilized to identify applicable tasks such as pushing, pulling, lifting, reaching, grasping, pinching, sitting, standing, posture, and ambulatory distance and terrain. If applicable, a job site evaluation may also be utilized to assess temperature, air flow, noise, and the number of hours worked per day in a specific environment. Also refer to Section F.6.c, Jobsite Evaluation and Alterations. Due to the lack of predictability regarding exacerbation of symptoms affecting function, an extended, occupationally focused functional capacity evaluation may be necessary to determine the patient's tolerance for job type tasks over a continued period of time. Job requirements should be reviewed for the entire 8 hours or more of the working day. When prescribing the FCE, the physician must assess the probability of return to work against the potential for exacerbation of the work

related condition. Work restrictions assigned by an authorized treating physician may be temporary or permanent. The case manager should continue to seek out modified work until restrictions become less cumbersome or as the worker's condition improves or deteriorates. Ergonomic changes recommended by the worksite evaluation should be put in place.

Between 1 and 3 days after the evaluation, there should be a follow-up evaluation by the treating therapist and/or an authorized treating physician to assess the patient's status. Patients should be encouraged to report their status post FCE.

f. **Rehabilitation and Return-To-Work**: As part of rehabilitation, every attempt should be made to simulate work activities so that an authorized treating physician may promote adequate job performance. The use of ergonomic or adaptive equipment, therapeutic breaks, and interventional modalities at work may be necessary to maintain employment.

g. **Vocational Assistance**: Formal vocational rehabilitation is a generally accepted intervention and can assist disabled persons to return to viable employment. Assisting patients in identifying vocational goals will facilitate medical recovery and aid in the achievement of MMI by (1) increasing motivation towards treatment and (2) alleviating the patient's emotional distress. Physically limited patients will benefit most if vocational assistance is provided during the interdisciplinary rehabilitation phase of treatment. To assess the patient's vocational capacity, a vocational assessment utilizing the information from occupational and physical therapy assessments may be performed. This vocational assessment may identify rehabilitation program goals and optimize both patient motivation and utilization of rehabilitation resources. This may be extremely helpful in decreasing the patient's fear regarding an inability to earn a living, which can add to his/her anxiety and depression.

Recommendations to Employers and Employees of Small Businesses: Employees of small businesses who are diagnosed with chronic pain may not be able to perform any jobs for which openings exist. Temporary employees may fill those slots while the employee functionally improves. Some small businesses hire other workers, and if the injured employee returns to the job, the supervisor/owner may have an extra employee. Case managers may assist with resolution of these problems and with finding modified job tasks or jobs with reduced hours, etc., depending on company philosophy and employee needs.

Recommendations to Employers and Employees of Mid-sized and Large Businesses: Employers are encouraged by the Division to identify modified work within the company that may be available to injured workers with chronic pain who are returning to work with temporary or permanent restrictions. To assist with temporary or permanent placement of the injured worker, it is suggested that a program be implemented that allows the case manager to access descriptions of all jobs within the organization.

18. THERAPY—ACTIVE:

The following active therapies are widely used and accepted methods of care for a variety of work-related injuries. Active therapy is based on the philosophy that therapeutic exercise and/or activity can alleviate discomfort and are beneficial for restoring flexibility, strength, endurance, function, and range-of-motion. All active therapy plans should be made directly with patients in the interest of achieving long-term individualized goals.

Active therapy requires an internal effort by the individual to complete a specific exercise or task. This form of therapy requires supervision from a therapist or medical provider such as verbal, visual, and/or tactile instruction(s). Active therapy is intended to promote independence and self-reliance in managing the physical pain as well as to improve functional status in regard to the specific diagnosis, general conditioning, and well-being. At times, a provider may help stabilize the patient or guide the movement pattern but the energy required to complete the task is predominately executed by the patient. Therapy in this section should not be merely a repeat of previous therapy but should focus specifically on the individual goals and abilities of the patient with chronic pain.

The goal of active therapy is to teach the patient exercises that they can perform regularly on their own. Patients should be instructed to continue active therapies at home as an extension of the treatment process in order to maintain improvement levels. Follow-up visits to reinforce and monitor progress and proper technique are recommended. Home exercise can include exercise with or without mechanical assistance or resistance and functional activities with assistive devices.

On occasion, specific diagnoses and post-surgical conditions may warrant durations of treatment beyond those listed as "maximum." Factors such as exacerbation of symptoms, re-injury, interrupted continuity of care, need for post-operative therapy, and co-morbidities may also extend durations of care. Specific goals with objectively measured functional improvement during treatment must be cited to justify extended durations of care. It is recommended that, if no functional gain is observed after the number of treatments under "time to produce effect" has been completed, then alternative treatment interventions, further diagnostic studies, or further consultations should be pursued.

Pain Neuroscience Education (PNE): an educational strategy used by physical therapists and other practitioners that focuses on teaching people in pain more about the neurobiological and neurophysiological processes involved in their pain experience, versus a focus on anatomical and pathoanatomical education. PNE helps patients develop an understanding of various pain processes including central sensitization, peripheral sensitization, inhibition, facilitation, the brain's processing of threat appraisal, and various biological systems involved in a pain experience. This reconceptualization of pain via PNE is then combined with various behavioral strategies including aerobic exercise, pacing, graded exposure, graded activity, and goal setting. PNE is likely to positively influence pain ratings, disability, fear-avoidance behaviors, pain catastrophization, and limitations in movement, pain knowledge, and healthcare utilization. PNE is recommended with active therapy for chronic pain patients.

Evidence Statements Regarding Patient Education		
Good Evidence	Evidence Statement	Design
	Pain neuroscience education combined with a physical intervention is more effective in reducing pain, improving disability, and reducing healthcare utilization compared with either usual care, exercise, other education or another control group for the treatment of patients with chronic musculoskeletal pain.	Narrative systematic review of randomized clinical trials

Evidence Statements Regarding Patient Education		
Some Evidence	Evidence Statement	Design
	A cognitive intervention consisting of 2 consultations lasting 1 hour each with a physical medicine specialist and a physical therapist covering coping strategies and patient education on motion produces short-term reductions in sub-acute back disability.	Randomized clinical trial
	In the setting of non-specific chronic low back pain, patient-centered cognitive functional therapy from physical therapists produced superior outcomes for pain reduction and functional improvement compared with traditional manual therapy and exercise at post-intervention and at 12-month follow-up.	Single-blind randomized clinical trial

The following active therapies are listed in alphabetical order:

a. **Activities of Daily Living (ADL)**: instruction, active-assisted training, and/or adaptation of activities or equipment to improve a person's capacity in normal daily activities such as self-care, work re-integration training, homemaking, and driving.

Time Frames for Activities of Daily Living	
Time to Produce Effect	4 to 5 treatments.
Frequency	1 to 5 times per week.
Optimum Duration	4 to 6 weeks.
Maximum Duration	6 weeks.

b. **Aquatic Therapy**: is a well-accepted treatment which consists of the therapeutic use of aquatic immersion for therapeutic exercise to promote strengthening, core stabilization, endurance, range-of-motion, flexibility, body mechanics, and pain management. Aquatic therapy is the implementation of active therapeutic procedures (individual or group) in a swimming or therapeutic pool heated to 88 to 92 degrees. The pool should be large enough to allow full extremity range-of-motion and fully erect posture. Aquatic vests, belts, and other devices can be used to provide stability, balance, buoyancy, and resistance. The water provides a buoyancy force that lessens the amount of force of gravity applied to the body. The decreased gravity effect allows the patient to have a mechanical advantage and more likely have a successful trial of therapeutic exercise. In addition, the compression of the water against the affected extremity and ability to move easier with decreased gravity allow for resulting muscular compression against vessels improving lymphatic drainage resulting in decreased edema. Aquatic Therapy may also provide an additional stimulus to assist with desensitization.

There is good evidence that aquatic exercise and land-based exercise show comparable outcomes for function and mobility among people with symptomatic osteoarthritis of the knee or hip.

Indications: The therapy may be indicated for individuals who:

- Cannot tolerate active land-based or full-weight bearing therapeutic procedures;
- Require increased support in the presence of proprioceptive deficit;
- Are at risk of compression fracture due to decreased bone density;
- Have symptoms that are exacerbated in a dry environment;
- Have a higher probability of meeting active therapeutic goals than in a dry environment.

Evidence Statements Regarding Aquatic Therapy		
Good Evidence	Evidence Statement	Design
	Aquatic exercise and land-based exercise show comparable outcomes for function and mobility among people with symptomatic osteoarthritis of the knee or hip.	Systematic Review and meta-analysis of randomized clinical trials

Time Frames for Aquatic Therapy	
Time to Produce Effect	4 to 5 treatments.
Frequency	3 to 5 times per week.
Optimum Duration	4 to 6 weeks.
Maximum Duration	6 weeks.

After the supervised aquatics program has been established, either a self-directed aquatic program or a transition to a self-directed dry environment exercise program is recommended.

c. **Functional Activities**: are well-established interventions which involve the use of therapeutic activity to enhance mobility, body mechanics, employability, coordination, and sensory motor integration.

Time Frames for Functional Activities	
Time to Produce Effect	4 to 5 treatments.

Time Frames for Functional Activities	
Frequency	1 to 5 times per week.
Optimum Duration	4 to 6 weeks.
Maximum Duration	8 weeks.

d. **Functional Electrical Stimulation**: is an accepted treatment in which the application of electrical current to elicit involuntary or assisted contractions of atrophied and/or impaired muscles. Indications include muscle atrophy, weakness, and sluggish muscle contraction secondary to pain, injury, neuromuscular dysfunction, peripheral nerve lesion, or radicular symptoms. This modality may be prescribed for use at home when patients have demonstrated knowledge of how to self-administer and are in an independent exercise program.

Time Frames for Functional Electrical Stimulation	
Time to Produce Effect	2 to 6 treatments.
Frequency	3 times per week.
Optimum Duration	8 weeks.
Maximum Duration	8 weeks. If beneficial, provide with home unit.

e. **Neuromuscular Re-education**: is a generally accepted treatment. It is the skilled application of exercise with manual, mechanical, or electrical facilitation to enhance strength; movement patterns, neuromuscular response, proprioception, kinesthetic sense, coordination; education of movement, balance, and posture.

There is some evidence that there is a modest benefit from adding a back school to other treatments such as NSAIDs, massage, transcutaneous electrical nerve stimulation (TENS), and other physical therapy modalities. However, a recent adequate quality systematic review found no evidence for the effectiveness of back schools for treating chronic low back pain.

Indications include the need to promote neuromuscular responses through carefully timed proprioceptive stimuli, to elicit and improve motor activity in patterns similar to normal neurologically developed sequences, and to improve neuromotor response with independent control.

Evidence Statements Regarding Neuromuscular Re-education		
Some Evidence	Evidence Statement	Design
	There is a modest benefit from adding a back school to other treatments such as NSAIDs, massage,	Systematic review of randomized clinical trials

Evidence Statements Regarding Neuromuscular Re-education		
	transcutaneous electrical nerve stimulation (TENS), and other physical therapy modalities.	

Time Frames for Neuromuscular Re-education	
Time to Produce Effect	2 to 6 treatments.
Frequency	1 to 3 times per week.
Optimum Duration	4 to 8 weeks.
Maximum Duration	8 weeks.

f. **Spinal Stabilization**: is a generally well-accepted treatment. The goal of this therapeutic program is to strengthen the spine in its neutral and anatomic position. The stabilization is dynamic which allows whole body movements while maintaining a stabilized spine. It is the ability to move and function normally through postures and activities without creating undue vertebral stress.

Time Frames for Spinal Stabilization	
Time to Produce Effect	4 to 8 treatments.
Frequency	1 to 3 times per week.
Optimum Duration	4 to 8 weeks.
Maximum Duration	8 weeks.

g. **Therapeutic Exercise**: with or without mechanical assistance or resistance, may include isoinertial, isotonic, isometric, and isokinetic types of exercises. May also include alternative/complementary exercise movement therapy (with oversight of a physician or appropriate healthcare professional).

Indications include the need for cardiovascular fitness, reduced edema, improved muscle strength; improved connective tissue strength and integrity, increased bone density, promotion of circulation to enhance soft tissue healing, improvement of muscle recruitment, improved proprioception, and coordination, and increased range-of-motion are used to promote normal movement patterns.

Yoga may be an option for motivated patients with appropriate diagnoses.

Therapeutic exercise programs should be tissue specific to the injury and address general functional deficits as identified in the diagnosis and clinical assessment. Patients should be instructed in and receive a home exercise program that is progressed as their functional status improves. Upon discharge, the patient would be independent in the performance of the home exercise program and would have been educated in the importance of continuing such a

program. Educational goals would be to maintain or further improve function and to minimize the risk for aggravation of symptoms in the future.

Available evidence supporting therapy mainly exists in the chronic low back literature.

Evidence Statements Regarding Therapeutic Exercise		
Strong Evidence	Evidence Statement	Design
	In the short, intermediate, and long-term, motor control exercises that emphasize the transversus abdominis and multifidi are at least as effective as other forms of exercise and manual therapy. They are possibly more effective than other minimal interventions in reducing pain and improving disability in patients for the treatment of chronic non-specific low back pain.	Meta-analyses of randomized clinical trials
	Land-based exercise shows a small clinically important benefit for the relief of pain and improvement in function at the completion of a supervised exercise program and these benefits are sustained for at least another 3 to 6 months among people with symptomatic osteoarthritis of the hip.	Meta-analysis of randomized clinical trials
Good Evidence	Evidence Statement	Design
	A 12-week course of treatment in the McKenzie method is at most modestly more effective than spinal manipulation of similar duration in reducing disability in patients with persistent (more than 6 weeks duration, mean = 95 weeks) nonspecific low back pain, although a clinically relevant difference was not apparent. The McKenzie method should not be utilized if there is severe nerve root involvement with motor, sensory, or reflex abnormality.	Randomized clinical trial
	Pilates is more effective in reducing pain and improving disability compared with a minimal intervention at intermediate term follow-up, but Pilates is equally as effective as other forms of exercise in improving disability at short- or intermediate-term follow-up for the treatment of patients with chronic non-specific low back pain.	Meta-analyses of randomized clinical trials
	Exercise alone or as part of a multi-disciplinary program results in decreased disability for workers with non-acute low back pain.	Meta-analysis of randomized clinical trials
	Supervised exercise therapy with added manual mobilization shows moderate, clinically important reductions in pain compared to non-exercise controls in people with osteoarthritis of the knee.	Systematic review and meta-analysis of randomized clinical trials

Evidence Statements Regarding Therapeutic Exercise		
Good Evidence, continued	Land-based exercise shows a moderate clinically important benefit for the relief of pain and improvement in function at the completion of a supervised exercise program and shows that somewhat smaller benefits are sustained for at least another 2 to 6 months among people with symptomatic osteoarthritis of the knee.	Meta-analysis of randomized clinical trials
Some Evidence	Evidence Statement	Design
	An unsupervised 12-week, periodized musculoskeletal rehabilitation (PMR) program of weight training conducted 2, 3, or 4 days a week is effective at improving musculoskeletal strength and quality of life and at reducing pain and disability in untrained persons with chronic low back pain. The 4 days a week training volume is most effective. The volume (total number of reps) of PMR exercise prescribed is important.	Randomized clinical trial
	Trunk balance exercises combined with flexibility exercises are more effective than a combination of strength and flexibility exercises in reducing disability and improving physical function in patients with chronic low back pain.	Single-blind randomized clinical trial
	An exercise program which includes resistance training of the cervical and scapulothoracic muscles, combined with stretching of the same muscles, is likely to be beneficial for mechanical neck pain. Cervicolscapular endurance exercises are beneficial for chronic cervicogenic headache. General fitness exercises and upper extremity exercises are unlikely by themselves to be beneficial for mechanical neck pain and are therefore ***not recommended***.	Meta-analysis of randomized clinical trials
	There is no significant difference in the effectiveness of an 12-week, 20 session comprehensive supervised exercise program and an unsupervised simple exercise program with advice for improvement in average pain intensity in the preceding week in people with a mild chronic whiplash-associated disorder even though both interventions resulted in small reductions of pain over 12 months.	Assessor single-blind randomized clinical trial
	A 4-month intervention for chronic neck pain patients containing pain education, specific exercises and graded activity training shows a significant effect, although clinically small, on improved physical and mental health related quality of life compared with controls receiving pain education alone. Good adherence increased the effect in	Assessor single-blind randomized controlled superiority multicenter clinical trial

Evidence Statements Regarding Therapeutic Exercise		
	favor of the exercise group.	
Some Evidence, continued	12 weeks of supervised high-dose exercise, spinal manipulative therapy, or low-dose home exercise with advice are all equally effective for reducing pain in the short- and long-term (1 year) in those who have chronic low back pain.	Assessor single-blinded randomized controlled trial
	Intensive exercise coupled with cognitive behavioral therapy is as effective for chronic un-operated low back pain as posterolateral fusion.	Randomized clinical trial
	In the setting of non-specific chronic low back pain, patient-centered cognitive functional therapy from physical therapists produced superior outcomes for pain reduction and functional improvement compared with traditional manual therapy and exercise at post-intervention and at 12-month follow-up.	Single-blind randomized clinical trial
	There is no significant difference in the effectiveness of an 8-week supervised walking program, an evidence-based group exercise class, and usual physiotherapy for improvement in functional disability after 6 months for people with chronic low back pain even though all 3 interventions resulted in small, significant improvements in physical function, reduction of pain, quality of life, and fear avoidance over time.	Assessor single-blind randomized clinical trial
	Twelve weeks of behavioral graded activity does not result in better long-term effectiveness in reducing pain or improving function at 5 years than usual exercise therapy in patients with osteoarthritis (OA) of the hip or knee.	Randomized clinical trial

Evidence Statements Regarding Yoga		
Strong Evidence	Evidence Statement	Design
	Yoga has small to moderate advantages over providing only a booklet in reducing low back pain and back-specific disability, but there is no evidence that yoga is superior to stretching and strengthening classes led by a licensed physical therapist.	Meta-analysis of randomized clinical trials
Good Evidence	Evidence Statement	Design
	In the setting of chronic low back pain, 8 weeks of 2 hour weekly group sessions of either mindfulness based stress reduction meditation program with yoga or CBT results in small, significant improvements in physical function and reduction in pain compared to usual care at 26 weeks with	Single-blind randomized clinical trial

Evidence Statements Regarding Yoga		
	no significant differences in outcomes between the 2 treatments.	
Some Evidence	Evidence Statement	Design
	Iyengar yoga, which avoids back bending, results in improved function and decreased chronic mechanical low back pain for up to 6 months. Instruction occurred 2 times per week for 24 weeks and was coupled with home exercise. One quarter of the participants dropped out.	Randomized clinical trial
	In the setting of chronic pain, both an 8-week mindfulness based stress reduction meditation program with yoga and an 8-week multidisciplinary pain intervention program with exercise resulted in small, significant reductions in pain intensity and pain-related distress post intervention but with no significant differences in outcomes between the 2 programs.	Single-blind randomized clinical trial

Time Frames for Therapeutic Exercise	
Time to Produce Effect	2 to 6 treatments.
Frequency	2 to 5 times per week.
Optimum Duration	4 to 8 weeks and concurrent with an active daily home exercise program.
Maximum Duration	8 to 12 weeks of therapist oversight. Home exercise should continue indefinitely. Additional sessions may be warranted during periods of exacerbation of symptoms

Yoga may be an option for motivated patients.

Time Frames for Yoga	
Time to Produce Effect	8 sessions
Maximum Duration	48 sessions are the maximum expected duration

h. **Work Conditioning**: This program is a work-related, outcome-focused, individualized treatment program. Objectives of the program include, but are not limited to, improvement of cardiopulmonary and neuromusculoskeletal functions (strength, endurance, movement, flexibility, postural control, and motor control functions), patient education, and symptom relief. The goal is for patients to gain full- or optimal-function and return to work. The service may include the time-limited use of modalities, both active and passive, in conjunction with therapeutic exercise, functional activities, general conditioning body mechanics, and lifting techniques re-training.

This program is usually initiated once re-conditioning has been completed but may be offered at any time throughout the recovery phase. It should be initiated when imminent return of a patient to modified- or full-duty is not an option but the prognosis for returning the patient to work at completion of the program is at least fair to good.

Time Frames for Work Conditioning	
Time to Produce Effect	1 to 2 hours per day.
Frequency	2 to 5 visits per week.
Optimum Duration	2 to 4 weeks.
Maximum Duration	6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic and functional gains.

i. **Work Simulation**: is a program where an individual completes specific work-related tasks for a particular job and return to work. Use of this program is appropriate when modified duty can only be partially accommodated in the work place, when modified duty in the work place is unavailable, or when the patient requires more structured supervision. The need for work place simulation should be based upon the results of a functional capacity evaluation and/or jobsite analysis.

Time Frames for Work Simulation	
Time to Produce Effect	2 to 6 hours per day.
Frequency	2 to 5 visits per week.
Optimum Duration	2 to 4 weeks.
Maximum Duration	6 weeks. Participation in a program beyond 6 weeks must be documented with respect to need and the ability to facilitate positive symptomatic and functional gains.

19. THERAPY—PASSIVE:

Most of the following passive therapies and modalities are generally accepted methods of care for a variety of work-related injuries. Passive therapy includes those treatment modalities that do not require energy expenditure on the part of the patient. They are principally effective during the early phases of treatment and are directed at controlling symptoms such as pain, inflammation and swelling and to improve the rate of healing soft tissue injuries. They should be used adjunctively with active therapies such as postural stabilization and exercise programs to help control swelling, pain, and inflammation

during the active rehabilitation process. Please refer to Section B.5, General Guideline Principles, Active Interventions. Passive therapies may be used intermittently as a practitioner deems appropriate or regularly if there are specific goals with objectively measured functional improvements during treatment; or if there are episodes of acute pain superimposed upon a chronic pain problem.

On occasion, specific diagnoses and post-surgical conditions may warrant durations of treatment beyond those listed as "maximum." Factors such as exacerbation of symptoms, re-injury, interrupted continuity of care and co-morbidities may extend durations of care. Having specific goals with objectively measured functional improvement during treatment can support extended durations of care. It is recommended that if after 6 to 8 visits no treatment effect is observed, alternative treatment interventions, further diagnostic studies or further consultations should be pursued.

The following passive therapies are listed in alphabetical order:

a. **Electrical Stimulation (Unattended)**: low frequency transcutaneous muscle stimulator - electrical stimulation, once applied, requires minimal on-site supervision by the practitioner. Indications include pain, inflammation, muscle spasm, atrophy, decreased circulation, and the need for osteogenic stimulation. A home unit should be purchased if treatment is effective and frequent use is recommended.

Time Frames for Electrical Stimulation	
Time to Produce Effect	2 to 4 treatments.
Frequency	Varies, depending upon indication, between 2 to 3 times per day to 1 time per week. A home unit should be purchased if treatment is effective and frequent use is recommended.
Optimum and Maximum Duration	4 treatments for clinic use.

b. **Iontophoresis**: is an accepted treatment which consists of the transfer of medication into superficial tissue, including, but not limited to, steroidal anti-inflammatories and anesthetics, through the use of electrical stimulation. Indications include pain (lidocaine), inflammation (hydrocortisone, salicylate, dexamethasone sodium phosphate), edema (mecholyl, hyaluronidase, and salicylate), ischemia (magnesium, mecholyl, and iodine), muscle spasm (magnesium, calcium), calcific deposits (acetate), scars and keloids (chlorine, iodine, acetate).

Time Frames for Iontophoresis	
Time to Produce Effect	1 to 4 treatments.
Frequency	3 times per week with at least 48 hours between treatments.

Time Frames for Iontophoresis	
Optimum Duration	4 to 6 weeks.
Maximum Duration	6 weeks.

c. **Low Level Laser**: ***Not recommended*** as there is no proven benefit for this intervention due to lack of studies of sufficient quality. There is not enough research at this time to support this modality in the treatment of chronic pain. Results of low level laser have been mixed and often of poor quality.

d. **Manual Treatment including Manipulation:** is defined as osteopathic manipulative treatment, chiropractic manipulative treatment, manual therapy, manipulation, or mobilization. Manual treatments may be applied by osteopathic physicians (DOs), chiropractors (DCs), physical therapists (PTs), occupational therapists (OTs), or medical doctors (MDs). Some popular and useful techniques include but are not limited to: high velocity, low amplitude (HVLA); muscle energy (ME) or hold-relax; strain-counterstrain (SCS); a balanced ligamentous tension (BLT); and myofascial release (MFR). Under these different types of manipulation, many subsets of different techniques that can be described as a) direct - a forceful engagement of a restrictive/pathologic barrier, b) indirect - a gentle/non-forceful disengagement of a restrictive/pathologic barrier, c) the patient actively assists in the treatment, and d) the patient relaxing, allowing the practitioner to move and balance the body tissues. When the proper diagnosis is made and coupled with the appropriate technique, manipulation has no contraindications and can be applied to all tissues of the body, including muscles, tendons, ligaments, joints, fascia, and viscera. This may consist of a variety of techniques. Pre-treatment assessment should be performed as part of each manual treatment visit to ensure that the correct diagnosis and correct treatment is employed.

The decision to refer a patient for spinal manipulation rather than for other treatments should be made on the basis of patient preference and relative safety, not on an expectation of a greater treatment effect. It may be the first line of treatment, in combination with active therapy for some patients, and should strongly be considered for patients with positive provocative testing for SI joint dysfunction or facet dysfunction who are not recovering in the first few weeks. Manipulation may be indicated in patients who have not had an evaluation for manual medicine or who have not progressed adequately in an exercise program.

Contraindications to HVLA manipulation include joint instability, fractures, severe osteoporosis, infection, metastatic cancer, active inflammatory arthritis, aortic aneurysm, and signs of progressive neurologic deficits.

AHRQ supports use of spinal manipulation for chronic low back pain. In addition, based on multiple studies with some and good levels of evidence, there is good evidence supporting the use of manual therapy for treating chronic low back pain and chronic neck pain. There is also good evidence that supervised exercise therapy with added manual mobilization shows moderate, clinically important reductions in pain compared to non-exercise controls in people with osteoarthritis of the knee. There is not sufficient evidence to reliably determine whether manual muscle energy technique (MET) is likely to be effective in practice. See the

evidence listed below for more detail on individual studies and their comparison groups.

Evidence Statements Regarding Manual Treatment for Neck		
Good Evidence	Evidence Statement	Design
	Multiple sessions of thoracic manipulation was more effective in reducing short- and intermediate-term chronic neck pain and improving function and quality of life when compared with multiple sessions of an inactive control for the treatment of patients with chronic neck pain.	Meta-analyses of randomized clinical trials and quasi RCTs
Some Evidence	Evidence Statement	Design
	A three week program of twice weekly home neck exercises with manual physical therapy that includes joint mobilization, muscle energy, and stretching, reduces neck pain and disability compared with a minimal intervention for patients with chronic neck pain at 6 weeks follow-up. It did not persist at one year follow-up.	Randomized clinical trial
	Combination of exercise and spinal manipulation is more effective than manipulation alone in relieving chronic neck pain and that these advantages remain for more than 1 year after the end of treatment.	Randomized clinical trials
	Craniosacral therapy for chronic nonspecific neck pain, performed by a physical therapist trained in the technique, is superior to sham treatment in reducing neck pain intensity at 8 weeks and probably at 20 weeks.	Randomized clinical trial
	12 weeks of supervised high-dose exercise, 20 sessions 1-2 times per week, with or without spinal manipulative therapy, resulted in significantly greater pain reduction in the short-term (12 weeks) compared to low-dose home exercise with advice, in people with chronic neck pain. Disability reduction was also significantly greater. However, the low dose group had only 2 visits with a provider which would generally be expected to diminish the outcome measurements. The effect decreased at one year follow-up.	Assessor single-blinded randomized controlled trial

Evidence Statements Regarding Manual Treatment for Low Back		
Good Evidence	Evidence Statement	Design
	Spinal manipulative therapy (SMT) is comparable to exercise, standard medical care, and physiotherapy in reducing chronic low back pain, and SMT does not	Meta-analysis of randomized clinical trials

Evidence Statements Regarding Manual Treatment for Low Back		
	provide a clinically important superior pain relief over these interventions.	
Good Evidence, continued	Two sessions of thrust manipulation of the thoracolumbar spine followed by an exercise regimen leads to better low back function at 6 months than oscillatory non-thrust manipulation in patients with subacute low back pain. The study found patients with the following characteristics were likely to benefit from the program: segmental hypomobility, no symptoms distal to the knee, low fear-avoidance scores, and preservation of at least 35 degrees of internal rotation in at least one hip.	Randomized controlled trial
Some Evidence	Evidence Statement	Design
	Spinal manipulation/mobilization, followed by active exercises, may be effective for the reduction of disability from nonspecific low back pain lasting more than 12 weeks.	Randomized clinical trial
	12 sessions of spinal manipulation in 6 weeks from a chiropractor yields the most favorable pain reduction and functional disability improvement compared to a hands-on control in the short-term (12 weeks) for chronic nonspecific LBP. There was little difference in pain and disability scores and no clinically important differences between spinal manipulation dose groups of 6, 12, or 18 manipulations, making it difficult to recommend one treatment dose over another.	Assessor single-blinded randomized controlled trial
	12 weeks of supervised high-dose exercise, spinal manipulative therapy, or low-dose home exercise with advice are all equally effective for reducing pain in the short- and long-term (1 year) in those who have chronic low back pain	Assessor single-blinded randomized controlled trial
	A combination of spinal manipulation and exercise is more effective than exercise alone in reducing pain and improving function of low back pain for 1 year.	Randomized clinical trial

Evidence Statements Regarding Manual Treatment for Knee		
Good Evidence	Evidence Statement	Design
	Supervised exercise therapy with added manual mobilization shows moderate, clinically important reductions in pain compared to non-exercise controls in people with osteoarthritis of the knee.	Systematic review and meta-analysis of randomized clinical trials

Time Frames for Manual Treatment Including Manipulation	
Time to Produce Effect	6 to 9 treatments.
Frequency	1 to 3 times per week for the first 2 weeks as indicated by the severity of the condition. Treatment may continue at 1 treatment per week for the next 6 weeks.
Optimum Duration	4-6 weeks.
Maximum Duration	8 weeks. At week 8, patients should be re-evaluated. Care beyond 8 weeks may be indicated for certain chronic pain patients in whom manipulation is helpful in improving function, decreasing pain and improving quality of life. In these cases, treatment may be continued at 1 treatment every other week until the patient has reached MMI and maintenance treatments, using the accompanying post MMI guideline, have been determined. Refer to Section I, Maintenance Management. Extended durations of care beyond what is considered "maximum" may be necessary in cases of re-injury, interrupted continuity of care, exacerbation of symptoms, and in those patients with comorbidities.

e. **Manipulation Under General Anesthesia (MUA)**: refers to manual manipulation of the lumbar spine in combination with the use of a general anesthetic or conscious sedation. It is intended to improve the success of manipulation when pain, muscle spasm, guarding, and fibrosis appear to be limiting its application in patients otherwise suitable for their use.

There have been no high quality studies to justify its benefits given the risks of general anesthetic and conscious sedation. It is ***not recommended***.

f. **Manipulation Under Joint Anesthesia (MUJA)**: refers to manipulation of the lumbar spine in combination with a fluoroscopically guided injection of anesthetic with or without corticosteroid agents into the facet joint at the level being manipulated.

There are no controlled clinical trials to support its use. It is ***not recommended***.

g. **Massage—Manual or Mechanical**: Massage is manipulation of soft tissue with broad ranging relaxation and circulatory benefits. This may include stimulation of acupuncture points and acupuncture channels (acupressure), application of suction cups, and techniques that include pressing, lifting, rubbing, pinching of soft tissues by or with the practitioners' hands. Indications include edema (peripheral or hard and non-pliable edema), muscle spasm, adhesions, the need to improve peripheral circulation and range-of-motion, or to increase muscle relaxation and flexibility prior to exercise.

Evidence Statements Regarding Massage		
Good Evidence	Evidence Statement	Design
	Massage therapy in combination with exercise reduces pain and improves function short-term for patients with subacute low back pain.	Randomized clinical trial, Systematic review of controlled clinical trials, Randomized clinical trial
Some Evidence	Evidence Statement	Design
	10 weeks of either relaxation massage or structural massage are more effective than usual care and equally effective in improving functional disability and reducing symptoms of pain in people with chronic low back pain with benefits lasting at least 6 months.	Single-blind parallel group randomized controlled trial.
	In the setting of chronic neck pain, 4 weeks of weekly hour-long massage leads to benefits with both pain and function, and there are incremental benefits from multiple massage sessions per week (up to 3 sessions) over a single massage session.	Randomized clinical trial with six intervention arms.

Time Frames for Massage	
Time to Produce Effect	Immediate.
Frequency	1 to 2 times per week.
Optimum Duration	6 weeks.
Maximum Duration	2 months.

h. **Mobilization (Soft Tissue)**: is a generally well-accepted treatment. Mobilization of soft tissue is the skilled application of muscle energy, strain/counter strain, myofascial release, manual trigger point release, and manual therapy techniques designed to improve or normalize movement patterns through the reduction of soft tissue pain and restrictions. Soft tissue mobilization can also use various instruments to assist the practitioner. These are typically labeled “instrument assisted soft-tissue techniques”. These can be interactive with the patient participating or can be with the patient relaxing and letting the practitioner move the body tissues. Indications include muscle spasm around a joint, trigger points, adhesions, and neural compression. Mobilization should be accompanied by active therapy.

Time Frames for Mobilization (Soft Tissue)	
Time to Produce Effect	4 to 9 treatments.

Time Frames for Mobilization (Soft Tissue)	
Frequency	Up to 3 times per week.
Optimum Duration	4 to 6 weeks.
Maximum Duration	6 weeks.

i. **Percutaneous Electrical Nerve Stimulation (PENS)**: Needles are used to deliver low-voltage electrical current under the skin. Theoretically this therapy prevents pain signals traveling through small nerve fibers from reaching the brain, similar to the theory of TENS.

There is good evidence that PENS produces improvement of pain and function compared to placebo; however, there is no evidence that the effect is prolonged after the initial 3 week treatment episode. There are no well done studies that show PENS performs better than TENS for chronic pain patients. PENS is more invasive, requires a trained health care provider and has no clear long-term effect; therefore it is ***not generally recommended***.

Time Frames for Percutaneous Electrical Nerve Stimulation (PENS)	
Time to Produce Effect	1 to 4 treatments.
Frequency	2 to 3 times per week.
Optimum Duration	9 sessions.
Maximum Duration	12 sessions per year.

j. **Superficial Heat and Cold Therapy (Including Infrared Therapy)**: is a generally accepted treatment. Superficial heat and cold are thermal agents applied in various manners that lower or raise the body tissue temperature for the reduction of pain, inflammation, and/or effusion resulting from injury or induced by exercise. Includes application of heat just above the surface of the skin at acupuncture points. Indications include acute pain, edema and hemorrhage, need to increase pain threshold, reduce muscle spasm, and promote stretching/flexibility. Cold and heat packs can be used at home as an extension of therapy in the clinic setting.

Time Frames for Superficial Heat & Cold Therapy (Including Infrared Therapy)	
Time to Produce Effect	Immediate.
Frequency	2 to 5 times per week.
Optimum Duration	3 weeks as primary or intermittently as an adjunct to other therapeutic procedures up to 2 months.

Time Frames for Superficial Heat & Cold Therapy (Including Infrared Therapy)	
Maximum Duration	2 months.

k. **Traction—Manual**: is an accepted treatment and an integral part of manual manipulation or joint mobilization. Indications include decreased joint space, muscle spasm around joints, and the need for increased synovial nutrition and response. Manual traction is contraindicated in patients with tumor, infection, fracture, or fracture dislocation.

Time Frames for Manual Traction	
Time to Produce Effect	1 to 3 sessions.
Frequency	2 to 3 times per week.
Optimum/Maximum Duration	1 month.

l. **Traction—Mechanical**: Mechanical traction is indicated for decreased joint space, muscle spasm around joints, and the need for increased synovial nutrition and response. Traction modalities are contraindicated in patients with tumor, infections, fracture, or fracture dislocation. Non-oscillating inversion traction methods are contraindicated in patients with glaucoma or hypertension.

There is some evidence that mechanical traction, using specific, instrumented axial distraction technique, is not more effective than active graded therapy without mechanical traction. Therefore, mechanical traction is ***not recommended*** for chronic axial spine pain.

Time Frames for Mechanical Traction	
Time to Produce Effect	1 to 3 sessions up to 30 minutes. If response is negative after 3 treatments, discontinue this modality.
Frequency	2 to 3 times per week.
Optimum/Maximum Duration	1 month.

m. **Transcutaneous Electrical Nerve Stimulation (TENS)**: should include least one instructional session for proper application and use. Indications include muscle spasm, atrophy, and decreased circulation and pain control. Minimal TENS unit parameters should include pulse rate, pulse width, and amplitude modulation.

One double-blinded, placebo-controlled study, found that low frequency TENS induces analgesia which is detected on functional MRI with change in brain

activity in multiple regions. There was no functional follow-up. High-frequency TENS may be more effective than low frequency for patients on opioids.

Time Frames for Transcutaneous Electrical Nerve Stimulation (TENS)	
Time to Produce Effect	Immediate.
Frequency	Variable.
Optimum Duration	3 sessions. If beneficial, provide with home unit.
Maximum Duration	3 sessions. Purchase if effective.

n. **Trigger Point Dry Needling (TDN)**: Description: TDN is a skilled intervention performed by physical therapists that utilizes a solid filament needle to penetrate the skin and underlying tissues to treat relevant muscular, neural, and other connective tissues for the evaluation and management of neuromusculokeletal conditions, pain, movement impairments, and disability. The technique can be done with or without electrical stimulation. It has been used for tendinopathies, headaches and occipital neuralgia, plantar fasciitis, shoulder pain, lateral epicondylalgia, spinal pain, hip and knee pain. The goal of dry needling is to improve overall function and disability by decreasing pain and improving range-of-motion, strength, and/or muscle firing patterns. It is a technique that is utilized in conjunction with other physical therapy treatments including therapeutic exercise, manual therapy, stretching, neuromuscular re-education, postural education, and pain neuroscience education.

Indications: Trigger point dry needling is indicated when myofascial trigger points are identified in muscles in conjunction with decreased range-of-motion, decreased strength, altered muscle firing patterns, and/or pain which negatively affect a patient's overall function.

Complications: Potential but rare complications of dry needling include infection and pneumothorax. Severe pain on injection suggests the possibility of an intraneural injection, and the needle should be immediately repositioned.

There is some evidence that the inclusion of 2 sessions of trigger point dry needling into a twice daily 5-week exercise program was significantly more effective in improving shoulder pain-related disability than an exercise program alone at 3, 6, and 12 month follow-ups in people with chronic subacromial pain syndrome. Both interventions were equally effective in reducing pain over 12 months.

There is some evidence that 4 sessions of trigger point deep dry needling with passive stretching over 2 weeks was significantly more effective in reducing neck pain and improving neck disability than passive stretching alone in the short-term and at 6-month follow-up in people with chronic nonspecific neck pain.

Based on a number of meta-analysis and systematic reviews, studies have shown some advantage for dry needling. However, there are also a number of studies with negative results. Because of the low quality of studies and

heterogeneity, no form of evidence can be drawn from these reviews, which include a number of anatomic sites.

Time Frames for Trigger Point Dry Needling (TDN)	
Time to Produce Effect	Immediately or up to 4 visits.
Frequency	1 to 2 sessions/week normally limited to 4 muscle groups.
Optimum Duration	4 treatments.
Maximum Duration	8 treatments.

o. **Ultrasound (Including Phonophoresis)**: is an accepted treatment which uses sonic generators to deliver acoustic energy for therapeutic thermal and/or non-thermal soft tissue effects. Indications include scar tissue, adhesions, collagen fiber, and muscle spasm, and the need to extend muscle tissue or accelerate the soft tissue healing. Ultrasound with electrical stimulation is concurrent delivery of electrical energy that involves dispersive electrode placement. Indications include muscle spasm, scar tissue, pain modulation, and muscle facilitation.

Phonophoresis is the transfer of medication to the target tissue to control inflammation and pain through the use of sonic generators. These topical medications include, but are not limited to, steroidal anti-inflammatory, and anesthetics.

There is no high quality evidence to support the use of ultrasound for improving pain or quality of life in patients with non-specific chronic low back pain.

Time Frames for Ultrasound (Including Phonophoresis)	
Time to Produce Effect	6 to 15 treatments.
Frequency	3 times per week.
Optimum Duration	4 to 8 weeks.
Maximum Duration	2 months.

p. **Vertebral Axial Decompression (VAX-D)/DRX, 9000**: Motorized traction devices which purport to produce non-surgical disc decompression by creating negative intradiscal pressure in the disc space include devices with the trade names of VAX-D and DRX 9000.

There are no good studies to support their use. They are ***not recommended***.

H. THERAPEUTIC PROCEDURES – OPERATIVE

When considering operative intervention in chronic pain management, the treating physician must carefully consider the inherent risk and benefit of the procedure. All operative intervention should be based on a positive correlation with clinical findings, the clinical course, and diagnostic tests. A comprehensive assessment of these factors should have led to a specific diagnosis with positive identification of the pathologic condition. Operative treatment is indicated when the natural history of surgically treated lesions is better than the natural history for non-operatively treated lesions.

Surgical procedures are seldom meant to be curative and should be employed in conjunction with other treatment modalities for maximum functional benefit. Functional benefit should be objectively measured and includes the following:

- Return-to-work or maintaining work status.
- Fewer restrictions at work or performing activities of daily living.
- Decrease in usage of medications prescribed for the work-related injury.
- Measurable functional gains, such as increased range-of-motion or a documented increase in strength.

Education of the patient should include the proposed goals of the surgery, expected gains, risks or complications, and alternative treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Similarly, patients with uncontrolled diabetes are at increased risk of post-operative infection and poor wound healing. It is recommended that routine lab work prior to any surgical intervention include a hemoglobin A1c. If it is higher than the recommended range, the surgery should be postponed until optimization of blood sugars has been achieved.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work activities, and the patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

1. NEUROSTIMULATION

a. Description: Spinal cord stimulation (SCS) is the delivery of low-voltage electrical stimulation to the spinal cord or peripheral nerves to inhibit or block the sensation of pain. The system uses implanted electrical leads and a battery powered implanted pulse generator (IPG).

There is some evidence that SCS is superior to reoperation in the setting of persistent radicular pain after lumbosacral spine surgery, and there is some evidence that SCS is superior to conventional medical management in the same

setting. Success was defined as achieving 50% or more pain relief. However, the study could not demonstrate increased return to work. Some functional gains have been demonstrated. These findings may persist at 3 years of follow-up in patients who had an excellent initial response and who are highly motivated.

There is some evidence that a high-frequency, 10 KHz spinal cord stimulator is more effective than a traditional low frequency 50 Hz stimulator in reducing both back pain and leg pain in patients who have had a successful trial of an external stimulator. Two-thirds of the patients had radiculopathy and one-half had predominant back pain. The high frequency device appears to lead to greater patient satisfaction than the low frequency device, which is likely to be related to the fact that the high frequency device does not produce paresthesias in order to produce a pain response. In contrast to the low frequency stimulator, which requires recharging about twice per month, the high frequency stimulator is recommended for daily recharging for 30 to 45 minutes. A United Kingdom study of cost effectiveness for high frequency spinal cord stimulators found high cost effectiveness compared to traditional non-rechargeable or rechargeable stimulators, re-operation, or medical management.

Some evidence shows that SCS is superior to re-operation and conventional medical management for severely disabled patients who have failed conventional treatment and have Complex Regional Pain Syndrome (CRPS I) or failed back surgery with persistent radicular neuropathic pain.

A recent randomized trial found that patients with spinal cord stimulators for CRPS preferred different types and levels of stimulation for pain relief. No difference was found between 40,500 and 1200 Hz levels or burst stimulation.

SCS can be used for patients who have CRPS II. Spinal cord stimulation for spinal axial pain has traditionally not been very successful. It is possible that future technological advances such as high frequency and burst stimulation may demonstrate better results for axial spine pain. Currently, traditional spinal cord stimulators are ***not recommended*** for axial spine pain.

SCS may be most effective in patients with CRPS I or II who have not achieved relief with oral medications, rehabilitation therapy, or therapeutic nerve blocks, and in whom the pain has persisted for longer than 6 months.

It is particularly important that patients meet all of the indications before a permanent neurostimulator is placed because several studies have shown that workers' compensation patients are less likely to gain significant relief than other patients. As of the time of this guideline writing, spinal cord stimulation devices have been FDA approved as an aid in the management of chronic intractable pain of the trunk and/or limbs, including unilateral and bilateral pain associated with the following: failed back surgery syndrome, intractable low back pain and leg pain.

Particular technical expertise is required to perform this procedure and is available in some neurosurgical, rehabilitation, and anesthesiology training programs and fellowships. Physicians performing this procedure must be trained in neurostimulation implantation and participate in ongoing training workshops on this subject, such as those sponsored by the Spine Intervention Society (SIS), North American Neuromodulation Society (NANS), or as sponsored by implant manufacturers. Permanent electrical lead and IPG placement should be performed by surgeons (orthopedic or neurosurgery) with fellowship training in

spine based surgical interventions or other physicians who have completed an Accreditation Council for Graduate Medical Education (ACGME) accredited pain medicine fellowship and have completed the required number of supervised implantations during fellowship.

b. Complications: Serious, less common complications include spinal cord compression, paraplegia, epidural hematoma, epidural hemorrhage, undesirable change in stimulation, seroma, CSF leakage, infection, erosion, and allergic response. Other complications consist of dural puncture, hardware malfunction or equipment migration, pain at implantation site, loss of pain relief, chest wall stimulation, and other surgical risks. In recent studies, device complication rates have been reported to be 25% at 6 months, 32% at 12 months, and 45% at 24 months. The most frequent complications are reported to be electrode migration (14%) and loss of paresthesia (12%), up to 24% required additional surgery. In a recent review of spinal stimulation, 34.6% of all patients reported a complication, most of them being technical equipment-related issues or undesirable stimulation.

c. Surgical Indications: Patients with established CRPS I or II or a failed spinal surgery with persistent functionally limiting radicular pain greater than axial pain who have failed conservative therapy including active and/or passive therapy, pre-stimulator trial psychiatric evaluation and treatment, medication management, and therapeutic injections. Traditional SCS is ***not recommended*** for patients with the major limiting factor of persistent axial spine pain. High frequency stimulators may be used for patients with predominantly axial back pain. Traditional or other SCS may be indicated in a subset of patients who have a clear neuropathic radicular pain (radiculitis) with or without previous surgery. The extremity pain should account for at least 50% or greater of the overall back and leg pain experienced by the patient. Prior authorization is required. Habituation to opioid analgesics in the absence of a history of addictive behavior does not preclude the use of SCS. Patients with severe psychiatric disorders, issues of secondary gain, and one or more primary risk factors are not candidates for the procedure. The prognosis worsens as the number of secondary risk factors increases. Approximately, one third to one half of patients who qualify for SCS can expect a substantial long-lasting pain relief; however, it may not influence allodynia and hypesthesia. Patients' expectations need to be realistic, and therefore, patients should understand that the SCS intervention is not a cure for their pain but rather a masking of their symptomatology which might regress over time. There appears to be a likely benefit of up to 3 years, although some practitioners have seen benefits persist for longer periods.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work, as well as possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about 6 weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Smoking cessation should continue throughout the post-operative period. Refer to Section G.10.j, Smoking Cessation Medications and Treatment, for further details.

Patients must meet the following criteria in order to be considered for neurostimulation:

i. Traditional or other SCS may be indicated in a subset of patients who have a clear neuropathic radicular pain (radiculitis); are not candidates for surgical intervention on the spine; have burning pain in a distribution amenable to stimulation coverage and have pain at night not relieved by position. The extremity pain should account for at least 50% or greater of the overall leg and back pain experienced by the patient. High frequency stimulators may be used for patients with predominantly axial back pain.

ii. *Prior* to the stimulator trial, a comprehensive psychiatric or psychological evaluation, for a chronic pain evaluation. Refer to Section F.2, Personality/Psychological Evaluation for Pain Management, for more information. This evaluation should include a standardized detailed personality inventory with validity scales (e.g., MMPI-2, MMPI-2-RF, or PAI); pain inventory with validity measures (e.g., BHI 2, MBMD); clinical interview and complete review of the medical records. The psychologist or psychiatrist performing these evaluations should not be an employee of the physician performing the implantation. This evaluation must be completed, with favorable findings, **before** the screening trial is scheduled. Before proceeding to a spinal stimulator trial, the evaluation should find the following:

- No indication of falsifying information.
- No indication of invalid results on testing; and
- No primary psychiatric risk factors or “red flags” (e.g., psychosis, active suicidality, severe depression, or addiction). (Note that tolerance and dependence to opioid analgesics are not addictive behaviors and do not preclude implantation); and
- A level of secondary risk actors or “yellow flags” (e.g., moderate depression, job dissatisfaction, dysfunctional pain conditions) judged to be below the threshold for compromising the patient’s ability to benefit from neurostimulation.
- The patient is cognitively capable of understanding and operating the neurostimulation control device; and

- The patient is cognitively capable of understanding and appreciating the risks and benefits of the procedure; and
- The patient is familiar with the implications of having an implant, can accept the complications, potential disfigurement, and effort it takes to maintain the device; and
- The patient is cognitively capable of understanding the course of injury both with and without neurostimulation; and
- The patient has demonstrated a history of motivation in and adherence to prescribed treatments; and
- The patient understands the work related restrictions that may occur with placement of the stimulator. All reasonable surgical and non-surgical treatment has been exhausted; and
- The topography of pain and its underlying pathophysiology are amenable to stimulation coverage (the entire painful area has been covered); and
- A successful neurostimulation screening test of at least 5 to 7 days.

iii. For a spinal cord neurostimulation screening test, a temporary lead is implanted at the level of pain and attached to an external source to validate therapy effectiveness. A screening test is considered successful if the patient meets both of the following criteria: (a) experiences a 50% decrease radicular or CRPS in pain, which may be confirmed by visual analogue scale (VAS) or Numerical Rating Scale (NRS), and (b) demonstrates objective functional gains or decreased utilization of pain medications.

Objective, measurable, functional gains must be evaluated by an independent occupational therapist, not affiliated with the physician performing the screening or the implant of the stimulator, and/or physical therapist and the primary treating physician prior to and before discontinuation of the trial. Functional gains may include: standing, walking, positional tolerance, upper extremity activities, increased social participation, or decreased medication use.

d. Contraindications:

- Unsuccessful SCS test: inability to obtain objective, documented, functional improvement, or reduction of pain.
- Those with cardiac pacemakers should be evaluated on an individual basis as some may qualify for surgery.
- Patients who are unable to properly operate the system.
- Patients who are anti-coagulated and cannot be without anticoagulation for a few days (e.g., patients with artificial heart valves).

- Patients with frequent severe infections.
- Patients for whom a future MRI is planned unless the manufacturer has approval for the body part that will be the subject of the MRI.

e. Operative Treatment: Implantation of stimulating leads connected by extensions to either an implanted neurostimulator or an implanted receiver powered by an external transmitter. The procedure may be performed either as an open or a percutaneous procedure, depending on the presence of epidural fibrosis and the anatomical placement required for optimal efficacy. During the final procedure for non-high frequency devices, the patient must be awakened to establish full coverage from the placement of the lead. One of the most common failures is misplaced leads. Functional improvement is anticipated for up to 3 years or longer when objective functional improvement has been observed during the time of neurostimulation screening exam.

f. Post-operative Considerations:

- MRI may be contraindicated depending on the model and implant location.
- Work restrictions postplacement include no driving when active paresthesias are present. This does not apply to high frequency stimulators as no paresthesia is present. Thus, use of potentially dangerous or heavy equipment while the simulator is active is prohibited. The physician may also limit heavy physical labor.

g. Post-operative Therapy: Active and/or passive therapy should be employed to improve function. Implantable stimulators will require frequent monitoring such as adjustment of the unit and replacement of batteries. Estimated battery life of SCS implantable devices is usually 5 – 10 years depending on the manufacturer.

Evidence Statements Regarding Neurostimulation		
Some Evidence	Evidence Statement	Design
	SCS is superior to reoperation in the setting of persistent radicular pain after lumbosacral spine surgery. Success was defined as achieving 50% or more pain relief.	Randomized clinical trial
	SCS is superior to conventional medical management in the setting of persistent radicular pain after lumbosacral spine surgery. Success was defined as achieving 50% or more pain relief. However, the study could not demonstrate increased return to work.	Randomized clinical trial
	A high-frequency, 10 KHz spinal cord stimulator is more effective than a traditional low frequency 50 Hz stimulator in reducing both back pain and leg pain in patients who have had a successful trial of an external stimulator. Two-thirds of the patients had radiculopathy and one-half had predominant back pain. The high frequency device	Randomized controlled trial The study was designed as a non-inferiority study for the experimental

Evidence Statements Regarding Neurostimulation		
Some Evidence, continued	appears to lead to greater patient satisfaction than the low frequency device, which is likely to be related to the fact that the high frequency device does not produce paresthesias in order to produce a pain response. In contrast to the low frequency stimulator, which requires recharging about twice per month, the high frequency stimulator is recommended for daily recharging for 30 to 45 minutes.	SCS system, and testing for superiority was done if the non-inferiority margins were met for the outcomes under consideration.
	SCS is superior to re-operation and conventional medical management for severely disabled patients who have failed conventional treatment and have CRPS I or failed back surgery with persistent radicular neuropathic pain.	Randomized clinical trials

2. DORSAL ROOT GANGLION STIMULATOR

There are currently no studies qualifying for evidence regarding chronic pain patients. Please refer to the Division's CRPS Medical Treatment Guideline for more information.

3. PERIPHERAL NERVE STIMULATION

There are no randomized controlled studies for this treatment. This modality should only be employed with a clear nerve injury or when the majority of pain is clearly in a nerve distribution in patients who have completed 6 months of other appropriate therapy including the same pre-trial psychosocial evaluation and treatment as are recommended for spinal cord stimulation. A screening trial should take place over 3 to 7 days and is considered successful if the patient meets both of the following criteria: (a) experiences a 50% decrease in pain, which may be confirmed by Visual Analogue Scale (VAS) or Numerical Rating Scale (NRS) and (b) demonstrates objective functional gains or decreased utilization of pain medications. Objective, measurable, functional gains must be evaluated by an independent occupational therapist and/or physical therapist and the primary treating physician prior to and before discontinuation of the trial. The primary treating doctor is not the doctor who placed the nerve stimulator. It may be used for proven occipital, ulnar, median, and other isolated nerve injuries.

4. INTRATHECAL DRUG DELIVERY

Not generally recommended. Requires prior authorization. Due to conflicting studies in this population and complication rate for long-term use, it may be considered only in very rare occasions when dystonia and spasticity are dominant features or when pain is not able to be managed using any other non-operative treatment. Specific brands of infusion systems have been FDA approved for the following: chronic intraspinal (epidural and intrathecal) infusion of preservative-free morphine sulfate sterile solution in the treatment of chronic intractable pain, chronic infusion of preservative-free ziconotide sterile solution for the management of severe chronic pain, and chronic intrathecal infusion of baclofen for the management of severe spasticity.

Due to lack of proven efficacy and safety, the following medications are ***not recommended***: magnesium, benzodiazepines, neostigmine, tramadol, and ketamine.

a. Description: This mode of therapy delivers small doses of medications directly into the cerebrospinal fluid.

b. Complications: Intrathecal delivery is associated with significant complications, such as infection, catheter disconnects, CSF leak, arachnoiditis, pump failure, nerve injury, and paralysis.

Typical adverse events reported with opioids (i.e., respiratory depression, tolerance, and dependence) or spinal catheter-tip granulomas that might arise during intrathecal morphine or hydromorphone treatment have not currently been recorded for ziconotide. The most common presentation of an intraspinal mass is a sudden increase in dosage required for pain relief, with new neurologic defects secondary to a mass effect. Technical errors can lead to drug overdose which can be life-threatening.

Surveys have shown technical problems requiring surgical correction in 18% to 40% of patients. CSF leakage may occur with multiple dural punctures. Since the needle is larger than the spinal catheter, there may be incomplete tissue sealing around the catheter. The function of the pump depends on its electronic power source, which may be disrupted by the magnet of an MRI; therefore, after the patient has an MRI, the pump should be checked to ensure that it does not need to be restarted. The delivery rate can be affected by atmospheric pressure and body temperature.

c. Indications: Clinical studies are conflicting, regarding long-term, effective pain relief in patients with non-malignant pain. The Division does not generally recommend the use of intrathecal drug delivery systems in injured workers with chronic pain. Due to the complication rate for long-term use, it may be considered only in very rare occasions when dystonia and spasticity are dominant features or when pain is not able to be managed using any other non-operative treatment. This treatment must be prior authorized and have the recommendation of at least one physician experienced in chronic pain management in consultation with the primary treating physician. The procedure should be performed by physicians with documented experience.

Prior to surgical intervention, the patient and treating physician should identify functional operative goals and the likelihood of achieving improved ability to perform activities of daily living or work, as well as possible complications. The patient should agree to comply with the pre- and post-operative treatment plan including home exercise. The provider should be especially careful to make sure the patient understands the amount of post-operative therapy required and the length of partial- and full-disability expected post-operatively.

Informed decision making should be documented for all invasive procedures. This must include a thorough discussion of the pros and cons of the procedure and the possible complications as well as the natural history of the identified diagnosis. Since many patients with the most common conditions will improve significantly over time, without invasive interventions, patients must be able to make well-informed decisions regarding their treatment.

Smoking may affect soft tissue healing through tissue hypoxia. Patients should be strongly encouraged to stop smoking and be provided with appropriate counseling by the physician. If a treating physician recommends a specific smoking cessation program peri-operatively, this should be covered by the insurer. Typically the patient should show some progress toward cessation at about 6 weeks. Physicians may monitor smoking cessation with laboratory tests such as cotinine levels. The surgeon will make the final determination as to whether smoking cessation is required prior to surgery. Patients with

demonstrated success may continue the program up to 3 months or longer if needed based on the operative procedure. Refer to Section G.10.j, Smoking Cessation Medications and Treatment, for further details.

This small eligible sub-group of patients must meet all of the following indications:

i. A diagnosis of a specific physical condition known to be chronically painful has been made on the basis of objective findings; and

ii. All reasonable surgical and non-surgical treatment has been exhausted including failure of conservative therapy including active and/or passive therapy, medication management, or therapeutic injections; and

iii. Pre-trial psychiatric or psychological evaluation has been performed (same as for SCS); and

iv. There is no evidence of current addictive behavior. (Tolerance and dependence to opioid analgesics are not addictive behaviors and do not preclude implantation); and

v. It is recommended that most patients be tapered off of opioids before the trial; and

vi. A successful trial of continuous infusion by a percutaneous spinal infusion pump for a minimum of 24 hours or by bolus infusion. A screening test is considered successful if the patient (a) experiences a 50% decrease in pain, which may be confirmed by VAS, and (b) demonstrates objective functional gains or decreased utilization of pain medications. Functional gains should be evaluated by an occupational therapist and/or physical therapist prior to and before discontinuation of the trial.

d. Contraindications: Infection, body size insufficient to support the size and weight of the implanted device. Patients with other implanted programmable devices should be given these pumps with caution since interference between devices may cause unintended changes in infusion rates.

5. NEUROABLATION WITH RHIZOTOMY AS THE EXCEPTION

Neuroablation or neuro-destructive procedures are not commonly used in the management of non-malignant pain. These techniques require specific expertise to perform, have erratic results, and high rates of complication. Therefore, the use of neuroablative procedures is **not recommended**, except medial branch nerve rhizotomy, for injured workers with chronic pain.

6. DORSAL NERVE ROOT RESECTION

This procedure is ***not recommended***. There exists the possibility of complications including unintended extensive nerve damage causing significant motor or sensibility changes from larger than anticipated lesioning of the ganglia at the dorsal ganglia level. For radio-frequency ablation refer to Section G.8.d, Radio Frequency Ablation - Dorsal Nerve Root Ganglion.

I. MAINTENANCE MANAGEMENT

Successful management of chronic pain conditions results in fewer relapses requiring intense medical care. Failure to address long-term management as part of the overall treatment program may lead to higher costs and greater dependence on the health care system. Management of CPD continues after the patient has met the definition of maximum medical improvement (MMI). MMI is declared when a patient's condition has plateaued and an authorized treating physician believes no further medical intervention is likely to result in improved function. When the patient has reached MMI, a physician must describe in detail the maintenance treatment.

Maintenance care in CPD requires a close working relationship between the carrier, the providers, and the patient. Providers and patients have an obligation to design a cost-effective, medically appropriate program that is predictable and allows the carrier to set aside appropriate reserves. Carriers and adjusters have an obligation to assure that medical providers can design medically appropriate programs. Designating a primary physician for maintenance management is strongly recommended.

Maintenance care will be based on principles of patient self-management. When developing a maintenance plan of care, the patient, physician, and insurer should attempt to meet the following goals:

- Maximal independence will be achieved through the use of home exercise programs or exercise programs requiring special facilities (e.g., pool, health club) and educational programs;
- Modalities will emphasize self-management and self-applied treatment;
- Management of pain or injury exacerbations will emphasize initiation of active therapy techniques and may occasionally require anesthetic injection blocks.
- Dependence on treatment provided by practitioners other than an authorized treating physician will be minimized;
- Reassessment of the patient's function must occur regularly to maintain daily living activities and work function;
- Patients will understand that failure to comply with the elements of the self-management program or therapeutic plan of care may affect consideration of other interventions.

It is recommended that valid functional tests are used with treatments to track efficacy. The following are Specific Maintenance Interventions and Parameters:

1. HOME EXERCISE PROGRAMS AND EXERCISE EQUIPMENT: Most patients have the ability to participate in a home exercise program after completion of a supervised exercise rehabilitation program. Programs should incorporate an exercise prescription including the continuation of an age-adjusted and diagnosis-specific program for aerobic conditioning, flexibility, stabilization, and strength. Many patients will benefit from several booster sessions per year, which may include motivational interviewing and graded activity.

Some patients may benefit from the purchase or rental of equipment to maintain a home exercise program. Determination for the need of home equipment should be based on medical necessity to maintain MMI, compliance with an independent exercise program, and reasonable cost. Before the purchase or long-term rental of equipment, the patient

should be able to demonstrate the proper use and effectiveness of the equipment. Effectiveness of equipment should be evaluated on its ability to improve or maintain functional areas related to activities of daily living or work activity. Home exercise programs are most effective when done 3 to 5 times a week. Prior to purchasing the equipment a therapist and/or exercise specialist who has treated the patient should visit a facility with the patient to assure proper use of the equipment. Occasionally, compliance evaluations may be made through a 4 week membership at a facility offering similar equipment.

2. EXERCISE PROGRAMS REQUIRING SPECIAL FACILITIES: Some patients may have higher compliance with an independent exercise program at a health club versus participation in a home program. All exercise programs completed through a health club facility should focus on the same parameters of an age-adjusted and diagnosis-specific program for aerobic conditioning, flexibility, stabilization, and strength. Prior to purchasing a membership, a therapist and/or exercise specialist who has treated the patient should visit a facility with the patient to assure proper use of the equipment. Selection of health club facilities should be limited to those able to track attendance and utilization, and provide records available for physician and insurer review.

Time Frames for Exercise Programs Requiring Special Facilities	
Frequency	2 to 3 times per week.
Maximum Maintenance Duration	3 months. Continuation beyond 3 months should be based on functional benefit and patient compliance. Health club membership should not extend beyond 3 months if attendance drops below 2 times per week on a regular basis.

3. PATIENT EDUCATION MANAGEMENT: Educational classes, sessions, or programs may be necessary to reinforce self-management techniques. This may be performed as formal or informal programs, either group or individual.

Time Frames for Patient Education Management	
Maintenance Duration	2 to 6 educational visits during one 12 month period.

4. PSYCHOLOGICAL MANAGEMENT: An ideal maintenance program will emphasize management options implemented in the following order: (a) individual self-management (pain control, relaxation, and stress management, etc.), (b) group counseling, (c) individual counseling by a psychologist or psychiatrist, and (d) inpatient treatment. Exacerbation of the injury may require psychological treatment to restore the patient to baseline. In those cases, use treatments and time frame parameters listed in the Biofeedback and Psychological Evaluation or Intervention sections.

Time Frames for Psychological Management	
Maintenance Duration	6 to 10 visits during the first year and 4 to 6 visits per year thereafter. In cases of significant exacerbation or complexity, refer to Section G.15, on psychological treatment.

5. **NON OPIOID MEDICATION MANAGEMENT:** In some cases, self-management of pain and injury exacerbations can be handled with medications, such as those listed in the Medication section. Physicians must follow patients who are on any chronic medication or prescription regimen for efficacy and side effects. Laboratory or other testing may be appropriate to monitor medication effects on organ function.

Time Frames for Non Opioid Medication Management	
Maintenance Duration	Usually, 4 medication reviews within a 12 month period. Frequency depends on the medications prescribed. Laboratory and other monitoring as appropriate.

6. **OPIOID MEDICATION MANAGEMENT:** In very selective cases, scheduled opioids may prove to be the most cost effective means of ensuring the highest function and quality of life; however, inappropriate selection of these patients may result in a high degree of iatrogenic illness including addiction and drug overdose. A patient should have met the criteria in the opioids section of this guideline before beginning maintenance opioids. Laboratory or other testing may be appropriate to monitor medication effects on organ function. The following management is suggested for maintenance opioids:

- The medications should be clearly linked to improvement of function, not just pain control. All follow-up visits should document the patient's ability to perform routine functions satisfactorily. Examples include the abilities to perform: work tasks, drive safely, pay bills or perform basic math operations, remain alert and upright for 10 hours per day, or participate in normal family and social activities. If the patient is not maintaining reasonable levels of activity the patient should usually be tapered from the opioid and tried on a different long-acting opioid.

- A lower risk opioid medication regimen is defined as less than 50 MME per day. This may minimally increase or decrease over time. Dosages will need to be adjusted based on side effects of the medication and objective function of the patient. A patient may frequently be maintained on non-opioid medications to control side effects, treat mood disorders, or control neuropathic pain; however, only one long-acting opioid and one short-acting opioid for rescue use should be prescribed. Buccally absorbed opioids other than buprenorphine are not appropriate for these non-malignant pain patients. Transdermal opioid medications are ***not recommended,*** other than buprenorphine.

- All patients on chronic opioid medication dosages need to sign an appropriate opioid contract with their physician for prescribing the opioids.

- The patient must understand that continuation of the medication is contingent on their cooperation with the maintenance program. Use of non-prescribed drugs may result in tapering of the medication. The clinician should order random drug testing at least annually and when deemed appropriate to monitor medication compliance.

- Patients on chronic opioid medication dosages must receive them through one prescribing physician.

Time Frames for Opioid Medication Management	
Maintenance Duration	12 visits within a 12 month period to review the opioid plan. Laboratory and other monitoring, as appropriate.

7. **THERAPY MANAGEMENT:** Some treatment may be helpful on a continued basis during maintenance care if the therapy maintains objective function and decreases medication use. With good management, exacerbations should be uncommon; not exceeding 2 times per year and using minimal or no treatment modality beyond self-management. On occasion, exacerbated conditions may warrant durations of treatment beyond those listed below. Having specific goals with objectively measured functional improvement during treatment can support extended durations of care. It is recommended that if after 6 to 8 visits no treatment effect is observed, alternative treatment interventions should be pursued.

Time Frames for Therapy Management	
Maintenance Duration	Active therapy, acupuncture, or manipulation: 10 visits [for each treatment] during the first year and then decreased to 5 visits per year thereafter.

8. **INJECTION THERAPY:**

a. Trigger Point Injections and Dry Needling: These injections or dry needling may occasionally be necessary to maintain function in those with myofascial problems.

Time Frames for Injection Therapy: Trigger Point Injections and Dry Needling	
Maintenance Duration	Not more than 4 injections per session not to exceed 4 sessions per 12 month period.

b. Epidural and Selective Nerve Root Injections: Patients who have experienced functional benefits from these injections in the past may require injection for exacerbations of the condition. Recall that the total steroid injections at all sites, including extremities, should be limited to 4 per year to avoid side effects from steroids.

Time Frames for Epidural and Selective Nerve Root Injections	
Maintenance Duration	2 to 4 injections per 12 month period. For chronic radiculopathy, injections may be repeated only when a functional documented response lasts for 3 months. A positive result would include a return to baseline function as established at MMI, return to increased work duties, and measurable improvement in physical activity goals including return to baseline after an exacerbation. Injections may only be repeated when these functional and time goals are met and verified by the designated primary physician. Patient completed functional questionnaires such as those recommended by the Division as part of QPOP and/or the Patient

Time Frames for Epidural and Selective Nerve Root Injections	
	Specific Functional Scale can provide useful additional confirmation.

Time Frames for Zygapophyseal (Facet) Injections	
Maintenance Duration	2 injections per year and limited to 3 joint levels either unilaterally or bilaterally. Injections may be repeated only when a functional documented response lasts for 3 months. A positive result would include a return to baseline function as established at MMI, return to increased work duties, and a measurable improvement in physical activity goals including return to baseline after an exacerbation. Injections may only be repeated when these functional and time goals are met and verified by the designated primary physician. Patient completed functional questionnaires such as those recommended by the Division as part of QPOP and/or the Patient Specific Functional Scale can provide useful additional confirmation.

Time Frames for Sacro-iliac Joint Injections	
Maintenance Duration	2 per year injections may be repeated only if a functional documented response lasts for 3 months. A positive result would include a return to baseline function as established at MMI, return to increased work duties, and a measurable improvement in physical activity goals including return to baseline after an exacerbation. Injections may only be repeated when these functional and time goals are met and verified by the designated primary physician. Patient completed functional questionnaires such as those recommended by the Division as part of QPOP and/or the Patient Specific Functional Scale can provide useful additional confirmation.

Time Frames for Radiofrequency Medial Branch Neurotomy/ Facet Rhizotomy	
Maintenance Duration:	1 time per year not exceeding 3 levels, up to 12 total in a lifetime. The patient must meet the criteria as described in Section G.8.f, Radio Frequency Denervation. The initial indications including repeat blocks and limitations apply. The long-term effects of repeat rhizotomies, especially on younger patients are unknown. There is a possibility that repeated denervation could result in premature degenerative changes. In addition the patient should always reconsider all of the possible permanent complications before consenting to a repeat procedure. There are no studies addressing the total number of RF neurotomies that should be done for a patient. Patient should receive at least 6 to 18 months minimum improvement in order to qualify for repeat procedures.
Optimum/Maximum Maintenance Duration	Twice in the first year after the initial rhizotomy and once a year after up to 12 total.

9. PURCHASE OR RENTAL OF DURABLE MEDICAL EQUIPMENT (DME): It is recognized that some patients may require ongoing use of self-directed modalities for the purpose of maintaining function and/or analgesic effect. Purchase or rental of modality based equipment should be done only if the assessment by the physician and/or physical/occupational therapist has determined the effectiveness, compliance, and improved or maintained function by its application. It is generally felt that large expense purchases such as spas, whirlpools, and special mattresses are not necessary to maintain function.

Refer to Rule 18-6(H) for DME rental time frames.

APPENDIX: DESCRIPTION OF TESTS OF PSYCHOLOGICAL FUNCTIONING

Refer to Section F.2.c, Tests of Psychological Functioning, for more information. Examples of frequently used psychometric tests performed include, but are not limited to, the following:

1. Comprehensive Inventories for Medical Patients:

a. Battery for Health Improvement, 2nd Edition (BHI™ -2).

What it measures – Depression, anxiety, and hostility; violent and suicidal ideation; borderline, dependency, chronic maladjustment, substance abuse, conflicts with work, family and physician, pain preoccupation, somatization, perception of functioning, catastrophizing and kinesiophobia, and risk assessment for surgery, physical rehabilitation, and abuse of prescription medication.

Benefits – When used as a part of a comprehensive evaluation, can contribute substantially to the design of interventions and to the understanding of psychosocial factors underlying pain reports, perceived disability, and somatic preoccupation. Serial administrations can track changes in a broad range of variables during the course of treatment and assess outcome.

Characteristics – Standardized test normalized on patients with chronic pain or injury and on community members, with reference groups for six other subcategories of injured patients.

b. Millon™ Behavioral Medical Diagnostic (MBMD™).

What it measures – Updated version of the Millon Behavioral Health Inventory (MBHI). Provides information on coping styles (introversive, inhibited, dejected, cooperative, sociable, etc.), health habits (smoking, drinking, eating, etc.), psychiatric indications (anxiety, depression, etc.), stress moderators (illness apprehension vs. illness tolerance, etc.), treatment prognostics (interventional fragility vs. interventional resilience, medication abuse vs. medication competence, etc.), and other factors.

Benefits – When used as a part of a comprehensive evaluation, can contribute substantially to the understanding of psychosocial factors affecting medical patients. Understanding risk factors and patient personality type can help to optimize treatment protocols for a particular patient.

Characteristics – Standardized test normalized on medical patients with various diseases, and bariatric population. Chronic pain/presurgical analysis cites a chronic pain reference group but the analysis is based on a general medical population.

2. Comprehensive Psychological Inventories:

These tests are designed for detecting various psychiatric syndromes but in general are more prone to false positive findings when administered to medical patients.

a. Millon® Clinical Multiaxial Inventory®, (MCMI®-IV).

What it measures – Has scales to assess 15 types of maladaptive personality types, and 10 clinical syndromes including bipolar spectrum, depression, anxiety,

drug/alcohol abuse, somatic symptom, post-traumatic stress and psychosis.

Benefits – When used as a part of a comprehensive evaluation, can screen for a broad range of ICD psychiatric diagnoses.

Characteristics – Standardized test normalized on psychiatric patients.

b. Minnesota Multiphasic Personality Inventory®, 2nd Edition (MMPI®-2).

What it measures – Original scale constructs, such as hysteria and psychasthenia are archaic but continue to be useful. Newer content scales include depression, anxiety, health concerns, bizarre mentation, social discomfort, low self-esteem, and almost 100 others.

Benefits – When used as a part of a comprehensive evaluation, measure a number of factors that have been associated with poor treatment outcome.

Characteristics – Standardized test normalized on community members

c. Minnesota Multiphasic Personality Inventory®, 2nd Edition Revised Form (MMPI®-2).

What it measures – 50 scales assess a wide range of psychiatric disorders and personality traits, plus 8 validity scales, critical items.

Benefits – new version of MMPI-2 has undergone extensive revision to correct perceived MMPI-2 deficiencies. Has advantages over the original MMPI-2 in psychiatric assessment, but may be less capable when assessing patients with chronic pain.

Characteristics – Standardized test normalized on community members, with multiple other reference groups including chronic pain and spine surgery candidate.

d. Personality Assessment Inventory™ (PAI®).

What it measures – A measure of general psychopathology that assesses depression, anxiety, somatic complaints, stress, alcohol and drug use reports, mania, paranoia, schizophrenia, borderline, antisocial, suicidal ideation, and more than 30 others.

Benefits – When used as a part of a comprehensive evaluation, can contribute substantially to the identification of a wide variety of risk factors that could potentially affect the medical patient.

Characteristics – Standardized test normalized on community members.

3. Brief Multidimensional Screens for Medical Patients:

Treating providers may use brief instruments to assess a variety of psychological and medical conditions, including depression, pain, disability, and others. These instruments may also be employed as repeated measures to track progress in treatment or as one test in a more comprehensive evaluation. Brief instruments are valuable in that the test may be administered in the office setting and hand scored by the physician. Results of

these tests should help providers distinguish which patients should be referred for a specific type of comprehensive evaluation.

a. Brief Battery for Health Improvement, 2nd Edition (BBHI™ -2).

What it measures – Depression, anxiety, somatization, pain, function, and defensiveness.

Benefits – Can identify patients needing treatment for depression and anxiety and identify patients prone to somatization, pain magnification, and self-perception of disability. Can compare the level of factors above to other pain patients and community members. Serial administrations can track changes in measured variables during the course of treatment and assess outcome.

Characteristics – Standardized test normalized on patients with chronic pain or injury and on community members, with reference groups for six subcategories of injured patients.

b. Pain Patient Profile (P-3®).

What it measures – Assesses depression, anxiety, and somatization.

Benefits – Can identify patients needing treatment for depression and anxiety and patients prone to somatization. Can compare the level of depression, anxiety, and somatization to other pain patients and community members. Serial administrations can track changes in measured variables during the course of treatment and assess outcome.

Characteristics – Standardized test normalized on patients with chronic pain and on community members.

c. SF-36®.

What it measures – A survey of general health, well-being, and functional states.

Benefits – Assesses a broad spectrum of patient disability reports. Serial administrations could be used to track patient perceived functional changes during the course of treatment and assess outcome.

Characteristics – Non-standardized test without norms.

d. Sickness Impact Profile (SIP).

What it measures – Perceived disability in the areas of sleep, eating, home management, recreation, mobility, body care, social interaction, emotional behavior, and communication.

Benefits – Assesses a broad spectrum of patient disability reports. Serial administrations could be used to track patient perceived functional changes during the course of treatment and assess outcome.

Characteristics – Non-standardized test without norms.

e. McGill Pain Questionnaire (MPQ).

What it measures – Cognitive, emotional, and sensory aspects of pain.

Benefits – Can identify patients prone to pain magnification. Repeated administrations can track progress in treatment for pain.

Characteristics – Non-standardized test without norms.

f. McGill Pain Questionnaire – Short Form (MPQ-SF).

What it measures – Emotional and sensory aspects of pain.

Benefits – Can identify patients prone to pain magnification. Repeated administrations can track progress in treatment for pain.

Characteristics – Non-standardized test without norms.

g. Oswestry Disability Questionnaire (ODQ).

What it measures – Disability secondary to low back pain.

Benefits – Can measure patient's self-perceptions of disability. Serial administrations could be used to track changes in self-perceptions of functional ability during the course of treatment and assess outcome.

Characteristics – Non-standardized test without norms.

h. Visual Analog Scales (VAS).

What it measures – Graphical measure of patient's pain report, in which the patient makes a mark on a line to represent pain level.

Benefits – Quantifies the patient's pain report, most-commonly using a 10 centimeter horizontal line. Serial administrations could be used to track changes in pain reports during the course of treatment and assess outcome.

Characteristics – Non-standardized test without norms. Some patients may have difficulty with this conceptual test format, depending on perceptual, visuomotor, cultural orientation, or other factors.

i. Numerical Rating Scales (NRS).

What it measures – Numerical report of patient's pain.

Benefits – Quantifies the patient's pain report, typically on a 0-10 scale. Serial administrations could be used to track changes in pain reports during the course of treatment and assess outcome.

Characteristics – Recommended by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). Non-standardized test without norms. May be more easily understood than the VAS.

j. Chronic Pain Grade Scale (CPGS):

What it measures - The CPGS is a multidimensional measure that assesses two dimensions of overall chronic pain severity: pain intensity and pain-related

disability.

Benefits – Among patients with moderate to severe chronic musculoskeletal pain, the CPGS has been shown to be modestly responsive to change.

Characteristics – Non-standardized test without norms.

k. Brief Multidimensional Screens for Psychiatric Patients:

These tests are designed for detecting various psychiatric syndromes but in general are more prone to false positive findings when administered to medical patients.

l. Brief Symptom Inventory (BSI®).

What it measures: Somatization, obsessive-compulsive, depression, anxiety, phobic anxiety, hostility, paranoia, psychoticism, and interpersonal sensitivity.

Benefits: Can identify patients needing treatment for depression and anxiety and patients prone to somatization. Can compare the level of depression, anxiety, and somatization to community members. Serial administrations could be used to track changes in measured variables during the course of treatment and assess outcome.

Characteristics – Standardized test normalized on community members.

m. Brief Symptom Inventory – 18 (BSI®-18).

What it Measures: Depression, anxiety, and somatization.

Benefits: Can identify patients needing treatment for depression and anxiety and patients prone to somatization. Can compare the level of depression, anxiety, and somatization to community members. Serial administrations could be used to track patient perceived functional changes during the course of treatment and assess outcome.

Characteristics – Standardized test normalized on patients with chronic pain associated with cancer.

n. Symptom Check List – 90 Revised (SCL-90R®).

What it measures: Somatization, obsessive-compulsive, depression, anxiety, phobic anxiety, hostility, paranoia, psychoticism, and interpersonal sensitivity.

Benefits: Can identify patients needing treatment for depression and anxiety and patients prone to somatization. Can compare the level of depression, anxiety, and somatization to community members. Serial administrations could be used to track changes in measured variables during the course of treatment and assess outcome.

Characteristics – Standardized test normalized on community members.

4. Brief Specialized Psychiatric Screening Measures:

a. Beck Depression Inventory® (BDI®).

What it measures: Depression.

Benefits: Can identify patients needing referral for further assessment and treatment for depression and anxiety and identify patients prone to somatization. Repeated administrations can track progress in treatment for depression, anxiety, and somatic preoccupation. Requires a professional evaluation to verify diagnosis.

Characteristics – Standardized test without norms, uses cutoff scores.

b. Center of Epidemiologic Studies – Depression Questionnaire (CES-D).

What it measures: Depression.

Benefits: Brief self-administered screening test. Requires a professional evaluation to verify diagnosis.

Characteristics – Non-standardized test without norms.

Note: Designed for assessment of psychiatric patients, not pain patients, which can bias results, and this should be a consideration when using.

c. Brief Patient Health Questionnaire from PRIME - MD®. (The PHQ-9 may also be used as a depression screen.)

What it measures: Depression, panic disorder.

Benefits: Brief self-administered screening test. Requires a professional evaluation to verify diagnosis.

Characteristics – Non-standardized test without norms, keyed to diagnostic criteria, uses cutoff scores.

d. Zung Depression Questionnaire.

What it measures: Depression.

Benefits: Brief self-administered screening test. Requires a professional evaluation to verify diagnosis.

Characteristics – Non-standardized test without norms.

Note: The Zung Depression Scale must be distinguished from the Modified Zung Depression scale used by the DRAM (a QPOP measure). The Zung Depression Scale has different items and a different scoring system than the Modified Zung Depression scale, making the cutoff scores markedly different. The cutoff scores for one measure cannot be used for the other.

Notice of Proposed Rulemaking

Tracking number

2017-00334

Department

1507 - Department of Public Safety

Agency

1507 - Division of Homeland Security and Emergency Management

CCR number

8 CCR 1507-43

Rule title

Reserve Peace Officer Academy Grant Program

Rulemaking Hearing

Date

09/05/2017

Time

03:00 PM

Location

9195 E. Mineral Ave., Centennial, CO 80112, Glasow N3 Room

Subjects and issues involved

This regulation shall govern the implementation of the reserve peace officer academy grant program, which includes the time frames for applying for these grants, the form of the grant program application, and the time frames for distributing grant funds.

Statutory authority

24-33.5-1616, C.R.S.

Contact information

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DEPARTMENT OF PUBLIC SAFETY
DIVISION OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

Reserve Peace Officer Academy Grant Program

8 CCR 1507-43

STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE

Pursuant to Section 24-33.5-1616 C.R.S., the Division of Homeland Security and Emergency Management shall promulgate rules and regulations concerning the administration, criteria and time frames for applying for and distributing funds associated with the grant program.

It was declared by the General Assembly that this act is necessary to better serve local government and local law enforcement agencies in the state by a shared reserve peace officer auxiliary group that serves multiple jurisdictions and has peace officer training and certification provided by the peace officers standard and training board. The absence of implementing rules to carry out the purpose of the statute would be contrary to this declaration. For these reasons, it is imperatively necessary that the proposed rules be adopted.

_____

_____

Kevin R. Klein Date of Adoption
Director, Division of Homeland Security and Emergency Management

Colorado Department of Public Safety

Division of Homeland Security and Emergency Management

8 CCR 1507-43

Reserve Peace Officer Academy Grant Program

1. Authority

This regulation is adopted pursuant to the authority in section 24-33.5-1616, C.R.S. and is intended to be consistent with the requirements of the State Administrative Procedures Act, section 24-4-101 et seq. (the "APA").

2. Scope and Purpose

This regulation shall govern the implementation of the reserve peace officer academy grant program, which includes the time frames for applying for these grants, the form of the grant program application, and the time frames for distributing grant funds.

3. Applicability

The provisions of these rules shall be applicable to all eligible applicants and recipients of grant funds as provided by law.

4. Definitions

"Eligible Applicant" means a political subdivision of the state that is comprised of multiple jurisdictions for the purpose of creating a reserve peace officer training academy that will train and certify a reserve peace officer auxiliary group.

"Recipient" means an eligible applicant receiving an award.

"Award" means financial assistance grant that provides support to accomplish a public purpose given by the state to an eligible recipient.

"Period of Performance" means the period of time during which the recipient is required to complete the grant activities and to incur and expend approved funds.

"Cost Share/Match" means the portion of a project cost borne by the recipient.

"Pre-award Costs" means costs incurred by a recipient before the grant was awarded.

5. Program Requirements

5.1 Eligibility

A. Eligible Applicants must have an academy that is certified by the Peace Officers Standards and Training (POST) board prior to receiving any award.

B. Eligible Applicants must complete the Application developed by the Division of Homeland Security and Emergency Management Office of Preparedness in conformance with the Application and the terms of the Grant Guidance described below.

C. Additionally, the following criteria will be evaluated in awarding any grant:

1. Existing access to start-up capital;
2. The capacity to serve communities statewide; and
3. The ability to assist law enforcement agencies in times of need.

5.2 Award Details

A. Maximum Award Amount: $800,000

B. Period of Performance: 17 Months

C. Funding Instrument: Discretionary Grant

5.3 Time Frames for Application

A. Time Frames

Application Submission Deadline:	November 30, 2017; 5:00 PM MST
Anticipated Funding Selection date:	December 31, 2017
Anticipated award date:	January 30, 2018

B. Restrictions

1. Applications that are not submitted by the stated Application Submission Deadline will not be reviewed or considered for funding.
2. Pre Award Costs are NOT allowed under this program.

5.4 Application Submissions

A. Applicants can submit their signed application via U.S. mail or via email as listed via the Grant Guidance.

5.5 Grant Guidance

The DHSEM Office of Preparedness is responsible for the implementation of this grant program and will develop and publish an Application and Grant Guidance in accordance with section 24-33.5-1616 C.R.S.

Notice of Proposed Rulemaking

Tracking number

2017-00306

Department

500,1008,2500 - Department of Human Services

Agency

2503 - Income Maintenance (Volume 3)

CCR number

9 CCR 2503-7

Rule title

OTHER ASSISTANCE PROGRAMS

Rulemaking Hearing

Date

09/01/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

The Low Income Energy Assistance Program is reviewed annually for updates that may be needed for the next benefit season, beginning November 1st. See attached Analysis for details.

Statutory authority

26-1-107, C.R.S. (2016)
26-1-109, C.R.S. (2016)
26-1-111, C.R.S. (2016)
26-2-122.5, C.R.S. (2016)
40-8-5-101, C.R.S. (2016)
40-8-7-101, C.R.S. (2016), et seq
40-8.7-109, C.R.S. (2016)
40.89.7-112(1) (2016)

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3.705.11 EMERGENCY ASSISTANCE

A. Emergency Assistance mAy be available to legal immigrants, as defined above. To receive emergency assistance the applicant/recipient must:

1. provide documentation of immigrant status (see Section 3.140),

2. provide income and resource information and the sponsor's income and resource information (sponsor's income and resources, if applicable, are deemed to be available to the legal immigrant).

3. provide a copy of the Affidavit of Support signed by the immigrant's sponsor, if applicable,

4. establish that the sponsor's income and resources are not available, or that meeting the responsibilities of the affidavit would cause an undue hardship on the sponsor. Hardships may include loss or substantial reduction of income, or catastrophic or irreconcilable circumstances affecting the sponsor's household.

5. while receiving Emergency Assistance, refrain from executing an Affidavit of Support for the purposes of sponsoring an immigrant, and

6. assign rights under an Affidavit of Support to the state department up to the amount of Emergency Assistance received, as a condition of receipt of public assistance.

B. Emergency Assistance may include, but is not limited to:

1. housing

2. food

3. clothing

4. social services for children.

C. Requests for funding to counties under this program shall be subject to approval by the State Department.

D. Assistance under this program is limited by funding as appropriated and assistance will cease when such funds are exhausted.

E. Applicants and recipients whose benefits have been denied, reduced, or discontinued shall receive adequate and timely notice, and have the right to appeal such actions in accordance with state rules.

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3.751 GENERAL PROVISIONS

3.751.1 DEFINITIONS [Rev. eff. 12/1/14]

"Applicant": The person who completes and signs the basic LEAP application form. This is also the only household member who is required to provide proof of lawful presence as defined in these rules.

"Approved Vendor" means a vendor that has signed a state specified agreement as it is prescribed in Section 3.758.46.

"Bulk Fuel": Bulk fuel is an energy source for home heating which may be purchased in quantity from a fuel supplier and stored by the household to be used as needed. Normally, bulk fuel includes wood, propane, kerosene, coal and fuel oil.

"COLLATERAL CONTACT" SHALL MEAN A VERBAL OR WRITTEN CONFIRMATION OF A HOUSEHOLD'S CIRCUMSTANCES BY A PERSON OUTSIDE THE HOUSEHOLD WHO HAS FIRST-HAND KNOWLEDGE OF THE INFORMATION. THE NAME/TITLE OF THE COLLATERAL CONTACT, AS WELL AS THE INFORMATION PROVIDED MUST BE DOCUMENTED IN THE REPORT OF CONTACT (ROC).

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3.752.21 Countable Unearned Income [Rev. eff. 12/1/14]

Countable unearned income includes but is not limited to the following, as well as payments from any other source, which is considered to be a gain or benefit to the applicant or recipient:

A. Inheritance, gifts, and prizes;

B. Dividends and interest received on savings bonds, leases, etc.;

C. Income from rental property;

D. Proceeds of a life insurance policy to the extent that they exceed the amount expended by the beneficiary for the purpose of the insured recipient's last illness or burial that are not covered by other benefits;

E. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or required to be expended for medical care;

F. Strike benefits;

G. Income from jointly owned property: - in a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received;

H. Lease bonuses (oil or mineral) received by the lessor as an inducement to lease land for exploration are income in the month received;

I. Oil or mineral royalties received by the lessor are income in the month received;

J. Supplemental Security Income (SSI) benefits received by an applicant or recipient shall be considered income in the month received. DROP THE CENTS FROM THE GROSS BENEFIT WHEN DETERMINING INCOME;

K. Income derived from monies (or other property acquired with such monies) received pursuant to the "Civil Liberties Act of 1988", P.L. 100-383;

L. Amounts withheld from unearned income because of a garnishment are countable as unearned income.

M. PUBLIC ASSISTANCE INCOME AS DEFINED IN 3.751.1 FROM THE FOLLOWING PROGRAMS: COLORADO WORKS; OLD AGE PENSION (OAP); AID TO THE NEEDY

DISABLED (AND); AID TO THE BLIND (AB); NON-CATEGORICAL REFUGEE ASSISTANCE (NCRA); SOCIAL SECURITY DISABILITY INSURANCE (SSDI).

3.752.211 Periodic Payments [Eff. 12/1/14]

The following types of periodic payments are among those included in countable unearned income:

A. Annuities - payments calculated on an annual basis which are in the nature of returns on prior payments or services; they may be received from any source;

B. Pension or retirement payments - payments to an applicant or recipient following retirement from employment; such payments may be made by a former employer or from any insurance or other public or private fund;

C. Disability or survivor's benefits - payment to an applicant or recipient who has suffered injury or impairment, or, to such applicant's or recipient's dependents or survivors; such payments may be made by an employer or from any insurance or other public or private fund;

D. Worker's compensation payments - payments awarded under federal and state law to an injured employee or to such employee's dependents; amounts included in such awards for medical, legal, or related expenses incurred by an applicant or recipient in connection with such claim are deducted in determining the amount of countable unearned income;

E. Veteran compensation and pension - payments based on service in the armed forces; such payments may be made by the U.S. Veterans Administration, another country, a state or local government, or other organization. Any portion of a VA pension that is paid to a veteran for support of a dependent shall be considered countable unearned income to the dependent rather than the veteran.

F. Unemployment compensation - payments in the nature of insurance for which one qualifies by reason of having been employed and which are financed by contributions made to a fund during periods of employment;

G. Railroad retirement payments - payments, such as sick pay, annuities, pensions, and unemployment insurance benefits, which are paid by the Railroad Retirement Board (RRB) to an applicant or recipient who is or was a railroad worker, or to such worker's dependents or survivors;

H. Social Security Benefits - Old Age (or Retirement), Survivors and Disability Insurance payments (OASDI or RSDI) made by the Social Security Administration; also included are special payments at age seventy-two (72) (Prouty benefits) and black lung benefits; DROP THE CENTS FROM THE GROSS BENEFIT WHEN DETERMINGING INCOME.

I. Supplemental Security Income (SSI) - public assistance payments made by the Social Security Administration to an applicant or recipient sixty five (65) years of age or older, or who is blind or disabled; such payments are considered in accordance with requirements specified in the applicable assistance program chapter. DROP THE CENTS FROM THE GROSS BENEFIT WHEN DETERMINGING INCOME.

3.752.212 Military Allotment [Eff. 12/1/14]

A military allotment received on behalf of an applicant or recipient for those individuals included in the budget unit shall be considered as income in the month received.

3.752.22 Income and Household Size Criteria [Rev. eff. 11/1/15]

A. All countable unearned income shall be the countable gross unearned income received in the income verification period, not to exceed one month's income.

B. For purposes of determining a household's eligibility, earned ongoing income shall be the countable gross income in any four (4) weeks of the eight (8) weeks prior to the application date.

C. Determining Monthly Income

If a household member is paid less than monthly, the county department shall determine gross monthly income by:

1. Weekly/Bi-Weekly Income

a. Weekly Income

Adding four gross weekly income amounts to obtain total monthly income.

b. Bi-Weekly Income

Adding two gross bi-weekly income amounts to obtain total monthly income.

2. Semi-Monthly Income

Adding two gross semi-monthly income amounts to obtain total monthly income.

3. Partial Month Income

a. Terminated Income

If a household member's income is terminated as of the application date, use actual income received in the income verification period.

b. Earned New Income

If a household member has a new source of earned income as of the application date, use income received in the income verification period.

c. Unemployment/Other Unearned Income

If a household member has not received his/her first check from this source of income as of the income verification period, do not count any income from this source. If the household member has received the income as of the income verification period, use actual income for the income verification period.

4. In-kind income is income received in exchange for employment and shall be considered as earned income whose value is based on the services rendered. The amount considered as earned income when a recipient is paid in lieu of cash is the declared value of the item or service provided.

D. All applicant households whose countable income for the eligibility period is one hundred sixty five percent (165%) of the federal poverty level shall meet the income requirements for the Heating Fuel Assistance Program. The State Department shall adjust the income limits annually based on funds available and the federal poverty guidelines published in the Federal Register ~~on~~ AND EFFECTIVE January ~~25, 2016~~ 26, 2017; no later editions or amendments are included. The following table contains the income standards:

HOUSEHOLD SIZE	MONTHLY GROSS INCOME 165% of Poverty
1	~~$1,634~~ $1,658
2	~~2,203~~ 2,233
3	~~2,772~~ 2,808
4	~~3,341~~ 3,383
5	~~3,911~~ 3,958
6	~~4,480~~ 4,532
7	~~5,050~~ 5,107
8	~~5,622~~ 5,682
Each Additional Person	~~$572~~ $575

E. Households which have been denied basic benefits and have had changes in circumstances may reapply.

3.752.23 Income Exclusions [Rev. eff. 11/1/15]

To determine eligibility for financial assistance and the amount of the assistance payment, the following shall be exempt from consideration as either resources or income. VERIFICATION IS NOT REQUIRED IN THE CASE FILE BUT MUST BE NOTATED IN THE REPORT OF CONTACT (ROC):

A. The value of food assistance and USDA donated foods;

B. Benefits received under Title III, Nutrition Program for the Elderly, of the Older Americans Act;

C. The value of supplemental food assistance received under the special food services program for children provided for in the National School Lunch Act and under the Child Nutrition Act, including benefits received from the special supplemental food program for Women, Infants and Children (WIC);

D. Home produce utilized for personal consumption;

E. The value of any assistance paid with respect to a dwelling unit under:

1. The United States Housing Act of 1937;

2. The National Housing Act;

3. Section 101 of the Housing and Urban Development Act of 1965;

4. Title V of the Housing Act of 1949; or,

5. Section 202(h) of the Housing Act of 1959.

F. Payments to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (score) and Active Corps of Executives (ace) and any other program under Title I (Vista) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and III of the Domestic Volunteer Services Act;

G. Compensation received by the applicant or recipient pursuant to the Colorado Crime Victims Compensation Act shall not be considered as income, property, or support available to the applicant or recipient. This is compensation paid to innocent victims or dependents of victims of criminal acts who suffer bodily injury;

H. Monies received pursuant to the Civil Liberties Act of 1988;

I. Any payment made from the Agent Orange Settlement Fund;

J. The value of any commercial transportation ticket, for travel by an applicant or recipient (or spouse) among the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the northern Mariana Islands, which is received as a gift by such applicant or recipient (or such spouse) and is not converted to cash;

K. Reparation payments made under Germany's law for compensation of national socialist persecution (German Restitution Act);

L. Any money received from the Radiation Exposure Compensation Trust Fund;

M. Reparation payments made under Sections 500 through 506 of the Austrian General Social Insurance Act;

N. Payments to applicants or recipients because of their status as victims of Nazi persecution;

O. Income paid to children of Vietnam veterans who were born with spina bifida;

P. All financial aid monies, including educational loans, scholarships, and grants, including work study;

Q. Earned income of children under the age of eighteen (18) who are residing with a parent or guardian;

R. Reimbursement received for expenses incurred in connection with employment from an employer;

S. Reimbursement for past or future expenses, to the extent they do not exceed actual expenses, and do not represent gain or benefit to the household;

T. Payments made on behalf of the household directly to others;

U. Payment received as foster care income; foster care individuals are not considered LEAP household members;

V. Home care allowance OR ATTENDANT SUPPORT CARE ALLOWANCE, if paid to a non-household member;

W. State/county diversion payments;

X. Reverse mortgages;

Y. Subsidized housing utility allowances;

Z. G.I. Bill educational allowances, including housing and food allowances;

AA. A one-time resettlement grant received under the refugee admissions program.

BB. A bona fide loan is a debt that the borrower has an obligation to repay and expresses his or her intention to repay, as documented in a written agreement;

CC. Funds received by persons fifty five (55) years of age and older under the Senior Community Service Employment Program (SCSEP) under Title V of the Older Americans Act;

DD. Income that is deemed necessary for the fulfillment of a Plan for Achieving Self-Support (PASS) under Title XVI of the Social Security Act.

EE. Money received in the form of non-recurring lump sum payments for income tax refunds, rebates, or credits; retroactive lump-sum social security, SSI, and public assistance payments.

FF. SUPPORTIVE SERVICES INCOME RECEIVED UNDER THE COLORADO WORKS PROGRAM.

3.752.24 Resources [Rev. eff. 10/1/01]

There are no resource criteria for the Low-Income Energy Assistance Program.

The value of the household's resources shall not be considered for the purpose of determining eligibility for assistance.

3.752.25 Vulnerability [Rev. eff. 11/1/15]

A. A household shall be vulnerable in order to qualify for Heating Fuel Assistance Program benefits. Vulnerability shall mean the household must be responsible for the costs of home heating as defined below:

1. The household is paying home heating costs directly to a vendor and is subject to home heating cost increases.

2. The household is living in non-subsidized housing and is paying home heating costs either in the form of rent or as a separate charge in addition to rent.

3. The household resides in subsidized housing as defined in the "Definitions" Section of these rules; and, 1) the unit has an individual meter which identifies specific heating usage of that unit and the household is subject to increased cost for home heating, or 2) the tenant is subject to a heating surcharge assessed by means other than an individual meter. Such surcharges may include percentage fees assessed to the tenant for home heating. EXCESS UTILITY CHARGES ARE TO BE SPECIFIC TO HOME HEATING AND VERIFIED BY THE COUNTY DEPARTMENT. Under no circumstances shall rental costs be assumed to be subject to change due to an increase in home heating costs unless otherwise verified ~~in writing~~ by the county department.

4. The applicant household in a residence where more than one household resides shall be considered vulnerable if the applicant household contributes toward the total expenses of the residence. These expenses include, but are not limited to, shelter and utilities.

5. The applicant household must live in a traditional dwelling.

6. Any applicant who shares a primary fuel, such as a shared natural gas meter, electric meter or propane tank, will be considered a shared household and the Estimated Home Heating Cost (EHHC) will be divided by the number of parties responsible for paying the shared heat expense.

B. Households in the following living arrangements shall not be considered to be vulnerable:

1. Institutional group care facilities, public or private, such as nursing homes, foster care homes, group homes, substance abuse treatment centers , or other such living arrangements where the provider is liable for the costs of shelter and home heating, in part or in full, on behalf of such individuals;

2. Room and board, bed and breakfast;

3. Correctional facilities;

4. Dormitory, fraternity or sorority house;

5. Subsidized housing as defined in the "Definitions" section of these rules which does not have an individual check meter for heat for each unit or which cannot provide other evidence of responsibility for paying home heating surcharges;

6. Any applicant, or applicant household who is considered homeless or resides in non-traditional dwellings;

7. Commercial properties that also serve as the client's dwelling;

8. Hotels, unless proof that the household has lived or will live in the hotel continuously for thirty (30) calendar days at the time of application and that heat is included in rent. Proof may be shown by providing a monthly statement, billing statement or receipt indicating the monthly arrangement.

C. Landlords or other providers of shelter shall not be considered to be vulnerable unless they meet the definition of household and the eligibility requirements of the Heating Fuel Assistance Program.

D. Vulnerability shall be verified for all applicant households as defined in these rules.

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3.753.11 Verification of Citizenship in the United States [Eff. 12/1/14]

Documents that are acceptable as verification of citizenship can be found at ~~1 CCR 201.17~~ 1 CCR 204-30, Attachment A.

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3.753.14 Documentation of Legal Immigrant [Eff. 12/1/14]

An alien considered a legal immigrant will normally possess one of the following forms provided by the Citizenship and Immigration Services (CIS) as verification:

A. I-94 arrival/departure record.

B. I-551: resident alien card I-551).

C. Forms I-688b or I-766 employment authorization document.

D. A letter from CIS indicating a person's status.

E. Letter from the U.S. Dept. of Health and Human Services (HHS) certifying a person's status as a victim of a severe form of trafficking.

F. Iraqi and afghan individuals who worked as translators for the U.S. military, or on behalf of the U.S. government, or families of such individuals; and have been admitted under a Special Immigrant Visa (SIV) with specific Visa categories of SI1, SI2, SI3, SI6, SI7, SI9, SQ1, SQ2, SQ3, SQ6, SQ7, or SQ9. Eligibility limitations are outlined in Section 3.710.31, I.

G. Any of the documents permitted by the Colorado Department of Revenue rules for evidence of lawful presence (~~1 CCR 201-17~~ 1 CCR 204-30, Attachment B).

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3.753.18 Citizenship - Lawful Presence Requirements [Eff. 12/1/14]

An applicant who does not meet lawful presence requirements or a household member who does not meet citizenship requirements shall not be included as a household member; however, all countable income of this individual shall be counted as part of the household's total income. The household's application shall not be denied due to lack of documentation regarding citizenship or lawful presence requirements if there are other household members who meet the citizenship requirements (i.e., minors born in the United States).

3.753.19 Alternate Verification ~~of~~ IDENTIFICATION TO ESTABLISH Lawful Presence [Eff. 12/1/14]

In order to verify the applicants lawful presence in the United States, a county department can use a print out from the Department of Motor Vehicle's database, OR APPLICABLE COLORADO BENEFITS MANAGEMENT SYSTEM (CBMS) INTERFACE SCREENS documenting a valid status of the applicant's Colorado driver's license or identification as verification, if it indicates that the applicant is lawfully present.

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3.754 REASONS FOR DENIAL OF ASSISTANCE [Eff. 12/1/14]

"Denial" means that an application shall be denied when the applicant fails to meet the eligibility requirements of the program. A denial also may be assessed on the basis of such factors as, but not limited to:

A. Refusal of the applicant to furnish information necessary to determine eligibility;

B. Applicant unwilling to have the county department contacts a collateral source to secure information and refusal of the applicant to sign the state-approved authorization for release of information form;

C. Applicant does not supply information or otherwise fails to cooperate with the county department within the standards of promptness time limits and after having received notification of the reason for delay;

D. Applicant moves to an unknown address before determination of eligibility has been completed;

E. Refusal of a third party to provide documentation of essential verifications.

3.754.1 FACTORS FOR DENIAL [Rev. eff. 11/1/15]

Any of the following factors shall be the basis for the denial of an applicant household:*

A. Excess income; 3.752.22 (04).

B. Not vulnerable to rising home heating costs; 3.752.25 (03).

C. Not a U.S. citizen or a qualified alien; 3.753.16 (13).

D. A household is a duplicate household or was previously approved as part of another household; ~~3.751.1, "Household"~~ 3.751.2, A (06).

E. The household has voluntarily withdrawn its application; 3.756.18 (09).

F. The household has received Heating Fuel Assistance Program benefits from another county; 3.756.17 (10).

G. The household has failed to provide complete application information or required verification; ~~3.756.12~~ 3.751.1, “COMPLETED APPLICATION” (11).

H. The household is not a resident of Colorado; ~~3.752.26~~ 3.753.21 (07).

I. The household failed to sign the application form; 3.751.1, “Completed Application”, (21).

J. The household filed an application outside of the application period; 3.752.1 (14).

K. Unable to locate the applicant; 3.756.19 (25).

L. Refused weatherization services from a state weatherization agency; ~~3.752.28~~ 3.752.26 (26).

M. The applicant failed to provide valid identification; 3.753.11 ~~B, 1~~ (05).

N. The applicant failed to provide an affidavit; ~~3.753.11~~ 3.753.12, B, 2 (08).

O. The applicant failed to provide valid identification; 3.753.11, ~~B, 1,~~ and the applicant failed to provide an affidavit; ~~3.753.11~~ 3.753.12, B, 2 (18).

P. Non-traditional dwelling; 3.751.1, (23).

Q. The household does not reside at the address for which it applied to receive benefits; ~~3.752.26~~ 3.753.22 (24).

R. LEAP can only assist with the primary heating fuel for the primary heating source; 3.751.1, (22).

S. The applicant household refused a bulk fuel delivery, thereby relinquishing the benefit; ~~3.751.54~~ 3.758.46 (28).

T. The household refused inspection of the Crisis Intervention Program work; 3.752.27 (27).

U. The applicant has been convicted of fraud; 3.751.56 (29).

V. THE HOUSEHOLD FAILED TO PROVIDE NECESSARY VERIFICATION OF INCOME; 3.752.22 (02)

(*Note: The rule citation is shown followed by the denial reasons which are to be used when coding the worksheet and data entering into the computer system.)

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3.755.2 VERIFYING INCOME

3.755.21 Adequate Verification of Income [Rev. eff. 11/1/15]

The case record shall contain adequate verification of income. Adequate verification is defined as any of the following:

A. Unearned income, such as pensions or retirement income, veteran's benefits, worker's compensation, unemployment or supplemental security income shall be verified in writing, such as an award letter or cost of living adjustment (COLA) letter, issued after the last general increase for that type of assistance, which shows the gross amount before any deductions. Acceptable verification includes documentation from federal/state/system inquiries (i.e., a copy of applicable CBMS screens). Copies of bank deposits or checks shall not be adequate verification of gross income.

B. Verification of child support income shall include at a minimum:

1. Verification through the Automated Child Support Enforcement System (ACSES); or,

2. Verification through the Family Support Registry (FSR); or,

3. Copies of checks, money orders or other document(s) including written statements or affidavits from the non-custodial parent that documents the income paid directly to the custodial parent.

4. An exception shall be made in cases of domestic violence as defined in Section 18-6-800.3(1), C.R.S., when the applicant provides evidence from a court or participation in the state's Address Confidentiality Program (ACP) pursuant to Section 24-30-2104, C.R.S. Client declaration shall be sufficient in such cases.

C. Social Security income may be verified by an award letter, issued by the social security administration, after the last general increase. Acceptable verification includes documentation from federal/state/system inquiries (i.e., a copy of applicable CBMS screens). Gross Social Security income includes income before any deductions for Medicare or other medical insurance. Copies of bank deposit or checks shall not be adequate verification of gross Social Security income.

D. Earned ongoing income shall be verified for at least four (4) weeks of the eight (8) weeks prior to the application date and shall consist of pay stubs or statements from employers which state the period worked, pay frequency and the actual gross income earned.

E. Public assistance income shall be verified through the most current active county records. The Low-Income Energy Assistance Program case record must specifically reference the source document of the income information via federal and/or state system inquiries (i.e., a copy of applicable CBMS screens).

F. Verification of income other than public assistance income of applicant households may be obtained through the most current active county records. The Low-Income Energy Assistance Program case record must specifically reference the source document of the income verification (i.e., source document name and/or number and document date).

G. Verification may be obtained by collateral contact, provided that the case record contains complete information on the name and title of the person contacted, the name of the employer or agency, the period of employment and the actual gross income received, earned or unearned.

H. In verifying zero income, the county shall examine income of all adult members of the household by using the Department of Labor and Employment (DOLE) verification system and one or more of the following methods:

1. Obtain a reasonable explanation ~~in writing~~ from the household on how they meet ~~living~~ SHELTER expenses;

2. Verify final date of employment with last employer;

3. Colorado Benefits Management System (CBMS).

I. Verification of self-employment income shall include, at a minimum:

1. WRITTEN DECLARATION OF MONTHLY GROSS INCOME WHICH MAY INCLUDE: Profit and loss statements, i.e., self-employment ledger; and,

2. Receipts for business-related expenses are required in order to be considered as deductions:

a. Rent or mortgage is not an allowable expense when the applicant is operating a business from his or her residence.

b. Utilities, data and phone bills including cell phones are not allowable expenses when the account is in the name of an individual.

c. Fuel expenses are allowable for vehicles used solely for business and for individuals who use personal vehicles that are directly related to the work and necessary to conduct business. The county may accept gas receipts and/or documentation of mileage for those vehicles that are not used solely for business. If using a mileage log, the deduction is then based on the number of miles times the county's established reimbursement rate.

3. Credit card and bank statements are not allowable receipts for business related expenses.

J. Owners of LLC's or S-Corps 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 counted as regular earned income, not self-employment income.

3.755.3 (None)

3.755.4 VULNERABILITY

3.755.41 Evidence of Vulnerability [Rev. eff. 11/1/13]

All households shall be required to provide evidence of vulnerability for the primary heating fuel for the residence at the time of application. Evidence of vulnerability may be shown by one of the following:

1. A copy of the current or most recent fuel bill that the household is responsible for paying. The fuel bill is not to exceed one (1) year prior to the date of application FOR NON-APPROVED VENDORS.

2. Collateral contact WITH THE FUEL PROVIDER to establish vulnerability. Contact is to be documented in the report of contact (ROC).

3. A copy of the current or previous month's rent receipt if heat is included in rent is also acceptable. The rent receipt must specifically notate that heat and/or utilities are included in rent. A lease or rent statement from the applicant's landlord is required if the rent receipt is not specific.

4. The county may use prior year's fuel bill if the information supplied matches the current application/information. If historical information is being used to verify vulnerability, a notation must be made in the case record. If the fuel bill that is submitted as evidence of vulnerability is in the name of a person other than the applicant household, the case record shall contain a notation that explains the discrepancy in names.

3.755.42 Subsidized Housing Rent Documentation [Rev. eff. 11/1/13]

Applicant households living in subsidized housing units shall be required to provide documentation specifying that the household is subject to heating surcharges when home heating usage exceeds the amount of the household's heating allowance, within the current LEAP program year, or evidence of a separate heating bill.

3.755.43 Wood Permits [Rev. eff. 6/1/09]

Applicants who cut their own wood shall be required to provide a copy of their wood cutting permit. If a permit is not available, the applicants must provide a written and signed statement that they cut their own wood, plus documented proof that they cut it on their own land or that they have permission from the landowner.

3.755.44 Wood Purchase [Eff. 12/1/14]

Applicants who use wood as their primary heating fuel must provide a receipt from a wood vendor. Receipts must include the vendor's name, address, telephone number, date and the name and address of the buyer; it must also contain the amount of wood purchased, the date of the purchase and the cost. IF THE REQUIRED INFORMATION IS NOT PROVIDED ON THE RECEIPT, THE COUNTY MUST DOCUMENT IN ROC AND PROVIDE FURTHER EXPLANATION.

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3.758.47 Methodology for Calculating Heating Fuel Assistance Program Benefits [Rev. eff. 11/1/15]

The payment amount for an eligible Heating Fuel Assistance Program household shall be determined in accordance with the following method:

Step A. Determine Estimated Home Heating Costs (EHHC)

The county department shall determine estimated home heating costs for November 1st through April 30th for the household's current residence at the time of application. The methodology for calculating estimated home heating costs is outlined below.

The county department shall determine the applicant household's estimated home heating costs as follows:

1. An applicant household's estimated home heating cost shall consist of the total actual home heating costs for the primary heating fuel for November 1st through April 30th, of the prior year's heating season. Vendors serving applicant households shall be required to supply actual home heating costs for November 1st through April 30th of the prior year's heating season.

2. For any applicant whose home heating costs for the prior year's heating season are not available or determined by the county department to be invalid, the county department shall use the flat rate amount. The State Department shall adjust the flat rate amounts annually based on the average actual home heating costs found in the LEAP system by dwelling type for the prior year's heating season contained in the following table:

	NAT. GAS	PROPANE FUEL OIL	ELEC.	WOOD	COAL	PROPANE BOTTLES	WOOD GATHERING
House, Mobile Home	~~$481~~ $391	~~$986~~ $776	~~$1,239~~ $1,146	~~$614~~ $602	$482	~~$384~~ $446	$200
Duplex, Triplex, Fourplex, Townhouse	~~$375~~ $308	~~$710~~ $607	~~$882~~ $865	~~$582~~ $614	$482	$341	$200
Apartment, Condominium, Hotel, Cabin	~~$277~~ $235	~~$850~~ $613	~~$640~~ $576	~~$582~~ $594	$482	$341	$200
Camper, 5th Wheel	~~$381~~ $435	~~$689~~ $629	~~$762~~ $808	$560	$432	~~$499~~ $489	$200

3. The State Department shall adjust the standard rates for heating costs that are included in rent annually based on the flat rate amounts adjustment contained in the following table:

	NATURAL GAS	PROPANE FUEL OIL	ELECTRIC	WOOD	COAL
House, Mobile Home	~~$192~~ $156	~~$394~~ $310	~~$496~~ $458	~~$246~~	$193

				$241	
Duplex, Triplex, Fourplex, Townhouse	~~$150~~ $123	~~$284~~ $243	~~$353~~ $346	~~$233~~ $246	$193
Apartment, Condominium, Hotel, CABIN	~~$111~~ $94	~~$340~~ $245	~~$256~~ $230	~~$233~~ $238	$193
~~Cabin,~~ Camper, 5th Wheel, RV	~~$152~~ $174	~~$276~~ $323	~~$305~~ $323	$224	$173

Step B. Initial Statewide Adjustment

The State LEAP office will adjust benefit levels at the beginning of each LEAP program year based upon the projected number of leap applications to be received and the estimated level of funding. Annually, this calculation determines the percentage of the estimated home heating costs (EHHC) of the applicant household to be adjusted.

Step C. Adjustment for Electric Heat

Households using electric heat will have their electric usage costs reduced to the percentage amounts listed below.

HEAT PORTION OF TOTAL ELECTRIC EHHC	
House/mobile home	62% for heat
Townhouse / duplex / triplex / fourplex	48% for heat
Apartment, condominium, hotel, CABIN ~~rooming house~~	43% for heat
~~Cabin,~~ RV, 5th wheel, camper	50% for heat

Step D. Adjustment for Shared Living Arrangements

The estimated home heating costs shall be adjusted if the household shares living arrangements with other households but is determined to be a separate household as defined in the "Definitions" section of these rules. If the household shares living arrangements with other households, the estimated home heating cost shall be divided by the number of separate households sharing the living arrangements, whether or not all households sharing the living arrangements are eligible for the Heating Fuel Assistance Program.

Step E. Adjustment for Subsidized Housing Home Heating Allowance

The State Department shall adjust the amount of estimated home heating cost remaining after Step B if the household resides in subsidized housing (as defined in the "Definitions" section of these rules). A flat rate rental cost allowance for heating ($30 per month or $180 per heating season) shall be deducted from the remaining amount of estimated home heating costs. If the household does not live in subsidized housing, the amount remaining after Step B shall be the estimated home heating cost.

Step F. Determine Heating Fuel Assistance Program Amount

The State Department shall determine a benefit amount for each eligible household by subtracting the applicable adjustments listed above, in Steps B-E from the household's estimated home heating costs (EHHC) determined in Step A, 1-3. Any eligible household will receive at least the minimum, up to and including, the maximum benefit amount established by the Department for the LEAP program year.

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Title of Proposed Rule:	2017-2018 Low Income Energy Assistance Program (LEAP)	
CDHS Tracking #:	17-06-15-01	
CCR #:	9 CCR 2503-7	
Office, Division, & Program:	Rule Author:	Phone: 303-861-0337
OES, FEA, LEAP	Aggie Berens	E-Mail: aggie.berens@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 Low Income Energy Assistance Program (LEAP) is reviewed annually for updates that may be needed for the next benefit season, beginning November 1st. New rule changes proposed are:

- Updating the income requirements based on the federal poverty level guidelines and the flat rates used for benefit calculations
- Revise and clarify language to assure consistency based on the review and recommendations from LEAP County Stakeholders
- Revision of the fraud rule and penalties per direction of legislative legal services
- Adding a denial code to specify when a household does not return required income verifications
- Adding Collateral Contact to definitions to align with other public assistance programs use as a tool for verifications
- Struck “in writing” from various rules to allow for the use of Collateral Contact to lessen client burden of document submission
- Adding for the acceptance of excess utility charges as proof of vulnerability for subsidized housing clients if they are specific to home heating, to clarify acceptable eligibility documents
- Adding that verifications of exempt incomes are not required in a case file but must be notated by the county in a report of contact note to lessen client burden of document submission
- Adding a clarification that Colorado Identification cards must be valid to match language of acceptance of a valid Colorado driver’s license.
- Adding for the acceptance of documents for the verification of lawful presence which have already been verified through the Colorado Benefits Management System (CBMS) interface to lessen client burden of document submission
- Adding for the acceptance of written declaration of gross monthly income for self-employed persons’ to ease counties burdens to manually scan receipts and apply deductions in all cases. Deductions may still be applied for those clients near income thresholds.
- Adding language to drop cents from income calculations for Supplemental Security Income (SSI), and Social Security Disability Insurance (SSDI) recipients to align with other public assistance programs
- Adding clarity to which public assistance income sources are considered as countable unearned income to align with other public assistance programs
- Adding clarity by revising living expenses to mean only shelter expenses to align county process for an explanation of how expenses are met for zero income households
- Adding clarity that evidence of vulnerability may be made by collateral contact with the fuel provider to lessen client burden of document submission
- Adding “attendant support care allowance” and “supportive services income received under the Colorado Works program” as exempt income sources to align with other public assistance programs

Title of Proposed Rule:	2017-2018 Low Income Energy Assistance Program (LEAP)	
CDHS Tracking #:	17-06-15-01	
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OES, FEA, LEAP	Aggie Berens	E-Mail: aggie.berens@state.co.us

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
26-2-122.5, C.R.S. (2016)	Colorado Department of Human Services is authorized to accept available monies including those for LEAP
40-8-5-101, C.R.S. (2016)	LEAP, established in the department of human services to determine the need for assistance to indigent, elderly, and persons with disabilities
40-8-7-101, C.R.S. (2016), et seq	Low-Income Energy Assistance Act
40-8.7-109, C.R.S. (2016)	LEAP eligibility for qualified individuals by CDHS
40.89.7-112(1) (2016)	Low-Income Energy Assistance fund administered by CDHS

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:	2017-2018 Low Income Energy Assistance Program (LEAP)	
CDHS Tracking #:	17-06-15-01	
CCR #:	9 CCR 2503-7	
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OES, FEA, LEAP	Aggie Berens	E-Mail: aggie.berens@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?

The State LEAP unit, county staff and clients will be positively impacted by aligning case processing to enhance case timeliness as well as clarifying language to assure consistency in case processing.

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?

Revising case processing results in better outcomes for clients since a quicker eligibility determination assures continuity in energy services and maintenance of health and safety. By requiring less documentation submission from clients on verifications, which can be obtained by other means, client burden is also lessened.
Clarifying existing language assures better direction for counties, improves efficiency in eligibility determination and timeliness in case processing, which positively impacts LEAP households and county staff.

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)*

No fiscal impact to the State as the program is funded through the U.S. Department of Health and Human Services and the program is administered within the allotted allocation.

County Fiscal Impact

No fiscal impact to counties as the State allocates the funds necessary to administer the program.

Federal Fiscal Impact

No impact as LEAP is funded through a federal block grant administered by the U.S. Department of Health and Human Services.

Other Fiscal Impact *(such as providers, local governments, etc.)*

No impact as energy providers are paid on behalf of eligible clients with allocated federal funds.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The U.S. Department of Health and Human Services 2017 poverty guidelines were used to set the income maximums at one hundred and sixty-five percent (165%) of poverty level.
For example, the maximum annual income for a household size of four at 165% FPL is $40,596 according to the Federal Poverty Guidelines. Since we base our figures on a monthly gross income, the annual figure is divided by twelve (12) months and rounded to the nearest dollar. Therefore, the maximum monthly gross income for a household of four is $3,383.

5. Alternatives to this Rule-making

No alternatives were considered because rule-making is the only method available to update income guidelines, flat rates, and/or revise language for the upcoming program year.

Title of Proposed Rule: 2017-2018 Low Income Energy Assistance Program (LEAP)
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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	Reason / Example / Best Practice	Public Comment No / Detail
3.705.11	CORRECTION	MY	MAY	TYPO	NO
3.751.1	ADD TO DEFINITIONS	NONE	COLLATERAL CONTACT ADDED TO DEFINITIONS	ALIGN WITH OTHER PUBLIC ASSISTANCE PROGRAMS	NO
3.751.56	REVISION	FRAUD PENALTIES WERE THREE YEARS FOR FIRST CONVICTION, PERMANENT FOR SECOND CONVICTION	FRAUD PENALTIES ARE 1 YR FOR FIRST VIOLATION, 2 YEARS FOR SECOND AND PERMANENT FOR THIRD VIOLATION	CHANGE PER LEGISLATIVE LEGAL SERVICES	NO
3.752.21 J	ADD LANGUAGE	RULE OF SSI AS COUNTABLE UNEARNED INCOME	DROP THE CENTS FROM THE GROSS BENEFIT WHEN DETERMINING INCOME	ALIGN WITH OTHER PUBLIC ASSISTANCE PROGRAMS	NO
3.752.21 M	ADD NEW RULE	NONE	ADD/CLARIFY PUBLIC ASSISTANCE COUNTABLE INCOME TYPES	DEFINING INCOME TYPES	NO
3.752.211 H	ADD LANGUAGE	RULE OF SSDI AS COUNTABLE PERIODIC PAYMENTS	DROP THE CENTS FROM THE GROSS BENEFIT WHEN DETERMINING INCOME	ALIGN WITH OTHER PUBLIC ASSISTANCE PROGRAMS	NO
3.752.211 I	ADD LANGUAGE	RULE OF SSI AS COUNTABLE PERIODIC PAYMENTS	DROP THE CENTS FROM THE GROSS BENEFIT WHEN DETERMINING INCOME	ALIGN WITH OTHER PUBLIC ASSISTANCE PROGRAMS	NO
3.752.22 D	UPDATE INCOME CHARTS	2016/17 PROGRAM YEAR FPL INCOME MAXIMUMS PUBLISHED 1/25/16	UPDATE TO 2017/18 PROGRAM YEAR INCOME FPL MAXIMUMS EFFECTIVE 1/26/17	ANNUAL FEDERAL POVERTY LEVEL UPDATE	NO
3.752.23	ADD LANGUAGE	RULE OF EXEMPT INCOME EXCLUSION TYPES	CLARITY THAT VERIFICATIONS ARE NOT REQUIRED IN THE CASE FILE FOR EXEMPT INCOME TYPES	STREAMLINE COUNTY VERIFICATION PROCESS	NO
3.752.23 V	ADD LANGUAGE	RULE OF EXEMPT INCOME TYPES INCLUDING HOME CARE ALLOWANCE	ADDITION OF ATTENDANT SUPPORT CARE ALLOWANCE TO EXCLUSIONS	ALIGN WITH OTHER PUBLIC ASSISTANCE PROGRAMS	NO
3.752.23 FF	ADD NEW RULE	RULE OF EXEMPT INCOME EXCLUSION TYPES	ADD SUPPORTIVE SERVICES INCOME RECEIVED UNDER COLORADO WORKS TO INCOME EXCLUSIONS	ALIGN WITH OTHER PUBLIC ASSISTANCE PROGRAMS	NO
3.752.25 A 3	ADD LANGUAGE	VULNERABILITY RULES FOR SUBSIDIZED HOUSING APPLICANTS	ADD THE ACCEPTANCE OF EXCESS UTILITY CHARGES FOR SUBSIDIZED HOUSING CLIENTS	STREAMLINE COUNTY VERIFICATION PROCESS	NO
3.753.11	CITE RECODIFIED	1 CCR 201.17, ATTACHMENT A	1 CCR 204-30, ATTACHMENT A	RECODIFIED	NO
3.753.14 G	CITE RECODIFIED	1 CCR 201-17, ATTACHMENT B	1 CCR 204-30, ATTACHMENT B	RECODIFIED	NO

Title of Proposed Rule: 2017-2018 Low Income Energy Assistance Program (LEAP)
CDHS Tracking #: 17-06-15-01
CCR #: 9 CCR 2503-7

Office, Division, & Program:	Rule Author:	Phone: 303-861-0337
OES, FEA, LEAP	Aggie Berens	E-Mail: aggie.berens@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
3.754.1 D	INCORRECT RULE CITE	3.751.1, “HOUSEHOLD”	3.751.2, A	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 G	INCORRECT RULE CITE	3.756.12	3.751.1, “COMPLETED APPLICATION”	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 H	INCORRECT RULE CITE	3.752.26	3.753.21	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 L	INCORRECT RULE CITE	3.752.28	3.752.26	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 M	INCORRECT RULE CITE	3.753.11 B, 1	STRIKE B, 1	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 N	INCORRECT RULE CITE	3.753.11	3.753.12, B, 2	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 O	INCORRECT RULE CITE	3.753.11, B, 1; 3.753.11	STRIKE B, 1; 3.753.12, B, 2	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 Q	INCORRECT RULE CITE	3.752.26	3.753.22	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 S	INCORRECT RULE CITE	3.751.54	3.758.46	CLARITY TO FACTOR FOR DENIAL	NO
3.754.1 V	ADD DENIAL REASON	NONE	HOUSEHOLD FAILED TO PROVIDE NECESSARY VERIFICATION OF INCOME; 3.752.22	PROVIDES CLARITY TO CLIENTS DENIED FOR NOT SUPPLYING INCOME	NO
3.755.21 H 1	REVISION	IN WRITING; LIVING	STRUCK IN WRITING; REVISED LIVING TO SHELTER	REMOVED IN WRITING TO ALLOW FOR COLLATERAL CONTACT. REVISED TO SHELTER TO CLARIFY EXPENSES SOUGHT	NO
3.755.21 I 1	ADD LANGUAGE	VERIFICATION OF SELF EMPLOYMENT INCOME	WRITTEN DECLARATION OF MONTHLY GROSS INCOME WHICH MAY INCLUDE:	ALLOWS FOR COUNTIES TO NOT REQUIRE RECEIPTS AND MANUAL CALCULATION OF INCOME; STREAMLINE COUNTY PROCESS	NO
3.755.41 1	ADD LANGUAGE	EVIDENCE OF VULNERABILITY FOR A FUEL BILL NOT TO EXCEED ONE YEAR	LANGUAGE CLARIFIES ONE YEAR APPLIES “FOR NON-APPROVED VENDORS”	DISTINGUISH RULE APPLIES ONLY TO NON-APPROVED VENDORS	NO
3.755.41 2	ADD LANGUAGE	COLLATERAL CONTACT TO ESTABLISH VULNERABILITY	ADDED “WITH THE FUEL PROVIDER”	PROVIDES CLARITY AND DEFINES EXCLUSIVE COLLATERAL CONTACT	NO

Title of Proposed Rule: 2017-2018 Low Income Energy Assistance Program (LEAP)
CDHS Tracking #: 17-06-15-01
CCR #: 9 CCR 2503-7

Office, Division, & Program:	Rule Author:	Phone: 303-861-0337
OES, FEA, LEAP	Aggie Berens	E-Mail: aggie.berens@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
3.755.44	ADD LANGUAGE	ACCEPTABLE WOOD PURCHASE RECEIPTS	IF THE REQUIRED INFORMATION IS NOT PROVIDED ON THE RECEIPT, THE COUNTY MUST DOCUMENT IN ROC AND PROVIDE FURTHER EXPLANATION	ALLOWS COUNTIES FLEXIBILITY TO ACCEPT RECEIPTS THAT DO NOT MEET ESTABLISHED PARAMETERS UNDER CONDITIONS	NO
3.758.47 STEP A 2	UPDATE FLAT RATE CHARTS	2016/17 PROGRAM YEAR FLAT RATES	UPDATE CHART FOR FLAT RATES TO 2017/18 PROGRAM YEAR	UPDATE TO BETTER REFLECT FUEL COSTS	NO
3.758.47 STEP A 3	UPDATE HEAT IN RENT CHARTS	2016/17 PROGRAM YEAR HEAT IN RENT FUEL COSTS; CABIN ON LINE WITH CAMPER, 5TH WHEEL, RV	UPDATE CHART FOR HEAT IN RENT FUEL COSTS TO 2017/18 PROGRAM YEAR; CABIN MOVED TO LINE TO REFLECTING DWELLING SIZE WITH APARTMENT, CONDO, HOTEL	UPDATE TO BETTER REFLECT FUEL COSTS; CABIN UPDATED TO REFLECT DWELLING SIZE	NO
3.758.47 STEP C	UPDATE CHART ADJUSTMENTS FOR ELECTRIC HEAT	CABIN LOCATED ON LINE WITH RV, 5TH WHEEL, CAMPER	STRUCK ROOMING HOUSE; MOVED CABIN ON LINE WITH APARTMENT, CONDO, HOTEL TO REFLECT DWELLING SIZE	REMOVED ROOMING HOUSE AS THIS IS AN INELIGIBLE DWELLING TYPE. CABIN UPDATED TO REFLECT DWELLING SIZE	NO

Title of Proposed Rule:	2017-2018 Low Income Energy Assistance Program (LEAP)	
CDHS Tracking #:	17-06-15-01	
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OES, FEA, LEAP	Aggie Berens	E-Mail: aggie.berens@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):

A subcommittee comprised of LEAP county stakeholders met on April 6th, 2017 and May 9th, 2017 to review existing rule and recommend updates. The changes were presented to the larger LEAP county stakeholder group on April 11th, 2017 and May 9th, 2017 and there were no changes or revisions requested.

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 Legal Services, Economic Security Sub-PAC, Energy Outreach Colorado (EOC), Colorado Energy Office (CEO), Governor's Commission on Low Income Energy Assistance, Colorado Cross-Disability Coalition, County LEAP managers, and the County Human Services Directors Association.

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 [x] 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 [x] No

Name of Sub-PAC			
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.	Will be presented at July 2017 Sub-PAC		

PAC

Have these rules been approved by PAC?

[ ] Yes [x] No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [x] 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.

Notice of Proposed Rulemaking

Tracking number

2017-00312

Department

500,1008,2500 - Department of Human Services

Agency

2504 - Child Support Enforcement (Volume 6)

CCR number

9 CCR 2504-1

Rule title

RULE MANUAL VOLUME 6, CHILD SUPPORT ENFORCEMENT RULES

Rulemaking Hearing

Date

09/01/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

The purpose of the proposed rule is to implement the Final Rule issued by the federal Office of Child Support Enforcement (OCSE) on December 20, 2016. Several areas of the Child Support Services program are affected by the provisions of the Final Rule, including the calculation of child support obligations, enforcement of child support orders through contempt proceedings, and criteria for closure of child support cases. In addition, technical cleanup is required in several areas, including the change in the name of the Colorado Child Support Services program.

Statutory authority

26-1-107, C.R.S. (2015)
26-1-109, C.R.S. (2015)
26-1-111, C.R.S. (2015)
45 CFR 302.56
45 CFR 303.4
45 CFR 303.6
45 CFR 303.8
45 CFR 303.11
45 CFR 303.31

Contact information

Name

Tracy Rumans

Title

Rule Author

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Title of Proposed Rule: **Implementation of Office of Child Support Enforcement Final Rule**

Rule-making#: **17-06-06-01**

Office, Division, & Program:	Rule Author:	Phone: (303) 866-5428
OES, Child Support Services	Tracy Rumans	E-Mail: tracy.rumans@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

(State what the rule says or does, explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. How do these rule changes align with the outcomes that we are trying to achieve, such as those measured in C-Stat?)

The purpose of the proposed rule is to implement the Final Rule issued by the federal Office of Child Support Enforcement (OCSE) on December 20, 2016. Several areas of the Child Support Services program are affected by the provisions of the Final Rule, including the calculation of child support obligations, enforcement of child support orders through contempt proceedings, and criteria for closure of child support cases. In addition, technical cleanup is required in several areas, including the change in the name of the Colorado Child Support Services program.

The Final Rule issued by OCSE makes changes to child support guidelines in order to ensure that child support orders are consistent with the noncustodial parent's ability to pay. The rule enumerates several factors that must be considered when determining the income of a parent. These factors include the parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other reemployment barriers. In order to comply with the Final Rule, Volume 6 should be revised to include the factors that must be reviewed when determining a parent's income. These factors apply when child support obligations are initially established, as well as during the review and adjustment process.

When a parent is incarcerated, that parent's ability to comply with existing child support obligations is severely restricted. In order to prevent a parent accumulating high levels of child support debt due to incarceration, the Final Rule requires the Child Support Services program to utilize a review and adjustment process. The county Child Support Services office will be required to provide notice to the parents of the right to request a review of the support order within 15 days of learning of the incarceration of the noncustodial parent for more than 180 calendar days, which will be accomplished through enhancements to the Automated Child Support Enforcement System (ACSES).

Contempt of court is a legal tool used by county Child Support Services offices to enforce child support obligations. The Final Rule mandates that cases are screened by the Child Support Services office prior to the filing of a civil contempt action that could result in the noncustodial parent being sent to jail. In addition, the contempt process must ensure due process to the noncustodial parent by providing clear notice that his or her ability to pay is critical issue determined by the court in the contempt action.

The Final Rule provides flexibility to the Child Support Services program by permitting case closure in situations where there is no current support order and all arrears are owed to the state, there is an intact two-parent household, or the parent is living with the child. The rule also permits case closure where the noncustodial parent lacks assets above subsistence level and is disabled or has entered long-term care. Finally, the rule reduces the amount of time required to perform diligent locate efforts before the case may be closed.

Several sections of Volume 6 require changes to incorrect citations to other program rules, outdated program names. In addition, the Division of Child Support Services changed the program's name to reflect the focus on providing services to the families that use the child support program. Therefore, Volume 6 should be revised to change "Enforcement" to "Services" in the program name throughout.

Title of Proposed Rule: **Implementation of Office of Child Support Enforcement Final Rule**

Rule-making#: **17-06-06-01**

Office, Division, & Program:	Rule Author:	Phone: (303) 866-5428
OES, Child Support Services	Tracy Rumans	E-Mail: tracy.rumans@state.co.us

Authority for Rule:
State Board Authority: 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:
(give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority)

Federal regulations:
45 CFR 302.56 - concerning guidelines for setting child support orders;
45 CFR 303.4 - concerning establishment of support obligations;
45 CFR 303.6 - concerning enforcement of support obligations;
45 CFR 303.8 - review and adjustment of child support orders;
45 CFR 303.11 - case closure criteria;
45 CFR 303.31 - concerning securing and enforcing medical support obligations.

Does the rule incorporate material by reference?		Yes	X	No
Does this rule repeat language found in statute?		Yes	X	No

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

Office of Economic Security (OES) Sub-PAC
County Human Services Directors and designees
County Child Support Services Administrators
Regional Partners—Federal Office of Child Support Enforcement
IV-D Attorneys
Colorado Judicial Department
Colorado Legal Services
Center on Fathering

[Note: Changes to rule text are identified as follows: deletions are shown as "strikethrough", additions are in "all caps", and changes made between initial review and final adoption are in brackets.]

Attachments:
Regulatory Analysis
Overview of Proposed Rule
Stakeholder Comment Summary

Office, Division, & Program: OES, Child Support Services

Rule Author: Tracy Rumans

Phone: (303) 866-5428
E-Mail: tracy.rumans@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?

Custodial parties and noncustodial parents receiving services through the Colorado Child Support Services program will benefit from this rule.

Both custodial parties and noncustodial parents will benefit from the thorough review of case circumstances to ensure the correct support amount that reflects their ability to pay is established when parents are voluntarily underemployed or unemployed.

Noncustodial parents that are incarcerated will benefit from receiving notice that their support orders may be reviewed to reflect their ability to pay while incarcerated.

Noncustodial parents will benefit from receiving due process through notice that the ability to pay is the critical issue determined by the court in a contempt hearing. Parents and the judicial system will benefit from increased scrutiny of cases when contempt actions are screened by county Child Support Services offices.

County Child Support Services offices will benefit from a reduced workload by removing the requirement for the federal required distribution notice to be generated manually. The Division of Child Support Services will bear the initial burden of developing an efficient process to produce the distribution notice.

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?

In the long term, custodial parties and noncustodial parents will benefit from support orders being established and modified based on the parents' ability to pay. By setting accurate orders, the likelihood that the parent will comply with the support order increases. This will lead to more custodial parties being able to rely on consistent support payments for their children.

The ability of a parent to pay support is incorporated into this rule change in several areas. Noncustodial parents that have been incarcerated for more than 180 days face a substantial reduction in their ability to pay a support order that may have been established based upon prior employment. By requiring the notice of the right to review that order, more parents will have their support orders modified to accurately reflect their present circumstances. This will reduce the number of cases where noncustodial parents face an insurmountable child support arrears balance upon their release from incarceration.

With more refined use of the civil contempt remedy to enforce child support orders, the courts and parents will benefit. By requiring screening prior to the filing of a contempt action, the remedy will be focused on those cases where it is appropriate, and will prevent the waste of judicial resources spent in court determining that a parent does not have the ability to pay.

The expansion of case closure criteria will benefit county Child Support Services offices as resources may be directed to cases where collections are possible. This will, in turn, improve customer service and case management practices.

State staff will bear the burden, in the short-term, of updating ACSES programming, developing procedures, and conducting training of county staff. Staff resources that currently deliver training will be utilized.

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)***

Changes to the Automated Child Support Enforcement System (ACSES) will be completed with funds already available to the program.

Costs of training will be absorbed within current state positions that currently conduct training.

County Fiscal Impact

There are no expected county fiscal impacts associated with this rule change. There will be a reduction in workload for county offices due to the removal of the requirement to generate the federal distribution notice.

Federal Fiscal Impact

There are no federal fiscal impacts associated with this rule change.

Other Fiscal Impact ***(such as providers, local governments, etc.)***

There are no other fiscal impacts associated with this rule change.

4. Data Description:

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Because this rule is required in order to implement the Office of Child Support Enforcement Final Rule, other data sources were not obtained in developing the rule.

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.

No other alternatives to rule-making are available because the rules must be changed and created in order to comply with the Office of Child Support Enforcement Final Rule.

Title of Proposed Rule: **Implementation of Office of Child Support Enforcement Final Rule**

Rule-making#: **17-06-06-01**

Office, Division, & Program:	Rule Author:	Phone: (303) 866-5428
OES, Child Support Services	Tracy Rumans	E-Mail: tracy.rumans@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Section Numbers	Current Regulation	Proposed Change	Stakeholder Comment	
			Yes	*No*
6.260.5	Notice and Reasons for Closure	Additional criteria authorized by federal rule change allows closure when noncustodial parent lacks assets above subsistence level and reduces time frame required to locate parents	X	
6.261.2	Notice of Right to Request Review	Adds requirement to notify parties to case of right to request review of child support order amount when noncustodial parent is incarcerated for more than 180 days		X
6.261.4	Conducting the Review	Provides required factors to be reviewed by child support caseworker during review process before imputing potential income to a voluntarily underemployed or unemployed parent		X
6.707.1	Determining Income	Provides required factors to be reviewed by child support caseworker before imputing potential income to a voluntarily underemployed or unemployed parent. Applies to establishment and review of support order amount		X
6.903.31	Civil Contempt Actions	Child support caseworker must screen cases prior to filing contempt action and notify noncustodial parent that the ability to pay is the critical question in a contempt action		X
6.240 (and Definitions section 6.002)	Medical Support	Definition of health care coverage includes public health care coverage under which medical services could be provided to the child	X	
Various	Child Support Enforcement	References to Child Support Enforcement were changed to Child Support Services to reflect program name change		X

Office, Division, & Program: OES, Child Support Services
Rule Author: Tracy Rumans
Phone: (303) 866-5428
E-Mail: tracy.rumans@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 Support Services
Arapahoe County CSS
Boulder county CSS
Broomfield County CSS
El Paso County CSS
Larimer County CSS
Weld County CSS
Colorado Judicial Department Child Support Liaison

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:

Office of Economic Security (OES) Sub-PAC
County Human Services Directors and designees
County Child Support Services Administrators
Regional Partners—Federal Office of Child Support Enforcement
IV-D Attorneys
Colorado Judicial Department
Colorado Legal Services
Center on Fathering

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 [X] No

If yes, who was contacted and what was their input?

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Date presented: July 6, 2017

What issues were raised? None

If not presented, explain why.

Comments were received from stakeholders on the proposed rules:

[X] 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.

Section 6.240.2

Julie Krow, Executive Director, El Paso County Department of Human Services

Our team reviewed the changes to the child support regulations and think they are great, with one possible addition courtesy of Jeff Ball. See Below.

We are wondering if an explicit statement should be made in the medical support section. As proposed:

6.240.2 MEDICAL SUPPORT ENFORCEMENT [Eff. 4/1/13]

The National Medical Support Notice (NMSN) must be sent to the obligor's employer if the obligor is ordered to provide health insurance, the obligor is eligible for health insurance, the health insurance is accessible to the child(ren), and the monthly premiums are reasonable in cost.

A. A notice must be sent to the obligor, informing him/her that the NMSN was sent to his/her employer and describing the rights and conditions regarding the issuance of the NMSN. The obligor has ten (10) calendar days from the date of the mailing to object with the Child Support Enforcement Unit if the obligor believes there is a mistake in identity and he/she is not the obligor, there is no order for the obligor to provide health insurance, the health insurance is not accessible to the children, or the monthly premiums are not reasonable in cost.

1. Health insurance is considered not accessible to the child(ren) if the child(ren) resides outside the geographic area of coverage.

2. A premium amount is considered reasonable in cost if the premium payments (child(ren)s' portion) are less than twenty percent (20%) of the paying parent's gross income or application of the premium payment (child(ren)s' portion) on the guidelines does not result in a Monthly Support Obligation of fifty dollars ($50) or less.

B. The Child Support Enforcement Unit will have ten (10) calendar days from the date the objection is mailed to determine if the objection is valid. If the obligor objects to the enforcement of the NMSN claiming it exceeds the reasonable cost standard, the Child Support Enforcement Unit must determine if the premium amount is twenty percent (20%) or more of the obligors' gross monthly income.

C. If the obligor's objection is valid, the Child Support Enforcement Unit must send a notice of termination to the obligor's employer with a copy to the obligor. If the obligor's objection is not valid, the Child Support Enforcement Unit must notify the obligor that the NMSN will remain in effect and that the obligor has the right to object with the court.

D. In subsidized adoption cases, CSE units have the option of enforcing medical support through a NMSN. Verification of the subsidized adoption is required if the Child Support Enforcement Unit chooses not to enforce.

Here is part of the OCSE new rule regarding medical support (from the December 19, 2016 Federal Register):

§ 303.31 Securing and enforcing medical support obligations.

(a) * * *

(2) Health care coverage includes fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child(ren).

We would add this sentence verbatim to 6.240.2, perhaps before the NMSN is mentioned.

Otherwise, we think the changes are very clear. (There may be a paternity only application option added at a later date.)

Response: Based on this comment, the Division of Child Support Services has further reviewed the medical support provisions of the Final Rule issued by the Office of Child Support Enforcement, and agrees that this change in the definition should be included in the proposed revisions. The term "health insurance" was replaced by "health care coverage" and defined to include public health care coverage along with private health insurance. Therefore, the definition of "health insurance" has been included in the revisions, along with revisions to the language in section 6.240.1, medical support establishment, and section 6.240.2, medical support enforcement.

Section 6.260.5

Christian Maddy, Denver County Child Support Services

Feedback for proposed changes to Volume 6 to implement Federal Office of Child Support Enforcement File Rule 2016

45 CFR 303.11(b)(7)(ii) – "*The IV-D agency may elect to close of case if … the noncustodial parent's location is unknown…. Over a 6-month period when there is not sufficient information to initiate an automated locate effort…*"

There is no proposed change to Volume 6, 6.260.51, which requires a 1-year timeframe, at this time.

The federal 6-month will have the intended impact of improving the flexibility, efficiency, and modernization of the program. To keep to 1-year time frame in effect suggests that the program's manual locate abilities, tools and practices have not improved since the rules inception. While anecdotal evidence may suggest that either more or less time may be required to have a successful outcome for these cases, imperial data should be collected and analyzed before deciding to further limit the federal requirement at the state level. As such, the 6-month timeframe should be incorporated in Volume 6 until such time that data reveals that an additional six months significantly contributes to the likelihood of a positive outcome.

45 CFR 303.11(b)(9)(i) and (ii) - "*The IV-D agency may elect to close of case if …. The non-custodial parent's sole income is from Supplemental Security Income (SSI) payments …. or ….*

Both SSI and Social Security Disability Income (SSDI)…."

There is no proposed change to Volume 6, 6.260.51, which is silent to these specific situations, at this time.

45 CFR 303.11(b)(8) is a complex paragraph that contains a 7-part test to determine whether the case has met closure criteria. While paragraph 8 has been integrated in Volume 6, the integration of 45 CFR 303.11(b)(9)(i) and (ii) would greatly simplify the agencies decision making process, thus improving the program's flexibility, efficiency, and modernization. Additionally, the inclusion of these paragraphs will prevent confusion at the county level as to whether these specific closure criteria apply by bridging the gap between federal and state regulations. Ultimately, our program will no longer face any ambiguity about perusing NCP's who are, by definition, physically or mentally debilitated and have no other means to comply with their orders. It appears to be clear, at the federal level, that we should not.

Please let me know if I can be of any further assistance.

Response: Based on this comment, the Division of Child Support Services has further reviewed the optional case closure criteria. With regard to 45 CFR 303.11(b)(7)(ii), when information on the noncustodial parent is added but no social security number is provided, the case is rejected by the Federal Case Registry, and requires further action by the case worker to obtain additional locate information. The Federal Case Registry pulls the case in 90-day increments to review for further locate information that can be used to find a social security number. Based on this process and possible delays in the intake step, several months may have elapsed before the actual locate request is made. Therefore, closing the case within 6 months would not allow sufficient time to fully utilize the tools available to locate the parent. However, we will pursue your suggestion of reviewing data to determine the rate of effectiveness of 6 months versus 1 year of locate efforts. As this case closure criterion is an optional part of the rule, depending on the results of that analysis, the rule can certainly be reviewed again in the future.

With regard to 45 CFR 303.11(b)(9), we have adopted your suggestion, and included a specific subsection to allow for closure of a case where the noncustodial parent's sole source of income is SSI. Because of the importance of establishing paternity and support orders for the children benefiting from the services of the child support program, closure is limited in those situations to cases where paternity and support has been established. The proposed revisions to section 6.260.51 now include an additional subsection F to address these SSI cases.

DEPARTMENT OF HUMAN SERVICES

Child Support ~~Enforcement~~Services

RULE MANUAL VOLUME 6, CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES RULES

9 CCR 2504-1

STATEMENT OF BASIS AND PURPOSE, AND, SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO THE CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES STAFF MANUAL

****

6.000 CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES PROGRAM

6.001 INTRODUCTION

6.001.1 PURPOSE

The Colorado Child Support ~~Enforcement~~ Services (CSS~~E~~) Program is established to collect support, to reimburse, in part or whole, Title IV-A grants paid to families, help remove IV-A recipients from the IV-A program by assuring continuing support payments, and assist persons who do not receive IV-A or IV E foster care to remain financially independent. Such purpose is achieved by: locating noncustodial parents, establishing the paternity of children born out of wedlock, establishing child support obligations and health insurance, reviewing the order for a possible adjustment, and enforcing and collecting support. Although this program must be closely coordinated with the IV-A, Medicaid, Low-Income Child Care Assistance, and foster care programs, it is a separate and distinct program with defined functions, which must be performed by a distinct administrative unit.

This manual sets forth the policies and rules by which the Colorado Child Support ~~Enforcement~~ Services (CSS~~E~~) program must be administered and describes the coordination that must take place with the IV-A and foster care programs. IV-A and IV E foster care cases in these rules are also referred to as public assistance (PA) cases. Cases that do not contain IV-A or IV E recipients and cases receiving continued services are referred to as non public assistance (Non PA; NPA) cases. Non-IV-E foster care, Medicaid, and Low-Income Child Care Assistance cases are also included in NPA cases. The policies and rules for the IV-A, Medicaid, Low-Income Child Care Assistance, and foster care programs are set forth in the respective staff manuals.

6.002 DEFINITIONS

“Abandoned Collections Account” - the State IV-D account into which undeliverable collections are transferred once a determination has been made that the payment cannot be disbursed. This account is used to reimburse state expenditures.

“ACSES” - the acronym for the Automated Child Support Enforcement system, a comprehensive statewide on line computer system providing case management, financial management, reports, statistics and an extensive cross reference system.

“Adjustment” or “Modification” - is a legal action to change the amount of the child support or foster care fee order, which can increase or decrease based upon application of the state's presumptive guideline; or to add a provision for medical support or to change the party ordered to provide medical support.

“Administrative Costs” - the amount of court ordered costs that must be repaid to the Child Support ~~Enforcement~~ Services Unit such as genetic tests, service of process fees, or attorney's costs.

“Administrative Lien and Attachment” - a notice to withhold child support, child support arrearages, child support debt, or retroactive support due from a noncustodial parent's workers' compensation benefits that is issued to any person, insurance company, or agency providing such benefits.

“Administrative Process Action (APA)” - determination of paternity and/or support obligations through a non-judicial process.

“Administrative Review” - a county or state level review of the following four issues only: the payments made, the arrearage amounts, the distribution of amounts collected, or a mistake in the identity of the person who owes the child support.

“Alleged Parent” - a person who has been identified as the possible biological parent of a child and/or who may be the legal parent of a child.

“Allocation” - the process of apportionment of a collection to a specific noncustodial parent's obligation based on the legal order for support to satisfy the various classes of the noncustodial parent's receivables.

“Application” - the state prescribed ~~form, CSE-6, which~~ form which indicates that the individual is applying for Child Support ~~Enforcement services~~Services. The application is signed by the individual applying for services and a fee is paid or waived on basis of hardship, and then paid by the county.

“Arrearages” - the total amount of the court ordered support obligations that are past due and unpaid. Such amount is calculated by multiplying the amount of the support obligation (including any modification thereto) by the number of months that have elapsed since the inception of the order and subtracting from the product the amount of support paid by the noncustodial parent, through the court, directly to the obligee, Child Support ~~Enforcement~~ Services Unit, or Family Support Registry (FSR).

“Assignment of Support Rights” - the determination that a family is eligible for IV-A benefits automatically invokes a state law (Section 26-2-111(3), C.R.S., as amended) that assigns to the State Department all rights that the applicant may have to support from any other person on his/her own behalf or on behalf of any other family member for whom application is made. The assignment is effective for both current support and support that accrues as arrears during the period that the family receives assistance. The assignment is limited by the total amount of IV-A assistance received. When a child is placed in foster care, all rights to current and accrued child support for the benefit of the child are assigned to the State Department pursuant to Section 26-13-113, C.R.S.

“Automated Child Support Enforcement System (ACSES)” - the statewide computer program used by Child Support ~~Enforcement~~ Services for daily operations.

“Caretaker” - a person who is related to the dependent child by blood or by law, or who lives with the child and who exercises parental responsibility (care, control and supervision) of the child in the absence of the child's parent.

“Case Category” - category of a case identifies the type of IV-D case. Case categories must be maintained on the automated child support system as prescribed by the State Department.

“Cash Medical Support” - see definition of “specific dollar amount for medical purposes”.

“Challenge” - when either party disagrees in writing with the review results because the guideline calculation contained an alleged mathematical or factual error. The parties' right to challenge is included

in the Post Review Notice or the Administrative Process, Notice of Financial Responsibility for Modification.

"Child Support ~~Enforcement~~ Services (CS~~E~~S) Unit" - the county unit administering or supervising the contract for another private or public entity to administer the Child Support ~~Enforcement~~ Services (CSS~~E~~) Program.

"Colorado Date of Receipt" (CDOR) - the date the child support payment is first received by the Child Support ~~Enforcement~~ Services program, either the Family Support Registry or the Child Support ~~Enforcement~~Services Unit.

"Confidential" - privileged information of individuals which is private and not for release, disclosure, or distribution unless specifically authorized in statute, regulation, or rule.

"Consumer Credit Reporting Agency" - any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"Continued Services Cases" - non public assistance Child Support ~~Enforcement~~ Services cases in which the Child Support ~~Enforcement~~ Services Unit continues to provide services after IV-A financial or IV-E foster care eligibility ceases unless notified by the custodial party that continued services are not desired.

"Cost Effectiveness Ratio" - the ratio of total child support collections to total administrative costs.

"County Department" - a county department of social services, human services, housing and human services, or health and human services.

"C.R.S." - Colorado Revised Statutes.

"~~CSE~~CSS Case" - a child support case in which services are provided to establish, modify, and enforce support and medical obligations pursuant to the state IV D plan.

"Custodial Party" - the legally responsible parent, blood relative, adoptive relative, adult who exercises responsibility for a dependent child(ren), or agency. Also known as the caretaker relative, custodial relative, custodian, government agency (for foster care cases) or, on ACSES, as the recipient/applicant and abbreviated as R/A.

"Date of Withholding" - the date the employer withheld the child support from the employee's wages.

"Disbursement" - processing of the payable to payees other than the Department of Human Services.

"Disposition" - the date on which a support order is officially established and/or recorded or the action is dismissed.

"Distribution" - application of the allocated collection to the IV D retained and/or payable accounts according to federal regulations based on assignment of rights to support, continued services, and application for services.

"EFPLS" - Expanded Federal Parent Locator Service

"Electronic Benefits Transfer (EBT) Notice" - the notice that is sent to the IV-A recipient at the beginning of each month informing him/her of how much public assistance money was deposited into his/her

account. The notice also contains information about how much child support was paid by the noncustodial parent during that month.

“Enforcing County” - Colorado county responsible for processing the case and providing Child Support ~~Enforcement s~~Services.

“Erroneous Disbursement” - see “Unfunded Disbursement”.

“Excess Pass Through Amount” – means an assigned child support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse for assistance provided to the family over the Pass Through Amount.

“Expedited Processes” - administrative or expedited judicial processes or both which increase effectiveness and meet specified processing timeframes and under which the presiding officer is not a judge of the court. Actions to establish or enforce support obligations in IV D cases must be completed within the timeframes specified in federal regulations.

“Family Support Registry (FSR)” - the contracted fiscal agent responsible for processing all child support payments.

“FFP” - Federal financial participation.

“Federal Tax Information (FTI)” - any information contained in, or that derived from, a federal tax return.

“Financial Institution Data Match (FIDM)” - Federal mandate requiring the state to do a periodic match of noncustodial parents who owe arrearages to accounts maintained at financial institutions.

“Financial Institution Data Match Lien and Levy” - a notice generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, to freeze and seize assets contained in financial accounts. The notice is issued to any financial institution or state entity maintaining accounts for obligors with child support arrearages, child support debt or retroactive support.

“FIPS” - Federal Information Processing Standard - a code number assigned to each state and county within the United States.

“Former Arrears Due (FAD) Case” - any IV-D case in which the custodial party or the child(ren) formerly received IV-A cash assistance or IV-E maintenance but no longer receives CSS~~E~~ services and where there are still assigned arrears due.

“Former Assistance Case” - any IV-D case in which the custodial party or the child(ren) formerly received IV-A cash assistance or IV-E maintenance.

“Foster Care Fee Debt” - the amount of support due in a foster care case from the placing parent for the time period between the date the child was placed in out-of-home placement to the date the fee order was established.

“Foster Care Fee Order” - a monthly amount assessed by application of the Colorado Child Support guidelines, which are found under 14-10-115(7), C.R.S., to the legally responsible person(s) whose child(ren) are receiving substitute care through a foster care placement as ordered by a court or through administrative process by a county Child Support ~~Enforcement~~ Services Unit.

“FPLS” - Federal Parent Locator Service.

“Genetic Testing” - a scientific test that shows the probability of biological parentage of a child which can lead to the establishment of paternity.

~~"Health Insurance" - medical insurance or medical and dental insurance that may be provided through a parent's employer or acquired individually by the parent.~~

"Health Care Coverage/Health Insurance" – Fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child(ren).

"HHS" - the U.S. Department of Health and Human Services.

"High Volume Automated Administrative Enforcement in Interstate Cases" - the use of automated data processing on interstate cases to search various state data bases and seize identified assets of delinquent obligors, using the same techniques as used in intrastate cases upon request of another state.

"Income Assignment" - the process whereby a noncustodial parent's child support payments are taken directly from his/her income and forwarded to the FSR through a notice to the employer, trustee, or other payor of funds.

"Initial Date of Receipt" (IDOR) - the date on which the support collection is initially received by the Title IV-D agency or the legal entity of any state or political subdivision actually making the collection or, if made via income assignment, the date of withholding, whichever is earliest.

"Initiating State/Jurisdiction" -

A. The state/jurisdiction which requests ~~CSE~~CSS services from the state/jurisdiction where the noncustodial parent resides, has property, or derives income; or,

B. The state where the custodial party resides if a modification has been requested and it is appropriate for that state to review the order.

"Intergovernmental Case" - a ~~CSE~~CSS services case which involves more than one state, country or tribe.

"Interstate Central Registry" - the Interstate Network unit within the Colorado Division of Child Support ~~Enforcement~~ Services (CS~~S~~S~~E~~) which receives and distributes responding cases and has oversight responsibility for intergovernmental IV-D cases.

"Interstate Network" - the unit in the Colorado Division of Child Support ~~Enforcement~~ Services which has responsibility for interstate central registry functions.

"In-State Case" - a case being worked in Colorado with no other jurisdiction involved.

"IV-A Cash Assistance" - payments paid to or on behalf of families with children pursuant to Title IV-A of the Social Security Act.

"IV-A Case" - a case referred from the IV-A Unit to the ~~CSE~~CSS office for child support services when the family has been approved for IV-A financial benefits and/or medical benefits.

"IV-A Unit" - the county unit administering the IV-A cash assistance program.

"IV-D Program" - Child Support ~~Enforcement~~ Services Program pursuant to Title IV D of the Social Security Act.

"IV-E Foster Care Case" - a case with a child(ren) who qualifies for public assistance under Title IV-E of the Social Security Act. These cases are mandatory referrals to the ~~CSE~~CSS Unit.

“IV-E Payment” - payment made on behalf of a child for his/her foster care maintenance in accordance with Title IV E of the Social Security Act.

“Judgment” - by operation of law, a child support payment becomes a final money judgment when it is due and not paid. A missed payment, or a series of missed payments, may also be reduced into a single judgment by the court.

“Legal Father” - see “Paternity”.

“Locate” - information concerning the physical whereabouts of the noncustodial parent or the noncustodial parent's employer(s), other sources of income, or assets, as appropriate, which is sufficient to take the next appropriate action in a case.

“Medicaid Referral Cases” - cases in which families, with a noncustodial parent, receive Medicaid and are referred to ~~CSE~~CSS from a Medicaid agency for ~~CSE~~CSS services if the Medicaid recipient voluntarily wants ~~CSE~~CSS services.

“Medical Coverage” - any health coverage provided for a child(ren), including: 1) private health insurance; 2) publicly-funded health coverage; 3) cash medical support; or 4) payment of medical bills, including dental or vision.

“Medical Support” - a subset of medical coverage which includes health coverage provided for a child(ren) in a IV-D case in which there is a medical support order. This includes: 1) private health insurance; 2) publicly-funded health coverage, if a parent is ordered by a court or administrative process to provide cash medical support payments to help pay the cost of Medicaid or State Child Health Insurance Program (SCHIP); 3) cash medical support, including payment of health insurance premiums; and 4) payment of medical bills, including dental or vision. Indian health service and tricare are acceptable forms of medical support.

“Modification” - see “Adjustment”.

“Monthly Amount Due” - the monthly amount the obligor is expected to pay toward the arrearages.

“Monthly Payment Due” - the monthly amount that the obligor is expected to pay each month; the amount includes the court ordered current support and the monthly amount due towards any arrears.

“Monthly Support Obligation” - the monthly obligation amount ordered by a court or through administrative process by a county Child Support ~~Enforcement~~ Services Unit to be paid on behalf of (a) child(ren) or (b) child(ren) and former spouse, if established in the same court order and if the former spouse is living with the child(ren).

“National Medical Support Notice (NMSN)” - a federally mandated notice sent to employers by the delegate ~~CSE~~CSS Units. The NMSN requires an employer to enroll a child(ren) in the employer’s health insurance plan if it is available, the employee is eligible, and it is reasonable in cost.

“Non-IV-E Foster Care Case” - a case with a child(ren) receiving Title IV-B foster care services who does not qualify for IV-E public assistance. These cases are classified by the State ~~CSE~~CSS Division on the automated child support system as a Non-PA case, but are treated like public assistance cases because they originate within Child Welfare Services and, pursuant to statute, contain an automatic assignment of support.

“Non-Public Assistance (Non-PA) Case” - a IV D case in which the family currently does not receive public assistance. Non-PA cases include Medicaid referral cases.

“Noncustodial Parent (NCP)” - the legally responsible parent, adoptive parent, or alleged parent who is not living with the dependent children. Also known on ACSES as the absent parent and abbreviated as “A/P”.

“Not in Child's Best Interest” - order would not be reviewed based on a good cause determination in cases with an assignment of rights as defined in Section 6.230.1.

“Notice of Collection” - a periodic report of Child Support collection information which is sent by the Child Support ~~Enforcement~~ Services Unit to current and former Colorado Works Program recipients who have assigned their rights to support.

“Obligee” - the party to whom an obligation of support is owed.

“Obligor” - the party bound by a court or administrative order to provide support.

“OCSE” - Office of Child Support Enforcement. The Health and Human Services agency responsible for the supervision of state child support enforcement programs pursuant to Title IV D of the Social Security Act.

“Original Order” - means the first support order that orders a parent to pay support for a child.

“Parties to the Action” - those individuals or entities named in a petition, motion, or administrative process notice of financial responsibility and joined, or to be joined, in a legal action.

“Pass Through Amount” – means an assigned child support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse for assistance provided to the family. In current-assistance cases, the federal share will be waived for up to $100 per month for TANF families with one child and up to $200 per month for families with two or more children, as long as both the federal and state share of the Pass Through are paid to the family and are disregarded in determining the TANF Basic Cash amount of assistance provided to the family.

“Paternity” - is the legal establishment of fatherhood for a child, either by court determination, administrative process, or voluntary acknowledgment.

“Permanently Assigned Arrears” - arrears which accrued under a court or administrative order and were assigned prior to October 1, 1997, plus all arrears which accrue while a family is receiving public assistance after October 1, 1997.

“Placing Parent” - the legally responsible parent who the child(ren) was living with prior to foster care placement.

“Post Assistance Arrears” - the arrears that accrue under a court or administrative order on a continued services case after the obligee discontinues IV-A services.

“Pre-Assistance Arrears” - the arrears that accrued from October 1, 1997, forward, under a court or administrative order before the obligee started receiving IV-A assistance.

“Pre-Offset Notice” - a notice generated yearly by the state Office of Child Support ~~Enforcement~~ Services notifying noncustodial parents of the enforcement remedies that may be applied to their cases and advising of their right(s) to request an administrative review.

“Pre-Review Screening” - an assessment of the IV-D case to determine the appropriateness for review.

“Presumed Father” - a man who is more likely than not to be the legal father of a child because certain facts exist.

"Primary Contact County" - the county that the obligee will contact to resolve issues concerning an unfunded disbursement balance.

"Procedure" - processes developed by county Child Support ~~Enforcement~~ Services Units and/or the State Department to implement state policy and rules.

"Public Assistance" - assistance payments provided to or on behalf of eligible recipients through programs administered or supervised by the State Department under Titles IV-A or IV-E of the Social Security Act or under Child Welfare Services.

"Public Assistance (PA) Case" - a case that has met established criteria by the IV-A or IV-E divisions to be referred to the ~~CSE~~CSS Unit for child support services.

"Responding State/Jurisdiction" - the state/jurisdiction where the obligor resides, has property, or derives income, which provides Child Support ~~Enforcement~~ Services Unit services upon request from another state/ jurisdiction.

"Retroactive Support Due" - the amount of support due for a time period prior to the entry of an order establishing paternity and/or support.

"Review" - an evaluation of the parties' income information to determine the child support order amount and whether a medical support provision needs to be added to the child support order or if the party ordered to provide medical support needs to change.

"Service Fee" – the annual fee charged to an obligee who has never received cash public assistance.

"Specific Dollar Amount for Medical Purposes or Cash Medical Support" - an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another party through employment or otherwise, or for other medical costs not covered by insurance.

"SPLS" - the State Parent Locator Service.

"State Department" - the Colorado Department of Human Services.

"State Plan" - the comprehensive statement submitted by the State Department to the Department of Health and Human Services describing the nature and scope of its Child Support ~~Enforcement~~ Services Program and giving assurance that it will be administered in conformity with the specific requirements stipulated in Title IV D of the Social Security Act and other official issuances of Health and Human Services.

"Support" - a medical support order and/or financial amount ordered by a court or through administrative process by a county Child Support ~~Enforcement~~ Services Unit on behalf of (a) child(ren) or (b) child(ren) and former spouse, if established in the same court order and if the former spouse is living with the child(ren).

"Termination of Review and Adjustment" - the review/adjustment activity ceases based on specific criteria which are set forth in Section 6.261.5.

"Total Program Expenditures" - the total amount of costs associated with the Child Support ~~Enforcement~~ Services program billed to the federal government for reimbursement.

"UIFSA" - Uniform Interstate Family Support Act, Title 14, Article 5, Colorado Revised Statutes (C.R.S.) which governs interstate case processing.

"UMP" - Unreimbursed Maintenance Payments. The amount of IV E foster care maintenance payments which have not been reimbursed by child support collections or other recoveries.

"Unassigned Arrears" - any arrears that are not assigned to the state, either because the obligee never received public assistance or because, for an obligee who is or was receiving public assistance, the arrears accrued during a time period when the obligee was not receiving public assistance.

"Unfunded Disbursement" - a disbursement that is paid but subsequently found to contain an error or found to have insufficient funds to pay the disbursement.

"UPA" - Unreimbursed Public Assistance. The amount of IV-A payments which have not been reimbursed by child and spousal support collections or reduced by IV A established recoveries.

"URESA" or "RURESA" - The Revised Uniform Reciprocal Enforcement of Support Act, Title 14, Article 5, C.R.S., as amended. Repealed in Colorado on January 1, 1995, the effective date of Uniform Interstate Family Support Act.

6.100 ADMINISTRATION OF THE COLORADO CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES PROGRAM

6.101 STATE DEPARTMENT OF HUMAN SERVICES

The State Department of Human Services is responsible for statewide supervision or administration and, as provided in these rules, direct administrative activities concerning the Child Support ~~Enforcement~~ Services Program as required by the federal government under its provisions for financial participation.

6.102 County Departments Of Social Services

6.102.1 County departments shall strictly administer the Child Support ~~Enforcement~~ Services Program in accordance with the rules set forth in this manual.

6.102.2 Duties Of The County Department

6.102.21

The duties of the county department or its delegate shall include the following:

A. Establishing, maintaining, and implementing specific written procedures for the operation of the Child Support ~~Enforcement~~ Services Program in accordance with these rules;

B. Maintaining the Child Support ~~Enforcement~~ Services staff manual, required state forms, and copies of county letters;

C. Establishing and monitoring agreements with local law enforcement officials, legal services providers and other organizations for the provision of services in support of the Colorado Child Support ~~Enforcement~~ Services Program;

D. Securing compliance with the requirements of the Colorado Child Support ~~Enforcement~~ Services Program in operations delegated under any agreement;

E. Implementing and utilizing a statewide, comprehensive automated Child Support ~~Enforcement system~~Enforcement system, as prescribed by the state department;

F. Certifying delinquent cases to the state department for the interception of Internal Revenue Service refunds and for interception of state income tax refunds;

G. Ensure the accuracy and integrity of the automatic child support system;

H. ~~Send a quarterly notice of current support and arrearage payment collections to current and former IV-A recipients with support obligations who have assigned their rights to support. Collections shall be reported on Form CSE-33, as prescribed by the State Department,~~Conduct an administrative review at the request of the custodial party as a result of the quarterly notice of current support and arrearage payment posted to the CSS website by the State Department. The county will review its files prior to or at the administrative review as provided for in state regulations at Section 6.220. The quarterly notice will be posted for current and former IV-A recipients with support obligations who have assigned their rights to support and shall contain:

1. Explanation of the assignment of support rights,

2. Name of the noncustodial parent from whom the support is collected,

3. The starting date of the period reported,

4. The ending date of the period reported,

5. A separate listing of payments collected from each noncustodial parent when more than one noncustodial parent owes support,

6. Amount collected from each noncustodial parent which was retained to reimburse public assistance,

7. Amount collected from each noncustodial parent which was paid to the family in the form of excess collections,

~~8. An Advisement to the custodial party of his/her right to call or write the Child Support Enforcement Unit if he/she has questions or disagreements about the distribution. The Advisement will notice the custodial party that the family is entitled to:~~

~~a. An administrative review,~~

~~b. Bring a representative to the administrative review, and~~

~~c. Review its files prior to or at the administrative review as provided for in state regulations at Section 6.220.~~

~~9. Such other information as deemed appropriate by the State Department.~~

I. Periodically, not less than annually, publicizing the availability of Child Support ~~Enforcement~~ Services services, including address and telephone number of the county Child Support ~~Enforcement~~ Services Unit;

J. Establishing an order for either party to provide medical support in new or modified court or administrative orders for child support, and enforcing the medical support provision when health insurance is accessible and available at reasonable cost to the obligor;

K. Obtaining information regarding the health insurance available through the custodial party and/or noncustodial parent when a change in circumstance occurs that would warrant a change in the health insurance status and reporting such information on the automated child support system. The automated child support system will generate a report to the state Medicaid Third Party Resource Section;

L. Conducting administrative reviews of contested arrears;

M. If the county director or the delegate exercises the option of referring Low-Income Child Care Assistance recipients to the Child Support ~~Enforcement~~ Services Unit, the county must comply with all provisions found in these rules and in Section 3.900, in the "Income Maintenance" rule manual (9 CCR 2503-9) relating to the referral of Low-Income Child Care Assistance recipients to the Child Support ~~Enforcement~~ Services Unit;

N. Using diligent efforts to complete all actions appropriately and within the timeframes required by the applicable federal regulations, statute or rule. Diligent efforts shall include the following:

1. Initiating a task within the required time period;

2. Completion of the task, including any follow up activities within the required time period;

3. Taking the necessary actions in response to receipt of information that indicates that the task may not be on track to be completed within the required timeframe.

6.102.3 Establishment of the County Department Child Support ~~Enforcement~~ Services Unit

Allocation of Staff: Sufficient staff shall be assigned to the Child Support ~~Enforcement~~ Services Unit to provide the following child support ~~enforcement~~ services functions: intake, locate, legal determination of parentage, establishment of the legal obligation, collection, enforcement, investigation and reporting as prescribed by these rules.

6.103 - 6.109 (None)

6.110 None

6.120 REIMBURSEMENT OF EXPENDITURES

6.120.1

The state department shall pass through to county departments of social services federal matching funds as prescribed by the state department for necessary expenditures for child support ~~enforcement~~ services and activities provided to PA recipients and NPA families in accordance with these rules.

6.120.2 Federal matching funds will not be passed through to county departments of social services for:

21 Activities not related to the Child Support ~~Enforcement~~ Services Program;

22 Construction or major renovations;

23 Purchases of child support ~~enforcement~~ services which are not secured in accordance with these rules and regulations;

24 Education and training programs and educational services except the direct costs of approved short-term training, as defined and approved by the state department;

25 Activities related to investigation or prosecution of fraud except for referring the discovery of same to the appropriate program;

26 Activities that are beyond the scope of these rules as determined by the state department;

27 Activities performed pursuant to an agreement that has expired and has not been renewed in accordance with these rules; and

28 The amount of any fees, costs, or interest on child support collections deposited in a financial institution and collected by the ~~CSE~~CSS Unit that have not been used to reduce county ~~CSE~~CSS program expenditures.

6.130 STATE DEPARTMENT TO SUPERVISE ~~CSE~~CSS PROGRAM

The Colorado Department of Human Services is responsible for statewide supervision and direct administrative activities concerning the ~~CSE~~CSS program as required by the Federal government under its provisions for financial participation.

County departments shall strictly administer the ~~CSE~~CSS program in accordance with the requirements of Title IV-D of the Social Security Act, and the federal and state rules and regulations which govern the operations of the ~~CSE~~CSS program.

6.140 PENALTY FOR FAILURE TO COMPLY WITH STATE AND FEDERAL REGULATIONS

If a county fails to comply with the requirements of Title IV-D of the Social Security Act, and the federal and state rules and regulations which govern the operations of the ~~CSE~~CSS program, the State Department may reduce or withhold incentive payments or take other actions as provided for in state statute or Department rules referenced in Colorado Department of Human Services' rule manual Volume 1 (9 CCR 2501-1).

6.200 GENERAL PROVISIONS

6.201 Application Requirements

County ~~CSE~~CSS Units shall establish procedures to ensure that all appropriate functions and activities regarding applications and information on available services are undertaken and completed within the timeframes specified and that all activities are documented on ACSES.

6.201.1 Public Assistance (PA) Cases

A. Public assistance cases shall be provided full support services as required by the Child Support ~~Enforcement~~ Services program upon referral without an application requirement. Referral is defined as the Colorado Benefits Management System (CBMS) generated automated referral and the State prescribed Social Services Single Purposes Application (SSSPA) form or another county form containing, at a minimum, the information found in the State prescribed form.

B. The following information shall be provided to PA clients on the appropriate state prescribed form:

1. The assignment of rights to support payments;

2. Available services;

3. The individual's rights and responsibilities;

4. Fees, cost-recovery and distribution policies;

5. Case categorization and the information necessary to change the category;

6. The requirement, in appropriate cases, for good cause exemption from referral to the ~~CSE~~CSS Unit to be granted by the county director or the designate IV-A staff; and

7. The lack of an attorney-client relationship.

C. Counties must document in the case record the date of referral, which is the date the recipient received the program information.

6.201.2 NON-PUBLIC ASSISTANCE (NPA) CASES

A. Continued Services Cases

1. The Child Support ~~Enforcement~~ Services Unit shall provide to the person whose IV-A grant or IV-E foster care eligibility is discontinued, continued CSS~~E~~ services, without a formal application or fee unless the CSS~~E~~ agency is notified to the contrary by the person whose IV-A grant or IV-E foster care eligibility is discontinued.

2. Form SMR-3, Notice to Recipient, will be generated and mailed to the recipient when they are discontinued from IV-A. The form will be sent to the recipient ten (10) days prior to the effective date of the discontinuation.

3. Form SS-4, Notice of Social Service Action, will be completed by the county services worker and mailed to recipients when a person(s) is discontinued from IV-E foster care. The form will be sent to the recipient five (5) days prior to the effective date of the discontinuation.

   The Notice to Recipient (SMR-3) and the Notice of Social Service Action (SS-4) shall:

   a. Notify the person whose IV-A grant or IV-E foster care has been discontinued, that the ~~CSE~~CSS Unit shall continue to provide ~~CSE~~CSS services unless the ~~CSE~~CSS Unit is notified by the former IV-A or IV-E foster care recipient to the contrary;

   b. Specify the ~~CSE~~CSS services that are available;

   c. Inform the person that the quality of information provided will affect the category of the case;

   d. Specify the name of the person whose IV-A grant and/or IV-E foster care has been discontinued; and,

   e. Specify the household number;

   f. Specify the unique case identifiers;

   g. Require the signature of the person discontinued who wishes to terminate ~~CSE~~CSS services;

   h. Specify the ~~CSE~~CSS unit will collect overdue support to repay past IV-A or IV-E foster care maintenance.

   i. Contain any other information deemed appropriate by the State Department.

4. The county Low-Income Child Care Assistance unit must provide written notice to the person whose IV-A grant or IV-E foster care eligibility is discontinued, if continued cooperation with the ~~CSE~~CSS Unit will be required due to the receipt of Low-Income Child Care Assistance within five days of referral from any of these referenced programs.

The county Low-Income Child Care Assistance Program must also notify the county Child Support ~~Enforcement~~ Services Unit within the same time frame.

B. Application Cases

1. Persons who do not receive public assistance or continued CS~~E~~S services may apply for full CS~~E~~S services by completing ~~CSE-6,~~ the Application for Child Support ~~Enforcement~~ Services, as prescribed by the State Department. Applications for child support services shall be readily accessible to the public. If the county department has elected to require Low-Income Child Care Assistance recipients to cooperate with the CS~~E~~S Unit, the recipients must complete the State prescribed application for Child Support ~~Enforcement services~~Services. Applications will not be accepted if all of the children associated with a specific obligee and obligor are emancipated, as defined in the existing child support order and the laws of the state where the child support order was entered. This same requirement applies to new interstate referrals sent to Colorado from another initiating state or jurisdiction. In a responding intergovernmental case, if the case was opened in the other state prior to emancipation and/or has state debt due, the application shall be accepted.

2. Upon application, the services established for IV-A recipients to locate, establish paternity of a child (or children), establish court orders for child support, review and modify orders for child support, and secure support from noncustodial and/or alleged parents shall also be made available on behalf of children who are or were deprived of parental support due to the absence of a parent or parents, but, for other reasons, are not recipients of IV-A, including those children who are receiving foster care services from funds other than Title IV-E of the Social Security Act.

3. The application on behalf of the child for child support ~~enforcement~~ services may be made by either of the child's parents (custodial or non-custodial), an alleged father, legal guardian, or other person or agency.

4. When the applicant is not a parent of the child, an ~~CSE-6~~ application for child support services must be obtained for each noncustodial parent.

5. Requests for Application

   a. When an individual requests an application or CS~~E~~S services in person, the CS~~E~~S Unit shall provide an application on the day requested.

   b. When an individual requests an application by phone or in writing, the application shall be sent by the county CS~~E~~S Unit within no more than five (5) business days from the date of request.

   c. The application shall include the following information:

      1) available services;

      2) the individual's rights and responsibilities;

      3) fees, cost recovery and distribution policies;

      4) case categorization and the information necessary to change the category; and

      5) the lack of an attorney-client relationship.

d. The ~~CSE~~CSS Unit must maintain a log of requests for services which includes the following information:

1) name of person requesting an application;

2) type of request (in person, phone, mail);

3) date of request;

4) date the application was mailed or provided;

5) date the application is accepted.

6. The application for non-PA ~~CSE~~CSS services shall be made on the ~~form CSE-6,~~ Application for Child Support ~~Enforcement~~ Services, as prescribed by the state department. The standard Application for Child Support ~~Enforcement~~ Services shall include the following elements:

a. The full name of the noncustodial parent;

b. The full name, date of birth, place of birth, sex and social security number of each child for whom support is sought;

c. The signature, address, telephone number, date of birth and social security number of the applicant and date of application.

7. Acceptance of Applications

a. An application may be filed in any CS~~E~~ office. If there is an existing case in another county, then the application shall be forwarded to the appropriate enforcing county within two (2) working days of receipt in the original county.

b. An application shall be accepted on the day it and the application fee are received, if one or more of the children associated with a specific obligee and obligor are not emancipated as defined in the child support order and the laws of the state where the child support order was entered.

c. An application shall be accepted as filed on the date it is received in the ~~CSE~~CSS office if it includes the following information:

1) applicant's name, address and social security number;

2) the name of the noncustodial parent(s), if known;

3) name, birth date, sex, place of birth and social security number, if available, for each child;

4) applicant's signature.

d. Acceptance of an application involves recording the date of receipt on the application.

8. Upon application, the county CS~~E~~ Unit shall collect a fee of twenty dollars ($20) from the applicant prior to the provision of CS~~E~~ services, except that such fee may be waived in cases where the county director determines that the imposition of such fee would

cause undue financial hardship. In the event of such waiver, the county must initially pay the fee from child support ~~enforcement~~ services funds. The CS~~S~~E Unit may then choose to recover the fee from the noncustodial parent. County CS~~S~~E Units may collect costs incurred in excess of fees. These costs shall be determined on a case by case basis and shall be used to reduce CS~~S~~E program expenditures.

9. Non-PA obligees shall be charged an annual twenty-five dollar ($25) certification fee for collection of IRS tax refunds only if an actual intercept occurs. The fee shall be deducted from the tax refund intercept and charged in addition to the twenty dollar ($20) ~~CSE~~CSS application fee. The certification fee must be used to reduce ~~CSE~~CSS program expenditures.

   If there is more than one tax refund intercept for a case, the twenty-five dollar ($25) certification fee will be charged only once, regardless of the number of obligors, and will be deducted from the first intercept(s) that occurs. If the total amount of all tax refunds for a case is less than twenty-five dollars ($25), the amount of refunds will satisfy the certification fee.

10. Non-PA obligees shall be charged an annual twenty-five dollar ($25) service fee once five hundred dollars ($500) has been disbursed to the family.

    The service fee will be reported to the federal government as program income, and will be shared between the federal and county governments.

    The service fee will be collected for each case set in all intrastate in-state and initiating intergovernmental cases on the ACSES if the $500 disbursement threshold is reached.

C. Locate Only Cases

Persons who request only noncustodial parent locator service may complete the Request for Parent Locator Service. The Colorado State Parent Locator Service shall provide such caretaker with instructions for completing the form and fees to be paid by the caretaker. A non-PA application form is not required.

6.201.3 FOSTER CARE CASES

A. Appropriately referred IV-E or non-IV-E foster care cases pursuant to the CDHS Social Services staff manual (12 CCR 2509-1) shall be provided the full range of services as required by the Child Support ~~Enforcement~~ Services program upon referral. Cases that are not appropriate for referral shall not be initiated.

B. Referral is defined as receipt of the referral packet from the county child welfare agency or the date the case appears in the county's on-line referral list. If the referral is manual, counties must document the date received by the ~~CSE~~CSS Unit as the referral date on the ACSES.

C. Child support ~~enforcement~~ services applications are not required for IV-E foster care cases. An ~~CSE-6~~ application for child support ~~enforcement~~ services, as prescribed by the State Department, shall be completed by the county department having custody of the child(ren) for all non-IV-E foster care cases. A one-time NPA application fee has previously been paid for all Non-IV-E foster care cases.

6.201.4 LOW-INCOME CHILD CARE ASSISTANCE RECIPIENTS

A. Appropriately referred Low-Income Child Care Assistance cases, pursuant to Section ~~3.904.1~~ 3.905.1of the CDHS "Income Maintenance" rule manual (9 CCR 2503-1) shall be provided the full

range of services as required by the Child Support ~~Enforcement~~ Services program upon referral and completion of the State prescribed application form. Referral is defined as receipt of the referral packet from the county Low-Income Child Care Assistance program.

B. The ~~CSE~~CSS Unit must document the case record with the date of referral, which is the date the ~~CSE~~CSS Unit received the packet. The ~~CSE~~CSS Unit must also have a process in place to notify the Child Care Assistance program within five business days after the recipient provides the completed application to the ~~CSE~~CSS Unit.

6.201.5 MEDICAID REFERRAL CASES

Appropriately referred Medicaid cases shall be provided the full range of services required by the Child Support ~~Enforcement~~ Services (CSS~~E~~) program without an application requirement. "Appropriately referred" means that the Medicaid applicant requested ~~CSE~~CSS services.

6.202 - 6.204 (None)

6.205 ENFORCING COUNTY

Designation of the county responsible for accepting the Child Support ~~Enforcement~~ Services application or processing the case, or both, provides for centralized legal and financial activities and prevents duplication of effort and establishment of unnecessary orders for support when an order exists.

Provisions pertaining to enforcing county designation and responsibilities shall apply to all new Child Support ~~Enforcement~~ Services cases and for existing cases where there is a dispute regarding an enforcing county issue.

A. The enforcing county is the county responsible for processing a case for Child Support ~~Enforcement~~ S~~s~~ervices, including locating the noncustodial parent, establishment of paternity, establishment and modification of a support order and enforcement of a support order. Enforcing county means the enforcing county on the automated child support system. The enforcing county is responsible for financial management of the case.

The enforcing county is also the county responsible for the case for audit purposes. When the noncustodial parent resides outside of Colorado, the enforcing county is the county responsible for initiating an intergovernmental action or appropriate instate action for ~~CSE~~CSS services. If the noncustodial parent is the only party in the case residing in Colorado and there is no existing court order and no public assistance has been paid in Colorado, the enforcing county will be considered the county where the noncustodial parent resides.

B. For all cases, the enforcing county for a Colorado Child Support ~~Enforcement~~Services case is the first county where a Child Support ~~Enforcement~~ Services application or referral was made. The enforcing county shall provide the full range of services to the Low-Income Child Care Assistance referral case from another county, even if the enforcing county elected not to require the Low-Income Child Care Assistance recipients in its county to cooperate with the Child Support ~~Enforcement~~ Services Unit.

C. When there is a new application or referral in a county other than the enforcing county, the county of the new application or referral shall assist in the completion of the application and any intergovernmental or other necessary documents. The county of the new application or referral shall forward the application, documents, and fee to the enforcing county, as appropriate, utilizing the form as prescribed by the State Department. For a Low-Income Child Care Assistance referral case, the Low-Income Child Care Assistance Program unit shall deal directly with the Child Support ~~Enforcement~~ Services (CSS~~E~~) Unit located in its county. The CSS~~E~~ Unit will then communicate with the enforcing county.

D. Unless the CSSE Units in the interested counties agree or there is enforcing county resolution to change enforcing county designation, the enforcing county remains the enforcing county until the case is closed in accordance with this manual. The enforcing county does not change when the parties in the case relocate.

E. When a IV-D unit requests enforcing county designation and the interested CSSE Units cannot agree, within five (5) calendar days, upon which county should be the enforcing county, the county directors, or their designees, in the counties will resolve the issue. If agreement cannot be reached, the CSSE office shall refer the matter to the State Division of Child Support Enforcement Services for resolution in accordance with the state procedure and prescribed form. The state decision is final and binding on the interested counties.

6.205.1 ENFORCEMENT OF ORDER AND FINANCIAL MANAGEMENT

A. The enforcing county shall enforce the original order and any subsequent modifications, and modify, as appropriate. Copies of all legal actions, such as modifications, and judgments shall be filed into the original order.

B. When IV-A or foster care placement costs (maintenance and services) have been expended in another Colorado county or counties, the enforcing county must contact all such counties and, within ten (10) working days, such counties shall provide the amount of unreimbursed public assistance or the costs for foster care placement to be included in the establishment of an order or to modify an order for UPA or foster care costs reimbursement. The enforcing county is responsible for coordinating arrearage balances of all interested counties.

C. The enforcing county shall enforce the existing order to the extent possible even if the order was issued by another county. If a court hearing is necessary, the enforcing county may request the IV-D unit in the county of the existing order to have its CSECSS attorney appear on behalf of the enforcing county. When requested, the CSECSS attorney in the order-issuing county shall appear on behalf of the enforcing county and represent the case as if it were his/her own county's case.

D. In cases in which the obligor has now become the obligee, known as role reversal, the county enforcing the existing order shall initiate the role reversal case and modify the existing court order to reflect the new change in circumstance, or initiate a reciprocal action to another jurisdiction, if appropriate, whether the role reversal occurred prior to or after the IV-D referral or application.

6.205.11 Change of Venue

Change of venue shall not be initiated for purposes of having the attorney for the order county take court action or to change the enforcing county for the case. A change of venue may be completed when the court determines it is in the best interests of the custodian, child, or non-custodial parent. Change of venue does not change the enforcing county, except upon agreement of the counties involved.

6.205.12 Controlling Order

In cases with multiple actions or orders, the enforcing county will determine the controlling order pursuant to Section 14-5-207, C.R.S., et seq.

6.205.13 Registration Of Order

In intergovernmental cases, the enforcing county may register a foreign order or enforce administratively, when enforcement is requested by the initiating agency.

There shall be no registration of Colorado orders.

6.205.2 INTERGOVERNMENTAL ENFORCING COUNTY

Responding intergovernmental cases are cases received from a jurisdiction outside Colorado requesting Child Support ~~Enforcement s~~Services because the noncustodial parent resides, is employed or derives income in Colorado. The county that shall work the responding intergovernmental case is determined as follows:

A. If there is an existing open cases, a responding intergovernmental action shall be forwarded to the existing enforcing county.

B. If there is no open enforcing county designation, the responding intergovernmental action will be forwarded to the county where a Colorado order has been entered or a foreign order registered that involves the same obligor and children.

C. If there is no open enforcing county designation and no previous Colorado order or registration of a foreign order, a responding intergovernmental action will be forwarded to the county of the noncustodial parent's place of residence.

D. If there is no open enforcing county designation, no previous Colorado order or registration of a foreign order, and a noncustodial parent's residential location cannot be identified or verified, a responding intergovernmental action will be forwarded to the county of the noncustodial parent's place of employment.

E. If there is no open enforcing county designation, no previous Colorado order or registration of a foreign order, and a noncustodial parent's residential and employment location cannot be identified or verified, a responding intergovernmental action will be put into sixty (60) day closure by the Interstate Unit. It will be returned to the initiating state if the obligor’s residence or employment cannot be verified in Colorado within that time frame. However, if the intergovernmental action was received from a foreign country, it will be forwarded to the county of the noncustodial parent's last known place of residence, if one was provided, or county of last known employment.

F. If the responding case is the enforcing case and is closed by the other state, the current in-state case must take enforcing county designation. If there is more than one current case, the rules for determining the enforcing county shall be followed.

6.206 - 6.209 (None)

6.210 Safeguarding And Protecting Confidential Information

All information contained in electronic or paper case files of the Child Support ~~Enforcement~~ Services program concerning the name(s) or identifying information of custodial parties, noncustodial parents, or children shall be considered confidential and shall be protected, except when otherwise provided for in this section.

6.210.1 Release Of Information

6.210.11

Before any information is released and before any discussion is held with any individual or entity concerning an individual case, the requestor’s identity must be verified and the purpose of the contact or request must be confirmed. If the request is made by fax, phone or Internet, information shall not be released until the requestor’s identity has been verified by requiring the requestor to provide unique identifying information such as Social Security Number, dates of birth for self or child(ren), court case number, child support case number, or Family Support Registry account number.

6.210.12

Child Support ~~Enforcement~~ Services workers shall release the name, mailing and/or residential address, Social Security Number, place of employment, day care amount, income, health insurance information, and date of birth of custodial parties, noncustodial parents or children, and establishment or enforcement information concerning the legal obligation for support only in the following circumstances:

A. When clarification of information is required to provide the next appropriate Child Support ~~Enforcement service~~Services Unit service authorized in Colorado law and described in the Child Support ~~Enforcement~~Services state plan. For example, if a worker from a clerk and recorder's office calls to clarify information contained in a Child Support ~~Enforcement~~ Services Unit's request for a lien to be placed on real property, the child support worker may confirm what action is being requested of the clerk and recorder.

B. In the administration of the plan or any program approved under Part A (Temporary Assistance to Needy Families), Part B (Child Welfare), Part D (Child Support Enforcement), Part E (Foster Care) or Part F (Child Care Services) or Titles XIX (Medicaid) or XXI (State Children's Health Insurance Program) of the Social Security Act, and the Supplemental Nutrition Assistance Program, including data which is necessary for fraud investigation or audit.

1. To assist any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such state plans or programs.

2. To report to the appropriate state or county department staff information that has been reported, to a Child Support ~~Enforcement~~ Services worker, of suspected mental or physical injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support ~~enforcement~~ services activity under circumstances which indicate that the child's health or welfare is threatened.

C. In response to a request received from a party to the action or his/her attorney of record, the requester can receive information specific to himself/herself only, and not the other party. Each party may verify the accuracy of the information related to him/her only that is in the possession of the Child Support ~~Enforcement~~ Services Unit. If the requestor is shown as a child on the case action, even if the child has since reached the age of emancipation, that requestor is not a party to the action and the information shall not be released except upon issuance of a court order.

D. To provide statutorily required information to the court on child support orders and other documents that are completed by the ~~CSE~~CSS Unit and then filed with the court, unless there has been a court order of non-disclosure entered to suppress such information on that particular party.

E. To inform the parties of information regarding the amount of public assistance benefits paid to the family which could be used in an administrative or court proceeding to establish or enforce an order for the past assistance.

6.210.13 Disclosure

Disclosure of any Child Support ~~Enforcement~~ Services case information is prohibited in the following circumstances:

A. At the request of all private collection agencies, unless the requesting agency is a state or county contractor and bonded as required by state or federal statute.

B. In response to a written complaint from the party (constituent) received by a legislator. Child Support ~~Enforcement~~ Services Units may provide only information which indicates what progress is being made on the case or what action has or will be taken to move the case forward.

C. At the request of any attorney who is not the attorney of record as reflected on the automated child support system or in the court files.

D. At the request of a current spouse or other individual even if that person has a notarized statement from the noncustodial parent.

E. Any information received from the Internal Revenue Service that has not been verified by an independent source. Such information can only be released to the taxpayer.

F. Information obtained through the State Income and Eligibility Verification System (IEVS) shall not be disclosed to anyone. The information shall be used exclusively by the Child Support ~~Enforcement~~ Services program.

G. Disclosure to any committee or legislative body (federal, state, or local) of any information that identifies any party to the action by name or address.

H. Genetic test results can only be released to the parties of the action. Pursuant to Sections 19-1-308 and 25-1-122.5, Colorado Revised Statutes, the parties are prohibited from disclosing the information to anyone else.

I. The information obtained from the access of records using the Social Security Number, pursuant to Section 14-14-113, C.R.S., shall only be used for the purposes of establishing paternity or child support ordered, modifying or enforcing child support orders.

J. Upon receipt of a non-disclosure affidavit and required documentation from either party, the county child support ~~enforcement~~ services worker shall create the affidavit of non-disclosure and the affidavit shall be forwarded to the court of jurisdiction. In this instance an individual's identity or location can be released only upon receipt of a court order requiring the override of the non-disclosure. The county child support worker shall update the non-disclosure indicator on the automated child support system within five working days of the date of receipt of the affidavit. Interjurisdictional cases will be handled as follows:

1. Initiating Interjurisdictional Cases: Treated the same as an in-state case with the exception that the affidavit will be sent to the responding jurisdiction along with the other required intergovernmental forms.

2. Responding Interjurisdictional Cases: If the initiating jurisdiction indicates that there is a nondisclosure granted in that jurisdiction, the county child support worker shall update the non-disclosure indicator on the automated child support system within five working days of the date of receipt of the intergovernmental request.

K. No Financial Institution Data Match information or Federal Tax information from the Internal Revenue Service may be disclosed outside of the administration of the Title IV-D program.

L. No information from the National Directory of New Hires or the Federal Case Registry may be disclosed outside of the administration of the Title IV-D program except:

1. In the administration of the plan or any program approved under Part B and Part E of the Social Security Act to locate parents and putative fathers for the purpose of establishing parentage or establishing parental rights with respect to a child.

2. In the administration of the plan or any program approved under Part A, Part B, Part D, and Part E of the Social Security Act, which is incorporated by reference; no amendments or editions are included. They may be examined during regular business hours by contacting the Colorado Department of Human Services, Director of the Division of Child Support ~~Enforcement~~Services, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publications Depository Library. The Social Security Act is also available on-line at: http://www.ssa.gov/op_home/ssact/ssact.htm.

6.210.2 PAYMENT RECORDS

Child support payment records that do not identify the source of the payments are considered public records and may be released upon request of any person pursuant to Section 24-72-202, C.R.S. No federal tax information, address or any other location information shall be included in the documents provided to the requestor or included for use in any court.

6.210.3 CONFLICT OF INTEREST

Child Support ~~Enforcement~~ Services Units shall establish processes in which certain case files are worked only by a supervisor or in a manner that provides limited access to case information. An example of these files: employee files or court ordered "sealed" files. Any employee with a personal interest in a case, including but not limited to his/her own case or a case of a relative or friend, shall not engage in any Child Support ~~Enforcement~~ Services activity related to that case and may not view any case information maintained on the automated child support system for that case.

6.210.4 RECORDS

6.210.41 Taxpayer Records

Federal tax return information obtained from the Internal Revenue Service shall be safeguarded to comply with Internal Revenue Service safeguarding standards, which include storing information in a locked cabinet or by shredding the information. Disclosure of, or access to, unverified data shall be restricted to individuals directly involved in the administration of the Child Support ~~Enforcement~~ Services program. "Unverified" means information which has not been independently verified with the taxpayer or through a third party collateral source. While obtaining verification of locate information, the Child Support ~~Enforcement~~Services worker shall not divulge the source of the data being requested for verification.

6.210.42 Financial Records

Financial records of an individual are to remain confidential, unless they are part of an action to establish a child support order or to complete a review and adjustment of an existing child support order, in which case, supporting financial documentation used to calculate the monthly support obligation shall be provided to both parties. Any person disclosing financial information inappropriately could face civil damages.

6.210.5 ADOPTION INFORMATION

Adoption information such as adoptive parents' names, biological parents' names, or other identifying information shall not be data entered on the automated child support system. The date of adoption or relinquishment shall be documented in the case file to indicate that any prior arrears owed could be assigned to the state.

6.210.6 ACCESS TO INFORMATION

A. No on-line computer access to electronic records through the automated child support system or other systems or databases will be provided to parties or non-parties.

B. Access to the automated child support system or other systems or databases for any personal reason is prohibited. Access is restricted to business use only and can only be accessed in the usual course of business.

C. County directors of social services or their written designee shall establish written processes to assure that system access is only provided to employees which corresponds to each workers' case assignment.

D. No other division within the state department shall have access to the automated child support system without specific approval from the state Division of Child Support ~~Enforcement~~Services. Child Support ~~Enforcement~~ Services information will be released by granting access to specific automated child support system data elements or by making an extract file of case information available, at the state level, for other programs to access.

E. County directors or their written designees must request from the state Child Support ~~Enforcement~~ Services Unit access to the automated child support system, for companies or individuals who have entered into contracts or agreements with state and/or county Child Support ~~Enforcement~~Services Units, by including the request to access case information in the contract or agreement.

F. State and county Child Support ~~Enforcement~~ Services Units must perform a background check on all employees prior to authorizing access to Child Support ~~Enforcement~~ Services information. The background check must include a criminal record check to obtain any criminal history and a Colorado civil court record check to obtain any child support case history of the employee.

G. All information eligible for release to related agencies (such as Internal Revenue Service, lottery, Department of Labor, credit reporting agencies, Department of Revenue, Motor Vehicle, Workers' Compensation, financial institutions, state regulatory agencies, the state controller, and Social Security) will be made available at the state level.

6.210.7 Access to Electronic Vital Records Maintained by the Colorado Department of Public Health and Environment (CDPHE)

A. In order to be granted access to the electronic vital records system maintained by the Colorado Department of Public Health and Environment (CDPHE), an employee of a county delegate Child Support ~~Enforcement~~ Services Unit must complete and provide to CDPHE a criminal background check and all required forms.

B. Each county delegate Child Support ~~Enforcement~~ Services Unit must complete a safeguard assessment for each location where employees will be accessing the electronic vital records system using the form prescribed by CDPHE. The safeguard assessment will be completed on a yearly basis thereafter.

C. Each county delegate Child Support ~~Enforcement~~ Services Unit shall ensure that its employees access the electronic vital records system maintained by CDPHE only for child support ~~enforcement~~ services purposes.

D. If a current or former child support ~~enforcement~~ services employee's access to the electronic records system maintained by CDPHE is terminated or needs to be terminated due to a change of employment or job duties, the county delegate Child Support ~~Enforcement~~ Services Unit shall notify CDPHE and the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, within two (2) business days. The county delegate Child Support ~~Enforcement~~Services Unit shall request that access to the electronic vital records system be terminated when an employee no longer needs access for child support enforcement purposes. However, if there is an emergency situation involving a security breach, the county delegate Child Support ~~Enforcement~~ Services Unit shall notify CDPHE of the need to terminate access, at least on a temporary basis, by the end of the next business day following discovery of the breach. A security breach is defined in the access agreement signed by county delegate child support ~~enforcement~~ services staff.

E. If a county delegate Child Support ~~Enforcement~~ Services Unit determines that the electronic vital records system has been accessed or may have been accessed for non-child support ~~enforcement~~ services purposes or accessed by anyone not authorized to do so, it shall report this to CDPHE and the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, by the end of the next business day following discovery.

F. A county delegate Child Support ~~Enforcement~~ Services Unit shall cooperate with any investigation into a security breach relating to the electronic vital records system, including providing any documentation requested to CDPHE and the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services.

6.220 FEDERAL TAX INFORMATION

A. Federal Tax Information is not to be viewed, either on a computer screen or on a printout of a computer screen, by anyone other than Child Support ~~Enforcement~~ Services (CS~~S~~E) staff, CS~~S~~E contract staff, or CS~~S~~E attorneys. If an unauthorized person inspects or discloses Federal Tax Information, county CS~~S~~E staff must report this violation to the State Child Support ~~Enforcement~~ Services Internal Revenue Services point of contact.

B. Federal Tax Information is not to be printed from the automated child support system except if that Federal Tax Information was originally provided by the taxpayer, unless the screen print is appropriately logged and either filed with secure storage controls or appropriately destroyed. The log must contain the following information:

1. Which screen was printed;
2. Who printed the screen;
3. Who had access to the screen print;
4. The name of the obligor;
5. The IV-D case number;
6. The storage location of the screen print; and,

7. The date, method of destruction, and person who destroyed the screen print.

C. ~~CSE~~CSS Units are prohibited from transmitting Federal Tax Information via a facsimile device or via any form of electronic mail.

D. Only an agency-owned computer and/or other device shall be used to remotely connect and gain access to the automated child support system.

E. If a county uses a visitor's log in its ~~CSE~~CSS Unit, the log must include the following items:

1. Date;

2. Visitor's name;

3. Visitor's place of business;

4. Driver's license number, state, and expiration date;

5. The purpose of the visit;

6. The person who escorted the visitor; and,

7. The time the visitor came into the building and the time the visitor left the building.

6.230 COOPERATION BY CUSTODIAL PARTY

6.230.1 Good Cause

Good cause is defined as circumstances under which cooperation with the Child Support ~~Enforcement~~ Services Unit may not be "in the best interests of the child." In the case of a IV-A referral, the county director or the designate IV-A staff shall make the determination of good cause exemption from referral of a custodial party to the Child Support ~~Enforcement~~ Services Unit. In the case of a Low-Income Child Care Assistance referral, the county director or designee shall make the determination of good cause exemption from referral to the CS~~E~~ Unit. The Child Support ~~Enforcement~~ Services Unit may provide information or participate with the county director or designate IV-A or Low-Income Child Care Assistance staff, as appropriate, to make the determination of good cause exemption.

6.230.11 Cooperation Requirements

The custodial party is required to cooperate with the county Child Support ~~Enforcement~~ Services Unit in:

A. Providing sufficient, verifiable information about the identity and location of the noncustodial parent(s) of the child(ren). Information is sufficient if it includes:

1. Noncustodial parent's full name and Social Security Number; or,

2. Noncustodial parent's full name and at least two of the following items:

a. Noncustodial parent's date of birth;

b. Noncustodial parent's address;

c. Noncustodial parent's telephone number;

d. Noncustodial parent's employer's name and address;

e. The names of the parents of the noncustodial parent;

f. Noncustodial parent's vehicle information (manufacturer, model and license);

g. Noncustodial parent's prison record;

h. Noncustodial parent's military record; or,

3. Noncustodial parent's full name and additional information which leads to the location of the noncustodial parent, or if unable to comply with any of the above.

B. Provide all of the following that the custodial party has or can reasonably obtain that may lead to the identity of noncustodial parent:

1. If paternity has not been established, provide a sworn statement of sexual intercourse between the alleged father(s) and the custodial parent of the child during probable period of conception;

2. Statements as to the identity or location of noncustodial parent from other individuals;

3. Records or information as to the whereabouts of records, from specific agencies;

4. Utility bills, parking tickets, credit card receipts, etc., that contain information about noncustodial parent;

5. Telephone numbers or addresses of others who knew the noncustodial parent;

6. Sworn statement documenting efforts taken by custodial party and obstacles encountered by custodial party in pursuit of information about the noncustodial parent;

7. Any other information that may assist the ~~CSE~~CSS Unit in identifying or locating the noncustodial parent.

C. Establishing parentage of children for whom parentage has not been legally established or is in dispute and for whom assistance or foster care services is requested or provided.

D. Establishing orders for financial and medical support and obtaining medical support for each child, when available to either party, as ordered by the court.

E. Obtaining support payments for the recipient/applicant and for each child for whom assistance or foster care services is requested or provided, and to which the department is entitled to collect pursuant to the assignment of support rights.

F. Obtaining any other payments or property to which the custodial party and/or each child for whom assistance is provided may be entitled, and to which the department is entitled to collect, pursuant to the assignment of support rights.

6.230.13 Cooperation in Foster Care Cases

As a condition of continuing eligibility for assistance or to comply with part of the foster care treatment plan, unless exempted for good cause, the custodial party is required to make a good faith effort to provide information about the noncustodial parent(s) of the child(ren) to the Child Support ~~Enforcement~~ Services Unit.

6.230.2 Cooperation Defined

"Cooperation", as used in this context, is defined as, but not limited to:

A. Appearing at the county department of social services office or other related agency to provide verbal and/or written information, or documentary evidence that is known by, in the possession of, or reasonably obtainable by the individual and which is relevant and necessary;

B. Appearing as a witness in court or other relevant hearing or proceeding;

C. Providing information or attesting to the lack of information requested, under penalty of perjury;

D. Submitting to genetic tests during an administrative or court proceeding conducted to determine parentage;

E. Paying to the ~~CSE~~CSS Unit of the county department of social services all child support payments received from an obligor or a court after being determined eligible for IV- A or foster care services; and,

F. Signing legal documents, as appropriate.

6.230.3 Cooperation Determination

The county IV-D administrator, or a designee, is responsible for making the determination of whether a PA, foster care, or Low-Income Child Care Assistance recipient has cooperated with the ~~CSE~~CSS Unit for the purposes of establishing and enforcing child or medical support.

6.230.4 Notification

The county ~~CSE~~CSS Unit shall notify immediately the IV-A unit, foster care unit, Low-Income Child Care Assistance unit, or Medicaid unit of any IV-A recipient, foster care placing parent, Low-Income Child Care Assistance recipient, or Medicaid referral case recipient who fails to fulfill the cooperation requirements of this section. The notification shall describe the circumstances of the non-cooperation and the date(s) upon which it occurred. For Low-Income Child Care Assistance recipients, the notice will be the sixty (60) day advance notice of case closure for non-cooperation described in Section 6.260.52, B.

The county ~~CSE~~CSS Unit will not attempt to establish paternity and support or collect support or third party information for medical support in those cases where the custodial party is determined to have good cause for refusing to cooperate.

6.230.5 Custodial Party Cooperates

After the ~~CSE~~CSS Unit has notified the IV-A, foster care, or Low-Income Child Care Assistance units of the custodial party's failure to cooperate, the custodial party may decide to cooperate rather than face penalties with the assistance grant, Low-Income Child Care Assistance or foster care treatment plan. Should this occur, the ~~CSE~~CSS Unit shall provide notification to the IV-A, foster care, or Low-Income Child Care Assistance units that the custodial party is now cooperating. The ~~CSE~~CSS Unit shall provide the notification to the IV-A, foster care, or Low-Income Child Care Assistance units within two (2) working days from the date the custodial party cooperated with the ~~CSE~~CSS Unit.

6.230.6 Request for Review Through Title IV-A

When the custodial party requests a review through IV-A of the determination that he/she has failed to cooperate with the ~~CSE~~CSS Unit, the county IV-D administrator, or a designee, shall appear at the IV-A dispute resolution conference and/or state level hearings to provide information concerning the basis for the determination that the custodial party has failed to cooperate with the ~~CSE~~CSS Unit.

6.230.7 Request for Review Through Child Care Assistance Program

If a Low-Income Child Care Assistance recipient requests a review though the Child Care Assistance Program to determine whether or not she should be granted a good cause exemption from cooperation with the Child Support ~~Enforcement~~ Services Unit, the county CSS~~E~~ administrator shall provide to the Low-Income Child Care Assistance Program any information in the possession of the CSS~~E~~ Unit which may support a good cause exemption.

6.240 MEDICAL SUPPORT ESTABLISHMENT AND ENFORCEMENT

6.240.1 MEDICAL SUPPORT ESTABLISHMENT

For all cases in which current child support is being sought (including zero dollar orders), the Child Support ~~Enforcement~~ Services Unit shall include a provision for either party to provide health care coverage~~insurance~~ for his/her child(ren).

6.240.2 MEDICAL SUPPORT ENFORCEMENT

Unless the child(ren) is receiving public health care coverage, t~~T~~he National Medical Support Notice (NMSN) must be sent to the obligor's employer if the obligor is ordered to provide health insurance, the obligor is eligible for health insurance, the health insurance is accessible to the child(ren), and the monthly premiums are reasonable in cost.

A. A notice must be sent to the obligor, informing him/her that the NMSN was sent to his/her employer and describing the rights and conditions regarding the issuance of the NMSN. The obligor has ten (10) calendar days from the date of the mailing to object with the Child Support ~~Enforcement~~ Services Unit if the obligor believes there is a mistake in identity and he/she is not the obligor, there is no order for the obligor to provide health insurance, the health insurance is not accessible to the children, or the monthly premiums are not reasonable in cost.

   1. Health insurance is considered not accessible to the child(ren) if the child(ren) resides outside the geographic area of coverage.

   2. A premium amount is considered reasonable in cost if the premium payments (child(ren)'s portion) are less than five percent (5%) of the paying parent's gross income or application of the premium payment (child(ren)'s portion) on the guidelines does not result in a Monthly Support Obligation of fifty dollars($50) or less.

B. The Child Support ~~Enforcement~~ Services Unit will have ten (10) calendar days from the date the objection is mailed to determine if the objection is valid. If the obligor objects to the enforcement of the NMSN claiming it exceeds the reasonable cost standard, the Child Support ~~Enforcement~~ Services Unit must determine if the premium amount is five percent (5%) or more of the obligor's gross monthly income.

C. If the obligor's objection is valid, the Child Support ~~Enforcement~~ Services Unit must send a notice of termination to the obligor's employer with a copy to the obligor. If the obligor's objection is not valid, the Child Support ~~Enforcement~~ Services Unit must notify the obligor that the NMSN will remain in effect and that the obligor has the right to object with the court.

D. In subsidized adoption cases, CSSE units have the option of enforcing medical support through a NMSN. Verification of the subsidized adoption is required if the Child Support Enforcement Services Unit chooses not to enforce.

6.250 PROVISION OF SERVICES IN INTERGOVERNMENTAL IV-D CASES BY CHILD SUPPORT ENFORCEMENT SERVICES (CSSE) UNITS

6.250.1 INITIATING STATE/JURISDICTION RESPONSIBILITIES

County CSECSS Units shall ensure management of the initiating intergovernmental CSECSS caseload to ensure provision of necessary services, including maintenance of case records and periodic review of program performance on interstate cases.

A. When applicable, use long arm statutes to establish paternity or support. Also, determine if enforcement action can be completed through an instate action such as direct income withholding to the noncustodial parent's out of state source of income.

B. Within twenty (20) calendar days of locating the noncustodial parent in another state, Tribe or country, determine if the filing of an intergovernmental action is appropriate and refer the intergovernmental filing to the Interstate Central Registry of the appropriate state, to the Tribal IV-D program, or to the central authority of the foreign country, or take the next appropriate action.

C. Ask the appropriate intrastate tribunal or refer the case to the appropriate responding state IV-D agency for a determination of the controlling order and a reconciliation of arrearages, if such a determination is necessary.

D. The twenty (20) day time frame begins on the date the obligor's location is verified and/or necessary documentation to process the case is received, whichever date is later. UIFSA petitions are to be sent directly to the Interstate Central Registry of the appropriate state, to the Tribal IV-D program, or to the central authority of the foreign country.

E. Provide sufficient and accurate information on appropriate standardized interstate forms with each action referred to enable the responding agency to take action. The Intergovernmental Child Support Enforcement Transmittal form and other standardized interstate forms, as prescribed by the state, shall be used for each intergovernmental action request.

F. Request that the responding state include health insurance in all new and modified orders for support.

G. Within thirty (30) calendar days of request, provide additional information and any order and payment record information requested by a state IV-D agency for a controlling order determination and reconciliation of arrearages, or notify the requesting office when information will be provided.

H. Within ten (10) working days of receipt of new case information, submit information to the CSECSS office in the responding agency. New information includes case status change or any new information that could assist the other agency in processing the case.

I. Instruct the responding agency to close its intergovernmental case and to stop any withholding order or withholding notice that the responding agency has sent to an employer, before transmitting a withholding order or withholding notice, with respect to the same case, to the same or another employer, unless an alternative agreement is reached with the responding agency regarding how to proceed.

J. Notify the responding agency within ten (10) working days when a case is closed and the reason for closure.

K. The ~~CSE~~CSS Unit may provide any documentation, notification, or information through any electronic means, as long as the electronic transaction is appropriately documented in the case record.

L. If the initiating agency has closed its case pursuant to Section 6.260.5 and has not notified the responding agency to close its corresponding case, the initiating agency must make a diligent effort to locate the obligee, including use of the Federal Parent Locator Service and the State Parent Locator Service, and accept, distribute, and disburse any payment received from a responding agency.

6.250.2 RESPONDING STATE/JURISDICTION RESPONSIBILITIES

County ~~CSE~~CSS Units shall ensure management of the interstate ~~CSE~~CSS caseload to ensure provision of necessary services, including maintenance of case records and periodic review of program performance on interstate cases.

A. Ensure that organizational structure and staff are adequate to provide services in intergovernmental ~~CSE~~CSS cases.

B. County ~~CSE~~CSS Units must initiate any electronic or manual referral from the interstate network within twenty (20) calendar days of the date of referral as found on the ACSES responding interstate recently referred list.

C. If the noncustodial parent is located in another county within ten (10) working days of receipt of the intergovernmental case, the case shall be moved to the county of the noncustodial parent's residence unless:

1. The county was the open enforcing county prior to the intergovernmental referral; or,

2. The county has registered a foreign order; or,

3. The county is the county of the original order.

If the case does need to be moved, the county shall contact the Interstate Network to move the case to the county of the noncustodial parent's residence.

D. Within ten (10) working days of locating the noncustodial parent in another state or country, the ~~CSE~~CSS Unit will notify the initiating state of the new address. At the direction of the initiating agency, the case may be closed or the case may be forwarded to the appropriate Central Registry, to the Tribal IV-D program, or to the central authority of the foreign country in which the noncustodial parent now resides.

6.250.21 Provide Necessary ~~CSE~~CSS Services as Instate Title IV-D Cases

Provide all necessary ~~CSE~~CSS services as would be provided in instate IV-D cases by:

A. Establishing paternity and attempting to obtain a judgment for costs if paternity is established; if paternity has been determined by another state, whether it was established through voluntary acknowledgment, administrative process or judicial process, it shall be enforced and otherwise treated in the same manner as an order of this state;

B. Establishing child support obligations;

C. Establishing an order for either party to provide medical support in all new or modified orders for child support, if not addressed in the original order;

D. Processing and enforcing orders referred by another agency, pursuant to the UIFSA or other legal processes;

E. Enforcing medical support if there is evidence that health insurance is accessible and available to the obligor at a reasonable cost;

F. Collecting and monitoring support payments for the initiating agency and forwarding payments to the location specified by the initiating ~~CSE~~CSS office within two business days of the Colorado date of receipt;

G. If a determination of controlling order has been requested, file the request as defined by Section 14-5-207, C.R.S., with the appropriate tribunal within thirty (30) calendar days of receipt of the request or location of the noncustodial parent, whichever occurs later. Notify the initiating agency, the controlling order state, and any state, country, or Tribe where a support order in the case was issued or registered of the controlling order determination and any reconciled arrearages within thirty (30) calendar days of receipt of the determination from the tribunal.

H. Provide timely notice to the ~~CSE~~CSS office in the initiating agency of any formal hearing regarding establishment or modification of an order. Respond to inquiries regarding intergovernmental case activity within five (5) working days.

I. Respond to inquiries regarding intergovernmental case activity within five (5) working days.

J. Within ten working days of receipt of new information on a case, submit information to the initiating agency. New information includes case status change or any new information that could assist the other agency in processing the case.

K. Notify the initiating state within ten (10) working days of the case closure when a case is closed.

6.250.3 PAYMENT AND RECOVERY OF COSTS IN INTERSTATE IV-D CASES

The responding agency is responsible for payment of genetic tests for establishing paternity.

The responding agency is responsible for attempting to obtain judgment for genetic test costs.

The responding agency is responsible for payment of all costs it incurs in the processing of an interstate case.

The responding agency may not recover costs from a Foreign Reciprocating Country (FRC) or from a foreign obligee in that FRC, when providing services under Sections 454(32) and 459A of the Social Security Act. The documents are incorporated by reference; no amendments or editions are included. They may be examined during regular business hours at the Colorado Department of Human Services, Director of the Division of Child Support ~~Enforcement~~Services, 1575 Sherman Street, Denver, Colorado 80203; or at any state publications depository library. The Social Security Act is also available on-line at: http://www.ssa.gov/OP_Home/ssact/ssact.htm.

6.260 Case Management

6.260.1 ~~CSE~~CSS Case Definition

A ~~CSE~~CSS case is defined as a noncustodial parent who has a duty, or has been alleged to have a duty, of support (not necessarily a court order) whether or not there has been a collection of support. If the

noncustodial parent is responsible for the support of children in more than one family, the noncustodial parent is considered as a separate case with respect to each separate family.

6.260.2 Case Records

6.260.21 Case Record Procedures

County ~~CSE~~CSS Units shall establish procedures to ensure that all appropriate functions and activities related to opening a case record are undertaken and completed within the time frames specified. The time frames begin on the date of referral or acceptance of an application and end when the case is ready for the next appropriate activity, e.g. locate, establishment of paternity, establishment of a support order, or enforcement. All activities must be documented on ACSES within five working days.

6.260.22 Opening a Case

Within twenty (20) calendar days of receipt of an application or referral of a case, the Child Support ~~Enforcement~~ Services (CS~~S~~S~~E~~) Unit must:

A. Open a case by initiating a case record on the State approved automated child support system by following established procedures.

B. For Title IV-A inter-county transfer cases, the new county must initiate the case on the automated child support system within five (5) working days of referral from IV-A in the new county.

C. Determine necessary action needed.

D. Solicit necessary information from the custodial party or other sources.

E. Initiate verification of information.

F. If location information is inadequate, refer the case for further location.

G. Initiate an automated ledger if an order for support exists, including posting Monthly Support Obligation to the correct class and initiating any arrears balances, if such information is known. If order information is unknown when the case is initiated, the ledger must be initiated within twenty (20) days of when the order information becomes available to the Child Support ~~Enforcement~~ Services Unit.

6.260.23 Maintenance of Records

A. For all cases, the Child Support ~~Enforcement~~ Services Unit shall maintain a case record for each noncustodial or alleged parent which contains all information collected pertaining to the case. Such information shall include, but is not limited to the following:

1. A chronological listing of information maintained on the State approved automated child support system. Such information shall include:

   a. Any contacts with the recipient of IV-A, or a Low-Income Child Care Assistance recipient, or foster care placing parent who is required to cooperate with the Child Support ~~Enforcement~~Services Unit, the date and reason, and the results of such contact;

   b. Any contacts with the non-PA or Low-Income Child Care Assistance custodial party for Child Support ~~Enforcement~~ Services~~services~~, the date and reason, and the results of such contact;

c. Any contacts with the noncustodial parent, the date and reason therefore, and the results of such contact;

d. Any contact with any other agency involved in the case.

e. Actions taken to establish or modify a support obligation, establish child support debt, establish parentage, or enforce a support obligation, the dates and results;

f. Identification of the reason for and date of case closure; and

g. Any other significant actions taken regarding the case as deemed necessary for caseload documentation and management.

2. The referral document received from the IV-A or foster care units, or the Application for Child Support Enforcement Services form;

3. The written request from the recipient/applicant or the initiating jurisdiction in a responding intergovernmental case to terminate Child Support ~~Enforcement services~~Services;

4. Information Concerning Noncustodial Parent form, as prescribed by the State Department or similar county created form;

5. A record of efforts to utilize local locate resources and the dates and results of these efforts;

6. A copy of the court or administrative order;

7. A copy of communications to and from the IV-A or the foster care program;

8. A copy of communications to and from the State Department;

9. A copy of communications to and from other Child Support ~~Enforcement~~ Services Units or agencies;

10. A record of case categories and priorities assigned and reassigned to the case, the date of such determination, and identification of the individual who made the determination;

11. A copy of notices to the noncustodial parent and decisions concerning contested arrears.

12. An accurate and updated automated system ledger, including posting the court ordered Monthly Support Obligation and an accurate arrears balance.

B. Child Support ~~Enforcement~~ Services staff shall change case categories as prescribed by the state immediately on the automated child support system when the case is ready for the next activity in order to provide documentation that the time frames have been met.

6.260.3 CATEGORIZATION OF WORKLOAD

6.260.31

The CSS~~E~~ Unit shall provide equal services to all cases in the caseload.

6.260.32 The CSS~~E~~ Unit may utilize a case assessment and category system. Such system shall:

A. Include all cases in the system.

B. Ensure that no service including location, establishment of paternity, establishment and enforcement of support obligation is systematically excluded by the system.

C. Provide for notice to the custodial party that the information provided to the ~~CSE~~CSS Unit, either initially or subsequently, may affect the relative category of the case.

D. Provide that case assessment and category setting shall occur only after the intake information has been reviewed for accuracy and completeness and an attempt has been made to obtain the missing information.

E. Provide for periodic review of cases and notification to the custodial party in those cases that new information may result in a category change for the case.

6.260.33 The CS~~S~~E~~E~~ Unit shall modify the category of cases as case conditions change.

6.260.4 (None)

6.260.5 CLOSURE OF CASES

6.260.51 Notice and Reasons for Closure

Unless otherwise noted, case closure requires a sixty (60) day advance notice of closure to the custodial party. For closure reasons that require notice, the Child Support ~~Enforcement~~ Services Unit must notify the custodial party of the unit's intent to close the case by sending a notice of closure on the form prescribed by the State Department either by paper or electronic notification sixty (60) calendar days prior to closing a public assistance or non-public assistance case. The case must be left open if the custodial party or initiating agency supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of an order. If the case is a responding interstate case, the notice shall be sent to the initiating agency. Responding intergovernmental cases can only be closed using closure reasons “G” or “H” of this section. If the case is a foster care case, the notice of closure is not required because the custodial party (county department) initiated the request for closure based on the child(ren)'s termination from foster care placement. All records of closed cases must be retained for a minimum of three years. All documentation concerning the closure must remain in the case file.

Public assistance and non-public assistance, including Low-Income Child Care Assistance, cases may be closed for one or more of the reasons listed below or in Section 6.260.52 or 6.260.53. If the Low-Income Child Care Assistance case is closed, the county ~~CSE~~CSS Unit must notify the appropriate county Low-Income Child Care Assistance Program.

A. There is no longer a current support order and either no arrearages are owed or arrearages are ~~under $500 or~~ unenforceable under state law.

B. The noncustodial parent or putative father is deceased and the death has been verified through sources such as:

1. A newspaper obituary;

2. A death certificate;

3. Contact with the funeral home;

4. The custodial party's statement has been recorded in the case record; or,

5. The Social Security Death Index, and no further action, including a levy against the estate, can be taken.

C. The Child Support ~~Enforcement~~ Services Unit determines that parentage cannot be established because:

1. The child is at least 18 years old and the action is barred by a statute of limitations;

2. The results of genetic testing have excluded the alleged parent as the father of the child;

3. A court or administrative process has excluded the alleged father;

4. The Child Support ~~Enforcement~~ Services Unit determines it is not in the best interest of the child to establish paternity in a case involving incest, rape, or in any case where legal proceedings for adoption are pending;

5. The identity of the biological, alleged, putative, or presumed father is unknown and cannot be identified after diligent efforts, including at least one interview by the Child Support ~~Enforcement~~ Services Unit with the custodial party; or,

6. The child(ren) in the case has had his/her adoption finalized.

D. The noncustodial parent's location is unknown and the Child Support ~~Enforcement~~ Services Unit has made diligent efforts using multiple sources, pursuant to Section 6.500, all of which have been unsuccessful in locating the noncustodial parent:

1. Over a ~~three~~two-year period when there is sufficient information to initiate an automated locate effort; or,

2. Over a one-year period when there is not sufficient information to initiate an automated locate effort. Sufficient information is defined as a name and Social Security Number and/or Individual Tax Identification Number (ITIN).

3. After a one-year period when there is sufficient information to initiate an automated locate effort, but locate interfaces are unable to verify a Social Security Number.

All cases in the Child Support ~~Enforcement~~ Services caseload will be transmitted from the state case registry to the federal case registry. One step in the transmission will be to submit the case to the Enumeration Verification System (EVS) which will assist in identifying and verifying a Social Security Number.

E. The noncustodial parent cannot pay support for the duration of the child's minority (or the child has reached the age of majority), because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential above the subsistence level, which is defined as the federal poverty level.~~.~~ The Child Support ~~Enforcement~~ Services Unit must determine that no income or assets are available to the noncustodial parent which could be levied or attached for support.

F. The noncustodial parent's sole income is from Supplemental Security Income (SSI) payments, or both SSI payments and Social Security Disability Insurance (SSDI). This closure criterion does not apply when the parent is receiving only SSDI benefits. Paternity and support must be established in order to use this closure criterion.

GF. The noncustodial parent is a citizen of, and lives in, a foreign country, and does not work for the United States government or a company which has its headquarters or offices in the United States and the noncustodial parent has no reachable domestic income or assets and the federal office and the state have been unable to establish reciprocity with the foreign country.

HG. The initiating jurisdiction has requested in writing that the interstate case be closed. The sixty (60) day advance notice of closure is not required for these cases. Any income withholding order must be terminated and the responding case closed within ten (10) working days of the request from the initiating agency unless an alternative agreement is reached with that agency.

IH. The Child Support Enforcement Services Unit documents failure by the initiating agency to take action which is essential for the next step in providing services.

JI. If a case was closed and then subsequently reopened to process child support payments received after case closure, the case should be closed once payment processing is completed. The sixty (60) day advance notice of closure is not required for these cases.

KJ. There has been a change in legal custody in the case.

LK. The custodial parent is deceased.

ML. The responding jurisdiction does not have statutory authority to take the next appropriate action in the case.

6.260.52 Closure of Non-Public Assistance Cases

Non-public assistance, including Low-Income Child Care Assistance, cases may be closed for one of the following reasons or the closure reasons in Section 6.260.51. Unless otherwise noted, case closure requires a 60-day advance notice of closure to the custodial party. If a Low-Income Child Care Assistance case is closed the county CSECSS Unit must notify the appropriate county Low-Income Child Care Assistance Program.

A. The Child Support Enforcement Services Unit is unable to contact the custodial party within a 60 calendar day period despite an attempt of at least one letter sent by first class mail to the last known addressdespite a good faith effort to contact the recipient through at least two different methods: mail, electronic, or telephone. If contact is reestablished with the custodial party in response to the notice which could lead to the establishment of paternity or support, or enforcement of an order, the case must be kept open. After a notice of case closure has been sent, if the custodial party reports a change in circumstances within the 60 days contained in the advance notice of closure, the case shall remain open or be reopened without payment of an additional application fee.

B. The Child Support Enforcement Services Unit documents non-cooperation of the custodial party and that cooperation of the custodial party is essential for the next step in providing support enforcement services. If a Low-Income Child Care Assistance recipient fails to cooperate, then the county CSSE Unit shall send the advance notice of closure to the recipient and to the appropriate county Child Care Assistance Program. The notice shall include the basis of the recipient's failure to cooperate and the dates on which it occurred.

C. The applicant requests closure of the case in writing and there are no arrears owed to the State. The 60 day advance notice of closure is not required for these cases.

D. The Child Support ~~Enforcement~~ Services Unit has provided location only services as requested. The 60 day advance notice of closure is not required for these cases.

E. The status of the case has changed from non-public assistance to public assistance. The 60 day advance notice is not required for these cases.

F. The children have reached the age of majority, the noncustodial parent is entering or has entered long-term care arrangements (such as a residential care facility or home health care), and the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support.

G. The noncustodial parent is living with the minor child (as the primary caregiver or in an intact two parent household), and the IV-D agency has determined that services are not appropriate or are no longer appropriate.

6.260.53 Closure of Public Assistance Cases

Public assistance cases may be closed for one of the following reasons or the closure reasons in Section 6.260.51. Unless otherwise noted, case closure requires a 60 day advance of closure ~~(CSE-211)~~ to the custodial party.

A. The 60 day advance notice of closure is not required for these cases. There has been a finding by the county director or designated IV-A staff of good cause or other exceptions to cooperation with the Child Support ~~Enforcement~~ Services Unit and the county has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.

B. The public assistance case has been closed and all possible assigned arrearages have been collected. ~~The arrearage balance is $500 or less.~~ The Child Support ~~Enforcement~~ Services Unit is no longer providing services for the current monthly support obligation. The 60 day advance notice of closure is not required for these cases.

C. The public assistance case has been closed, the obligor owes no public assistance arrearages, and a case has been subsequently opened as a Child Support ~~Enforcement~~ Services non-public assistance case. The 60 day advance notice of closure is not required for these cases.

D. The public assistance case has been closed, there is no order for child support, child support debt, medical coverage, foster care fees, and where, pre 1984, the custodial parent did not request continued child support services (by signing the CSE-34), or post-1984, the obligee requested closure of his/her child support case in writing. The 60 day advance notice of closure is not required.

E. The children have reached the age of majority, the noncustodial parent is entering or has entered long-term care arrangements (such as a residential care facility or home health care), and the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support.

F. The noncustodial parent is living with the minor child (as the primary caregiver or in an intact two parent household), and the IV-D agency has determined that services are not appropriate or are no longer appropriate.

6.260.54 Closure of Foster Care Cases

A. In addition to the same closure reasons as public assistance cases under Section 6.260.53, foster care fee cases may also be closed because:

1. The child(ren)'s foster care placement has been terminated; and,

2. There is no longer a current support order; and,

3. Either no arrears are owed or arrearages are under $500 or unenforceable under state law.

B. If the child(ren) is in foster care placement, a foster care fee or foster care child support case may be closed:

1. If there is an order terminating parental rights; and,

2. There is no longer a current support order; and,

3. Either no arrears are owed or arrearages are under $500 or unenforceable under state law.

A sixty day advance notice of closure is required to close a foster care child support case, but is not required to close a foster care fee case.

6.260.55 Closure of Caretaker Relative Cases

Child support staff shall not close, at the request of the caretaker relative, one of the two cases against biological parents in caretaker relative cases where each of the biological parents have child support cases.

6.260.56 Closure of Tribal IV-D Cases

Specific codes will be used by the county Child Support Services Unit when dealing with Tribal IV-D programs. These codes will designate the different closure requests made by the Tribal Nations.

6.260.6 MICROFILM AND IMAGING

Certified microfilm and/or other forms of the imaging of the case records may be substituted for the original case records upon prior written approval by the State Department.

Such approval may be granted when the Child Support ~~Enforcement~~ Services Unit provides the State Department with the methods and procedures that conform to federal standards for microfilming and other forms of the imaging of records.

6.260.7 EXPEDITED PROCESSES FOR CHILD SUPPORT ESTABLISHMENT AND ENFORCEMENT ACTIONS

County child support units must develop, have in effect, and use procedures for all cases which ensure compliance with expedited process requirements. The procedures must include meeting the expedited process time frames for processing ~~CSE~~CSS actions based upon the following criteria:

A. Actions to establish an order for support (and paternity, if not previously established) must be completed from the date of service of process to the time of disposition within the following time frames:

1. Seventy five percent (75%) in six (6) months; and,

2. Ninety percent (90%) in twelve (12) months.

B. When an order is established using long arm jurisdiction and disposition occurs within twelve (12) months of service of process on the alleged father or noncustodial parent, the case may be counted as a success within the six-month tier of the expedited process time frame, regardless of when disposition actually occurs within those twelve (12) months.

6.261 REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS

The Child Support ~~Enforcement~~ Services Unit is responsible for the following functions in sub-sections 6.261.2 through 6.261.8 regarding the review and adjustment of child support orders for all cases.

6.261.1 (NONE)

6.261.2 NOTICE OF RIGHT TO REQUEST REVIEW

Both parties or their attorney(s) of record, if any, subject to an order must be notified of their right to request a review.

A. The obligee shall receive notification of his/her right to request a review on the Social Services Single Purpose Application (SSSPA), the Child Support Enforcement application for services, and/or on the Administrative Process Orders or Judicial Order forms for cases having a support order established or modified by the Child Support ~~Enforcement~~ Services Unit. At least every thirty-six months, the obligee or his/her attorney of record shall receive notification of his/her right to request a review via the right to request notice which is automatically generated when a residence or mailing address exists on the obligee's personal record and the order date or the notice date is thirty-six months or older. The obligee (county department) in foster care cases has received a one-time notice of their right to request a review for all foster care cases.

B. The obligor or his/her attorney of record shall receive notification of his/her right to request a review via the right to request notice which is automatically generated when a residence or mailing address exists on the obligor's personal record and the order date or the notice date is thirty-six months or older, whichever is later. The right to request notice generated by the Automated Child Support Enforcement System document generation will automatically be documented in chronology. The obligor or his/her attorney of record shall also receive notification on the administrative process orders or judicial order forms for cases having a support order established or modified by the Child Support ~~Enforcement~~ Services Unit.

C. The enforcing county delegate Child Support ~~Enforcement~~ Services Unit must respond to the Automated Child Support Enforcement System's calendar review message indicating the automatic generation of the right to request review notice of each party or his/her attorney of record. The calendar review alerts the worker when a child(ren) has reached the age of emancipation. Within five (5) business days of receiving the calendar review message and the generation of the right to request review notices, the worker must read the active order and determine if the child(ren) included in the order is emancipated pursuant to Section 14-10-115, Colorado Revised Statutes. If the child(ren) is emancipated and is not the last or only child on the order, the worker shall mail a right to request review notice to each party or his/her attorney of record.

D. The obligee or his/her attorney of record and the obligor or his/her attorney of record shall receive notification of his/her right to request a review via the right to request notice which is automatically generated within 15 business days of when incarceration information is populated as verified indicating incarceration for more than 180 days on the obligor's personal record. The right to request notice generated by the Automated Child Support Enforcement System document generation program will automatically be documented in chronology.

6.261.3 CASES SUBJECT TO REVIEW AND ADJUSTMENT

A. Either party in cases with an active order may request a review of the order. The request shall include the financial information from the requesting party necessary to conduct a calculation pursuant to the Colorado Child Support guidelines. The requesting party shall provide his or her financial information on the form required by the Division of Child Support ~~Enforcement~~Services.

If the requestor fails to provide the necessary financial information with their request, the review process shall not be initiated.

B. The delegate Child Support ~~Enforcement~~ Services Unit may initiate a review of a current child support order upon its own request.

C. In cases containing an active assignment of rights, the Child Support ~~Enforcement~~ Services Unit shall review the order at least once every thirty six (36) months to determine if an adjustment of the order is appropriate.

In the case of an automatic review with an active assignment of rights, both parties are considered non-requestors and have twenty days from the date of the review notice to provide the necessary financial information.

D. Only the enforcing county delegate Child Support ~~Enforcement~~ Services Unit shall assess a request for review of a child support order and deny it or grant it and initiate a review.

E. If the current county receives the written request for review, the request must be forwarded to the enforcing county within five calendar days of receipt of the request.

F. Within fifteen (15) business days of receipt of a written request for review, the worker shall determine whether Colorado or another jurisdiction has authority (Continuing, Exclusive Jurisdiction (CEJ)) to conduct the review and modify the child support order. If Colorado has CEJ, the worker will make the assessment as to whether the request for review will be granted or denied pursuant to the standards set forth in paragraph H, below.

G. If another jurisdiction has CEJ:

1. The Child Support ~~Enforcement~~ Services worker shall determine whether or not a full UIFSA action is needed. If this is needed, the worker shall initiate the reciprocal and generate the general testimony and the uniform support petition. If not, the worker shall generate the last two pages of the Interstate Income and Expense Affidavit. The appropriate forms shall be sent to the requester within five (5) business days of the determination.

2. The forms generated from the automated child support system document generation will automatically be documented in chronology.

3. The requester shall return the last two pages of the Income and Expense Affidavit to the enforcing county within twenty (20) calendar days.

4. If the requester fails to return the requested documentation within twenty (20) calendar days, the process stops.

5. Within twenty (20) calendar days of receipt of the information from the requester, the Child Support ~~Enforcement~~ Services worker shall send it to the other state that is to conduct the review.

H. If Colorado has CEJ, and:

1. It has been thirty-six (36) months or more since the last review or adjustment of the support order, the child support ~~enforcement~~ services worker shall begin the review process following the procedures set forth in Section 6.261.4, unless:

   a. It is a request for review of a spousal maintenance order;

   b. It is a request for the emancipation of a child who has not emancipated in accordance with Section 14-10-115, C.R.S.;

   c. There is a pending administrative process action or court action for modification;

   d. It is a request for a change in the allocation of parental responsibility or parenting time;

   e. The IV-D case is closed; if so, the requester will be advised in writing that s/he may apply for services;

   f. The delegate county Child Support ~~Enforcement~~ Services Unit is enforcing only arrearages; or,

   g. The last or only child is within one year of the legal age of emancipation and the modification process may not be able to be completed before the child reaches the legal age of emancipation; the requesting party will be informed of the right to request a modification through court.

2. It has been fewer than thirty-six (36) months since the last review or adjustment of the support order, the child support ~~enforcement~~ services worker shall begin the review process following the procedures set forth in Section 6.261.4, unless:

   a. The requester has not provided a reason for such review or the reason for review arises from the circumstances of the requesting party and the requesting party fails to provide supporting documentation or otherwise fails to demonstrate that there has been a substantial and continuing change in circumstances as set forth in Section 14-10-122, C.R.S., with their request;

   b. It is a request for review of a spousal maintenance order;

   c. It is a request for the emancipation of a child who has not emancipated in accordance with Section 14-10-115, C.R.S.;

   d. It is a request for a change in the allocation of parental responsibility or parenting time;

   e. There is a pending administrative process action or court action for modification;

   f. The IV-D case is closed, if so the requester will be advised in writing that s/he may apply for services;

   g. The delegate county Child Support ~~Enforcement~~ Services Unit is enforcing only arrearages; or,

   h. The last or only child is within one year of the legal age of emancipation and the modification process may not be able to be completed before the child reaches

the legal age of emancipation; the requesting party will be informed of the right to request a modification through court.

I. If a request for review of a child support order is denied pursuant to paragraph H, the worker shall inform the requesting party in writing within five (5) business days. The worker shall also document the date of the request and the reason for the denial in the Automated Child Support Enforcement System. If the request is granted the worker shall initiate the review process within five (5) business days pursuant to Section 6.261.4.

J. If a county delegate Child Support ~~Enforcement~~ Services Unit who is enforcing a current monthly support obligation receives a request for review of a child support order, which does not contain medical support provisions or which contains a request to change the party ordered to provide medical support, the request shall be granted and the review conducted regardless of the date of the last review or adjustment.

6.261.4 CONDUCTING THE REVIEW

A. The Child Support ~~Enforcement~~ Services worker shall send the following documents to the requesting party or his/her attorney of record, except in foster care cases where the requesting party is the county department, at least thirty (30) calendar days prior to commencement of the review:

1. The Review Notice; and,

2. At county option, the county may choose to send the Administrative Subpoena to obtain additional income/financial information.

The forms generated from the automated child support system document generation will automatically be documented in chronology.

B. The Child Support ~~Enforcement~~ Services worker shall send the following documents to the non-requesting party or his/her attorney of record, except in foster care cases where the non-requesting party is the county department, thirty (30) calendar days prior to commencement of the review. In interjurisdictional cases, a copy shall also be sent to the other agency involved in the case:

1. The Review Notice; and,

2. The Income and Expense Affidavit.

The forms generated from the automated child support system document generation will automatically be documented in chronology.

C. The Child Support ~~Enforcement~~ Services worker shall conduct the review on or before the thirtieth calendar day following the date the Review Notice is sent to the parties using income information from each party's Income and Expense Affidavit and/or the Department of Labor and Employment records and/or other reliable financial/wage information. The review may be conducted in person at the Child Support ~~Enforcement~~ Services office, via United States mail, or via an electronic communication method.

D. The delegate Child Support ~~Enforcement~~ Services Unit may grant a continuance of the review for good cause. The continuance shall be for a reasonable period of time and shall not exceed thirty (30) calendar days.

E. When conducting the review, the Child Support ~~Enforcement~~ Services worker shall apply the child support guidelines to determine any inconsistencies between the existing child support award amount and the amount resulting from application of the child support guidelines.

F. If the non-requesting party or his/her attorney of record fails to provide financial or wage information, the Child Support ~~Enforcement~~ Services worker shall use income information which is available to the Child Support ~~Enforcement~~ Services Unit through Colorado Department of Labor and Employment records and/or other verified sources such as the State Parent Locator Service, the Expanded Federal Parent Locator Service, and the State Employment Security Administration.

G. ~~If income information is not available for either party, the Child Support Enforcement worker shall:~~

~~1. File a Motion to Compel with the court requesting the court to order the party to provide the information, or~~

~~2. Impute income based on potential earnings or the current minimum wage, which may be calculated for up to a forty hour work week.~~

If the Child Support Services Unit determines that a parent is voluntarily unemployed or underemployed or in the absence of reliable information, the Child Support Services Unit shall then determine, and document for the record, the parent's potential income. In determining potential income, the Child Support Services Unit shall consider the specific circumstances of the parent to the extent known, including consideration of the following when said information is available: the parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the parent, prevailing earnings level in the local community, and other relevant background factors in the case. All steps taken to obtain financial information must be documented.

H. In conducting the review, the Child Support ~~Enforcement~~ Services worker shall examine the existing order to determine if a medical support provision needs to be added.

6.261.5 TERMINATION OF REVIEW

If a non-public assistance obligee requests termination of the review, s/he must also request closure of the IV-D case in accordance with the applicable case closure criteria as defined in Section 6.260.51, C.

6.261.6 (Reserved for Future Use)

6.261.7 REVIEW RESULTS, NO ADJUSTMENT REQUIRED

Judicial and Administrative Process Orders: After completion of the review, the child support ~~enforcement~~ services worker may determine that there is no adjustment required in the ordered child support amount because the guideline calculation does not indicate at least a ten percent change in the ordered child support amount and/or the provision for medical support is already a part of the order.

Within five (5) business days of completing the review, the Child Support ~~Enforcement~~ Services worker shall provide to each party or his/her attorney of record, including the foster care agency and other child support agencies:

A. The Post Review Notice.

B. The Guideline Calculation Worksheets.

C. The forms generated by the automated child support system document generation will automatically be documented in chronology.

6.261.8 REVIEW RESULTS, ADJUSTMENT REQUIRED

A. Judicial Orders: After completion of the review, the Child Support ~~Enforcement~~ Services worker may determine an adjustment is necessary because the guideline calculation indicates at least a ten percent change in the ordered child support amount and/or a change in or addition of medical support provision is needed.

1. Within five (5) business days of completing the review and determining that an adjustment is required, the Child Support ~~Enforcement~~ Services worker shall provide to the obligor and obligee or his/her attorney of record and to the other agency involved in interjurisdictional cases:

   a. The Post Review notice;

   b. The guideline calculation worksheets;

   c. All supporting financial documentation used to calculate the monthly support obligation; and,

   d. The order/stipulation.

2. Either party may file a challenge to the review results based on the post review notice or the proposed order:

   a. The challenge must be received no later than the fifteenth day following the Post Review Notice date.

   b. The challenge must be in writing.

   c. The challenge must be based on alleged mathematical or factual error in the calculation of the monthly support obligation.

   d. The delegate Child Support ~~Enforcement~~ Services Unit may grant an extension of up to fifteen (15) calendar days to challenge the review results based upon a showing of good cause.

   e. The delegate Child Support ~~Enforcement~~ Services Unit shall have fifteen (15) calendar days from the date of receipt of the challenge to respond to the challenge.

   f. If a challenge results in a change in the monthly support obligation, the delegate Child Support ~~Enforcement~~ Services Unit shall provide an amended notice of review and a new order/stipulation to the parties.

   g. Both parties are then given fifteen (15) calendar days from the date of the amended notice of review to challenge the results of any subsequent review.

3. Within five (5) business days of determining that a review indicates that a change to the monthly support obligation is appropriate, and the review is not challenged or all

challenges have been addressed, the delegate Child Support ~~Enforcement~~ Services Unit shall file with the court:

a. A Motion to Modify; and,

b. The order/stipulation.

4. Upon receipt of the order/stipulation from the court, the Child Support ~~Enforcement~~ Services worker shall send copies to the parties or their attorneys of record and to the other agency involved in interjurisdictional cases. The Child Support ~~Enforcement~~ Services worker shall document the automated child support system chronology with this activity.

5. Within five (5) business days of determining that a challenge cannot be resolved, the Child Support ~~Enforcement~~ Services worker shall file with the court:

a. A Motion to Modify;

b. The order/stipulation;

c. The Guideline Calculation Worksheets; and,

d. Income and Expense Affidavits of the parties.

6. Within eighteen (18) days of determining that a challenge cannot be resolved, the Child Support ~~Enforcement~~ Services worker shall check for the court's signature on the order; if the court has not signed the order, set a hearing pursuant to local court rules.

7. After a hearing has been set, the Child Support ~~Enforcement~~ Services worker shall send copies of the notice of hearing to the parties or their attorneys of record and to the other agency involved in interjurisdictional cases and document the automated child support system's chronology with this activity.

8. If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~ Services Unit shall, unless another agency is enforcing an interjurisdictional case or the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(II)(A), C.R.S.:

a. Send a notice to withhold income for support within fifteen (15) calendar days of the date the modified order is entered;

b. Send a notice to withhold income for support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires;

c. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the modified order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

B. Administrative Process Orders: After completion of the review the Child Support ~~Enforcement~~ Services worker may determine an adjustment is necessary because the guideline calculation

indicates at least a ten percent change in the ordered child support amount and/or a change to or an addition of a medical support provision is needed.

1. Within five business days of completing the review and determining that an adjustment is required, the Child Support ~~Enforcement~~ Services worker shall provide to the obligor and obligee or his/her attorney of record and to the other agency involved in interjurisdictional cases:

    a. The Administrative Process Notice of Financial Responsibility for Modification form, which schedules a negotiation conference fifteen (15) days from the review date,

    b. The Guideline Calculation Worksheets,

    c. All supporting financial documentation used to calculate the monthly support obligation; and,

    d. The Administrative Process Modified Order of Financial Responsibility.

2. Either party may file a challenge to the review results based on the Administrative Process Notice of Financial Responsibility for Modification or the Administrative Process Modified Order of Financial Responsibility:

    a. The challenge must be received no later than the fifteenth day following the Notice of Financial Responsibility for Modification, and will be addressed at the scheduled negotiation conference to be held on the fifteenth day following the review date.

    b. The challenge must be based on alleged mathematical or factual error in the calculation of the monthly support obligation.

    c. The delegate Child Support ~~Enforcement~~ Services Unit may grant an extension of up to fifteen (15) calendar days to challenge the review results based upon a showing of good cause.

    d. The delegate Child Support ~~Enforcement~~ Services Unit shall have fifteen (15) calendar days from the date of receipts of the challenge to respond to the challenge.

    e. If a challenge results in a change in the monthly support obligation, the delegate Child Support ~~Enforcement~~ Services Unit shall provide an amended notice of review to the parties and to the other agency involved in interjurisdictional cases.

    f. Both parties are then given fifteen (15) calendar days from the date of the amended notice of review to challenge the results of any subsequent review.

3. If the obligor or his/her attorney of record signs the Administrative Process Modified Order of Financial Responsibility at the negotiation conference or returns it in the mail prior to the negotiation conference date, the employee of the delegate Child Support ~~Enforcement~~ Services Unit designated in writing by the County Director, signs the Administrative Process Modified Order of Financial Responsibility. The Child Support ~~Enforcement~~ Services worker shall, within five (5) business days, file with the court:

    a. The Administrative Process Notice of Financial Responsibility for Modification;

b. Income and Expense Affidavits of the parties;

c. The Guideline Calculation Worksheets; and,

d. The Administrative Process Modified Order of Financial Responsibility.

4. The Administrative Process Modified Order of Financial Responsibility shall also be provided to the parties and to the other agency involved in interjurisdictional cases on the same date it is filed with the court. It shall include an advisement to the parties informing them that they have fifteen (15) calendar days to file a written objection with the court.

5. If an objection has not been received by the court within fifteen (15) calendar days after the Administrative Process Modified Order of Financial Responsibility is filed with the court, the order becomes final.

6. If the obligor or his/her attorney of record does not sign and return the Administrative Process Modified Order of Financial Responsibility, but:

a. The obligor or his/her attorney of record appears at the negotiation conference and does not agree, the Child Support ~~Enforcement~~ Services worker shall file with the court within five (5) business days:

1) The Administrative Process Notice of Financial Responsibility for Modification;

2) The Guideline Calculation Worksheet;

3) The delegate Child Support ~~Enforcement~~ Services Unit's request for court hearing; and,

4) Income and Expense Affidavits of the parties.

After a hearing is set, the Child Support ~~Enforcement~~ Services worker shall file a Notice of Hearing with the court and send copies of the Notice of Hearing to the parties or their attorneys of record and to the other agency involved in interjurisdictional cases.

b. The obligor or his/her attorney of record does not appear at the negotiation conference, the Child Support ~~Enforcement~~ Services worker, within five (5) business days shall file with the court:

1) The Administrative Process Notice of Financial Responsibility for Modification;

2) Income and Expense Affidavits of the parties;

3) The Guideline Calculation Worksheets;

4) The Affidavit of Non-Appearance for modification; and,

5) The Administrative Process Default Order of Financial Responsibility (modified).

c. Upon receipt of a copy of the default order with signed approval by the judge or magistrate, the Child Support ~~Enforcement~~ Services worker shall send copies to the parties or their attorneys of record and to the other agency involved in interjurisdictional cases.

d. The Child Support ~~Enforcement~~ Services worker shall document this activity on the automated child support system.

7. If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~ Services Unit shall, unless another agency is enforcing an interjurisdictional case or the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(II)(A), C.R.S.:

a. Send a notice to withhold income for support within fifteen (15) calendar days of the date the modified order is entered;

b. Send a notice to withhold income for support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires,

c. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the modified order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

6.270 CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES PROGRAM PLAN

Each county department shall forward its CSS~~E~~ County Program Plan for the next calendar year to the State Department by December 31 of each year. The plan shall be submitted to the State Department on prescribed State form. If the plan is disapproved, the county department will negotiate mutually acceptable goals with the State Department. If agreement cannot be reached, counties may request reconsideration by the Executive Director or a designee of the Colorado Department of Human Services. The county department will be bound by the decision of the Executive Director or designee. Satisfactory completion of this process is required to ensure the county department receives continued federal financial participation.

6.270.3

Each county's program plan must set county goals in order to meet annual statewide goals set by the State Division of Child Support ~~Enforcement~~Services.

A. If a county fails to:

1. Submit an annual county program plan; revised annual county program plan as required by the state office; or

2. Submit a plan which establishes goals consistent with statewide goals,

B. Then the State Division will take appropriate corrective action to ensure that a satisfactory county program plan is submitted and approved.

6.280 REPORTING

County departments shall provide the State Department with reports and fiscal information as deemed necessary by the State Department.

6.300 (None)

6.400 INTAKE

County Child Support ~~Enforcement~~ Services Units shall establish procedures to ensure that all activities regarding intake are undertaken and completed within the time frames, along with appropriate and specified functions pursuant to Section 6.260.22. The time frames begin when the application or referral is received and end when the case is ready for the next appropriate activity, e.g., locate, paternity establishment, establishment of a support order, or enforcement. All activities must be documented on the automated child support system.

6.400.1 INTAKE FUNCTIONS

The following functions are the responsibility of the Child Support ~~Enforcement~~ Services Unit with regard to intake of child support ~~enforcement~~ services cases:

A. The Child Support ~~Enforcement~~ Services Unit shall assure that for each noncustodial or alleged parent of children for whom Child Support ~~Enforcement~~ Services ~~services~~ are sought for non-public assistance cases, a Form CSSE~~-~~6 shall be completed by the applicant; however, an application is not required in a responding intergovernmental case. The Child Support ~~Enforcement~~ Services Unit shall provide an application to the applicant pursuant to Section 6.201.2.

B. The Child Support ~~Enforcement~~ Services Unit shall assure that for all cases for which IV-A and/or foster care is being provided that the custodial party cooperate, unless a finding of good cause exemption from referral to the Child Support ~~Enforcement~~ Services Unit has been granted by the county director or designee, in:

1. Location of noncustodial or alleged parents;

2. Determination of parentage;

3. Establishment and modification of support orders, both financial and medical; and,

4. Enforcement of support orders.

C. Upon receipt of a good cause determination from the county director or designee, the Child Support ~~Enforcement~~ Services Unit shall close the Child Support ~~Enforcement~~ Services case.

D. The Child Support ~~Enforcement~~ Services Unit shall assure that written explanations about Child Support ~~Enforcement~~ Services~~services~~ and custodial party rights and responsibilities are provided to public assistance recipients receiving Child Support ~~Enforcement services~~Services pursuant to Section 6.201.1.

E. Within twenty (20) calendar days of receipt of an application or referral, the Child Support ~~Enforcement~~ Services Unit must open a case and take appropriate action pursuant to Section 6.260.22.

F. The Child Support ~~Enforcement~~ Services Unit shall assure that Form CSS~~E~~-7 be forwarded to the IV-A unit or that other written notice be sent to the foster care unit within five (5) working days of failure to cooperate by the custodial party of a child receiving IV-A or by the placing parent of a child in foster care placement, unless good cause exemption from referral to the Child Support ~~Enforcement~~ Services Unit has been granted by the county director or designee.

G. The Child Support ~~Enforcement~~ Services Unit shall assure that for each noncustodial or alleged parent, a unique case number is established to identify the case.

H. The Child Support ~~Enforcement~~ Services Unit shall assure that all cases are categorized as set forth in these rules.

I. The Child Support ~~Enforcement~~ Services Unit shall assure that case records and financial records be established for each child support ~~enforcement~~ services case according to these rules and procedures prescribed by the State Department.

6.500 LOCATE

Attempts to determine the physical whereabouts of noncustodial parents, placing parents, or the noncustodial or placing parents' employer(s), other sources of income or assets, as appropriate, for paternity establishment, establishment or modification of a child support order or enforcement of an order are a required service of the Child Support ~~Enforcement~~ Services program. Locate activity is provided for all cases.

6.501 LOCATE PROCEDURES

County Child Support ~~Enforcement~~ Services Units shall establish procedures to ensure that all appropriate locate activities are undertaken and completed within the time frames specified. The time frames begin when it is determined that location of the noncustodial or placing parent is necessary and end when the noncustodial or placing parent is located and the case is ready for the next appropriate activity, e.g. establishment of paternity, establishment or modification of a support order or foster care fee order, or enforcement. All locate activities must be documented by source (Division of Motor Vehicles, Department of Labor and Employment, no hit, etc.) on the automated child support system.

6.502 LOCATE FUNCTIONS

6.502.1

Within seventy-five calendar days of determining that location is necessary, the Child Support ~~Enforcement~~ Services Unit must access all appropriate locate sources including transmitting appropriate cases to the Expanded Federal Parent Locator Service and ensuring that information is sufficient to take the next appropriate action in a case. In intergovernmental cases, it is the responsibility of the initiating agency, rather than the responding state, to access the Expanded Federal Parent Locator Service when appropriate, and provide new locate information to the responding agency. However, if the initiating agency is a foreign country, the responding agency should access the expanded Federal Parent Locator Service.

6.502.2

The Child Support ~~Enforcement~~ Services Unit must assess each locate case to determine appropriate locate sources. Available locate sources include:

A. State locate sources such as the Department of Labor and Employment and the Division of Motor Vehicle, Workers' Compensation and state directory of new hires;

B. Current or past employers;

C. Local telephone company, United States Postal Service, financial references, unions, fraternal organizations, parole and probation records and police records;

D. Expanded Federal Parent Locator Service and other state parent locators;

E. Local offices administering public assistance, general assistance, medical assistance, ~~food stamps~~food ~~and~~assistance, and social services;

F. Custodial party, friends, and relatives of noncustodial parents;

G. Credit reporting agencies.

1. A full credit report may be obtained only if a child support order exists, except as provided in Section 6.709.3.

2. If a child support order does not exist, an inquiry using the Social Security Number will provide residential and employment information, if available.

6.502.3

A Child Support ~~Enforcement~~ Services Unit may obtain information from public utilities through the utilization of an administrative subpoena. The Child Support ~~Enforcement~~ Services Unit must submit a request for administrative subpoena to the State parent locator by documenting in the chronology of the case the following:

A. All locate resources have been accessed.

B. No location information has been obtained.

6.503 LOCATION IN INTERGOVERNMENTAL CASES

The initiating agency must forward a State Parent Locate Service (SPLS) request through manual or electronic means to the IV-D agency of any other jurisdiction within twenty (20) calendar days of receiving information that the noncustodial or alleged parent may be in another jurisdiction. However, if the initiating agency is a foreign country, the responding agency should access the expanded Federal Parent Locator Service.

Upon receipt of information regarding the noncustodial or alleged parent, all appropriate follow up must be completed by the Child Support ~~Enforcement~~ Services Unit to verify the location information received.

6.504 REPEATED LOCATION ATTEMPTS

Location attempts, except for Federal Parent Locater Service (FPLS), shall be repeated quarterly or immediately upon receipt of new information when adequate identifying and other information exists which may aid in location, whichever occurs sooner.

A. Quarterly attempts may be limited to automated sources, but must include accessing the Department of Labor and Employment files.

B. When repeated location attempts are necessary because of new information, all appropriate locate sources must be accessed within seventy-five (75) calendar days.

6.600 ESTABLISHMENT OF PATERNITY

6.600.1 STATUTE OF LIMITATIONS

In a IV-D case involving a child for whom parentage has not been legally established, the Child Support ~~Enforcement~~ Services Unit shall attempt to establish the paternity of such child at any time prior to the child's eighteenth birthday:

A. Unless a good cause exemption on a mandatory referral to the Child Support ~~Enforcement~~ Services Unit has been determined by the county director or designated staff.

B. If the statute of limitations in effect at the time of the child's birth was less than eighteen years, the county Child Support ~~Enforcement~~ Services Unit may bring an action on behalf of the child at any time prior to the child's twenty-first birthday.

C. An action brought solely to establish paternity must be done through the courts, not administratively.

6.601 PATERNITY ESTABLISHMENT TIME FRAMES

County Child Support ~~Enforcement~~ Services Units shall establish procedures to ensure that all appropriate paternity establishment activities are undertaken and completed within the timeframes specified. The timeframes begin when the alleged or presumed father is located and end when paternity and a support obligation are established or the alleged or presumed father is excluded. All paternity establishment activities must be documented on the automated child support system.

A. Within ninety (90) calendar days of locating the alleged father, the Child Support ~~Enforcement~~ Services Unit must:

1. Document unsuccessful attempts to serve process, or,

2. Complete service of process, establish paternity, and establish an order for support.

B. Repeated unsuccessful service of process attempts are not a valid reason for not meeting the timeframes. If service of process is unsuccessful because of a poor address, the case shall be referred back to the locate function.

6.601.1 GOOD CAUSE

If good cause exemption has not been established and the custodial party or placing parent fails to cooperate with the Child Support ~~Enforcement~~ Services Unit, the Child Support ~~Enforcement~~ Services Unit shall complete a Notice of Non-Cooperation of Caretaker and forward the notice to the county IV-A unit, or the Division of Child Welfare.

6.602 PRESUMPTION OF PATERNITY

The Child Support ~~Enforcement~~ Services Unit shall determine whether the alleged father's name is on the child's birth certificate prior to initiating a paternity establishment action.

A. The Child Support ~~Enforcement~~ Services Unit shall not pursue the establishment of paternity but shall pursue the establishment of a support only order if a father's name is listed on the child's

birth certificate, and no party contests paternity for that child and there is no credible evidence that another alleged or presumed father exists.

B. The Child Support ~~Enforcement~~ Services Unit shall pursue the establishment of paternity and support if there is no father's name listed on the birth certificate,

1. And the custodial party or the non-custodial parent is contesting paternity; or,

2. There is credible evidence that another alleged or presumed father exists; and,

3. Paternity or child support has not been established by a Colorado judicial or administrative order or pursuant to the laws of another state.

6.603 VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY

County Child Support ~~Enforcement~~ Services Units shall provide all parents who are applying for services with or are referred to the Child Support ~~Enforcement~~ Services Unit with the opportunity to voluntarily acknowledge paternity at the Child Support ~~Enforcement~~ Services office. The Child Support ~~Enforcement~~ Services Unit shall provide to parents the voluntary acknowledgment form prescribed and furnished by the state registrar and oral and written state prescribed standardized notices stating the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment. Either the Child Support ~~Enforcement~~ Services Unit or a party of the case shall forward the completed acknowledgement of paternity form to the Department of Public Health and Environment, the Division of Health Statistics and Vital Records, according to the instructions provided on the form.

6.603.1 RESCISSION OF A VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY

A. A signed voluntary paternity acknowledgment is considered a legal finding of paternity, subject to the right of either party who signed the acknowledgment to rescind the acknowledgment within the earlier of:

1. Sixty (60) calendar days from the date signed; or,

2. The date of a prior administrative or judicial proceeding relating to the child in which the person who signed the paternity acknowledgment is a party.

B. When a party in a IV-D case notifies the Child Support ~~Enforcement~~ Services Unit of his/her desire to rescind his/her signature on a voluntary acknowledgement of paternity or to contest paternity based on a voluntary acknowledgement of paternity and the voluntary acknowledgement of paternity was filed with the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records, and paternity has not been established by or pursuant to the laws of another state, the Child Support ~~Enforcement~~ Services Unit shall, through administrative process, if appropriate, pursue the establishment of paternity and support and order genetic testing.

1. If the results of the genetic testing establish a threshold of probability of paternity of ninety-seven percent (97%) or higher and the party continues to contest paternity, the Child Support ~~Enforcement~~ Services Unit shall proceed with administrative process procedures to establish a temporary support order and request a court hearing to obtain a court finding and order.

2. If the results of the genetic testing establish a threshold of probability of paternity of ninety-seven percent (97%) or higher and the party does not continue to contest paternity, the Child Support ~~Enforcement~~ Services Unit shall proceed with administrative

process procedures to establish an appropriate administrative process paternity and support order.

3. If the results of the genetic testing do not establish a threshold of probability of paternity of at least ninety-seven percent (97%) and the non-custodial parent will not sign a stipulated order, the Child Support ~~Enforcement~~ Services Unit may dismiss the action or take such other appropriate action as allowed by law, including filing a request for court hearing.

4. If the court finds that the parent who signed the voluntary acknowledgment of paternity is not the legal father of the child and orders that such parent's name be removed from that child's birth certificate, the Child Support ~~Enforcement~~ Services Unit shall notify the Department of Public Health and Environment, Division of Health Statistics and Vital Records, and request that they remove the party's name from the child's birth certificate. The notification shall be either a certified copy of the court order or a modified report of paternity determination, as prescribed by the Division of Health Statistics and Vital Records.

6.603.2 CONTESTING PATERNITY ESTABLISHED BY A VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY

A. When a party in a IV-D case notifies the county Child Support ~~Enforcement~~ Services Unit of the desire to rescind his/her signature on or contests paternity established by a voluntary acknowledgement of paternity and there has been a prior administrative process or judicial proceeding involving the party concerning the support of the child, the party shall be advised to contact the court for resolution.

B. When a party in a IV-D case notifies the county Child Support ~~Enforcement~~ Services Unit of the desire to rescind his/her signature on or contests paternity established by a voluntary acknowledgement of paternity and there has been no prior administrative process or judicial proceeding involving the party concerning the paternity or support of the child, and the current proceeding is being conducted through an administrative process action and it has been sixty or more calendar days since the acknowledgment was signed and the father's name is on the child(ren)'s birth certificate, and paternity has not been established by or pursuant to the laws of another state, the Child Support ~~Enforcement~~ Services Unit shall:

1. Enter an administrative process order for genetic testing, then

2. Establish an administrative process temporary order of financial responsibility and request a court hearing to obtain a permanent court finding and order if the genetic testing results show a ninety seven percent (97%) or greater probability of parentage and the party continues to contest paternity, or

3. If the genetic testing results show a less than ninety-seven percent (97%) probability of parentage, the county Child Support ~~Enforcement~~ Services Unit may dismiss the action or take such other appropriate action as allowed by law.

C. If the party withdraws his/her contest of paternity at any time, even after genetic testing has been done and the father's name is on the child's birth certificate, the delegate Child Support ~~Enforcement~~ Services Unit shall enter the appropriate administrative process order if the genetic testing results do show a ninety-seven percent (97%) or greater probability of paternity.

6.604 CONTESTING PATERNITY BASED ON OTHER PRESUMPTIONS OF PATERNITY

Whether or not a father's name is listed on a child's birth certificate, if one or more presumptions of paternity of a child exist pursuant to Section 19-4-105, C.R.S., including the execution of a voluntary acknowledgment of paternity for one or more possible fathers, the delegate Child Support ~~Enforcement~~ Services Unit shall pursue the establishment of paternity and support for that child and shall use administrative process, if appropriate. If administrative process is not appropriate and/or there is credible evidence that more than one possible father exits, the action shall be pursued judicially and all alleged and/or presumed fathers shall be joined as parties in the case, if possible, pursuant to Section 19-4-110, C.R.S.

However, if child support or paternity has already been established against a father by an administrative or judicial order or paternity has been established pursuant to the laws of another state, a support only order shall be pursued against such father.

6.604.1 CONTESTING PATERNITY – NO IV-D CASE

Parties who do not have a IV-D case and request the Child Support ~~Enforcement~~ Services Unit to assist them in rescinding a voluntary acknowledgment of paternity, and it has been less than sixty (60) days since the voluntary acknowledgment of paternity was signed, and there has been no prior administrative process or judicial proceeding involving the party concerning the support of the child, shall be advised that he or she may apply for full child support services, or he or she may contact the court for assistance. If it has been more than sixty (60) days since the voluntary acknowledgment of paternity was signed, or there has been a prior administrative process or judicial proceeding involving the party concerning the support of the child, or he or she wants to disestablish paternity, he or she shall be referred to the court.

6.605 GENETIC TESTING

A. County Child Support ~~Enforcement~~ Services Units shall require that the child and all other parties in a contested paternity case submit to genetic testing, upon the request of any party, except in cases:

1. Where good cause has been determined; or,

2. Where paternity has been determined by or pursuant to the laws of another state; or,

3. Where paternity has been established by a Colorado administrative process or judicial order.

B. The parties are required to use the genetic testing laboratory designated by the Child Support ~~Enforcement~~ Services Unit.

C. Counties, or the state Division of Child Support ~~Enforcement~~ Services on behalf of counties, shall competitively procure, according to county or state procedures, services from genetic testing laboratories which have been accredited. The state Division of Child Support ~~Enforcement~~ Services shall provide a list of genetic testing laboratories which have been accredited to the county Child Support ~~Enforcement~~ Services Units. Genetic testing laboratories procured by the counties must perform, at reasonable cost, legally and medically acceptable genetic tests to identify the father or exclude the alleged father. Proof of competitive procurement may be requested by the Colorado Department of Human Services at any time.

D. County Child Support ~~Enforcement~~ Services Units shall pay the costs of the genetic testing for all parties for instate cases, including long-arm paternity establishment. For interstate cases, the responding state is responsible for the genetic testing costs, as stated in Section 6.605.2.

6.605.1 OBJECTION TO GENETIC TESTING

Any objection to the genetic testing results shall be made in writing at least fifteen (15) days before the hearing where the results may be introduced, or fifteen (15) days after the Motion for Summary Judgment is served. If, however, the results were not received at least fifteen days before the hearing, the objection to the genetic testing results shall be made at least twenty-four (24) hours prior to the hearing. If no objection is made, the test results shall be entered as evidence of paternity in a paternity action without the need for proof of authenticity or accuracy.

Upon receipt of an objection to the genetic testing results, the delegate Child Support ~~Enforcement~~ Services Unit will take the following action:

A. If the case is an Administrative Process case, establish a temporary order if appropriate, and file a Child Support ~~Enforcement~~ Services Unit Request for Court Hearing as required in Section 6.713.

B. If the case has been filed through the Judicial process, request the court to set a hearing to resolve the objection and decide the issue of paternity and child support.

C. The Notice of Hearing must be sent to the parties by the delegate Child Support ~~Enforcement~~ Services Unit.

6.605.2 GENETIC TESTING COSTS

In all cases, when paternity is adjudicated, the county Child Support ~~Enforcement~~ Services Units shall attempt to enter a judgment for the costs of genetic testing against the alleged father for full payment or prorated payment with a specified monthly amount due to liquidate those costs. In intergovernmental cases, the responding jurisdiction is responsible for the cost of genetic testing.

6.606 REPORTING THE DETERMINATION OF PATERNITY TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, DIVISION OF HEALTH STATISTICS AND VITAL RECORDS

A. After a child's paternity has been established, either judicially or administratively, the Child Support ~~Enforcement~~ Services Unit shall complete and file the State prescribed forms with the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records, to ensure that the parent's name is added to the child's birth record. These documents shall be filed with the Division of Health Statistics and Vital Records within ten (10) days of the judicial or administrative order establishing paternity.

B. The Child Support ~~Enforcement~~ Services Unit shall document in the Automated Child Support Enforcement System the date on which the State prescribed forms are sent to the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records.

C. If the child was born in Colorado, within forty five (45) days after the State prescribed forms are sent to the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records, the Child Support ~~Enforcement~~Services Unit shall attempt to determine whether or not the parent's name has been added to the child's birth record. If the Child Support ~~Enforcement~~Services Unit determines that the parent's name has not been added to the child's birth certificate, they shall attempt to determine why the name has not been added and take all reasonable steps to correct the situation including requesting assistance from the State Division of Child Support ~~Enforcement~~Services where appropriate.

D. If the Child Support ~~Enforcement~~Services Unit has contact with the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records, about corrections

needed to the State prescribed forms, the worker shall take all steps reasonably necessary and within his/her ability to resolve the issue so that the parent's name can be added to the child's birth record. This may include requesting assistance from the State Division of Child Support ~~Enforcement~~Services where appropriate.

E. The Child Support ~~Enforcement~~Services Unit shall document in the automated child support system the date on which the parent's name has been verified to be on the child's birth record.

6.700 ESTABLISHMENT OF SUPPORT OBLIGATIONS

The following functions are the responsibility of the Child Support ~~Enforcement~~Services Unit with regard to the establishment of child support obligations for all Child Support ~~Enforcement~~Services cases.

6.700.1 EXPEDITED PROCESS

A. County Child Support ~~Enforcement~~Services Units shall establish procedures to ensure that all appropriate functions and activities to establish support obligations are undertaken and completed within the timeframes specified. The timeframes begin when the noncustodial parent is located and end when a temporary or permanent order is established or service of process is unsuccessful. All support activities must be documented on the automated child support system.

B. Within ninety calendar days of locating the alleged father or noncustodial parent, the Child Support ~~Enforcement~~Services Unit must check to ensure that the child(ren) has not reached the age of emancipation; and,

1. Document unsuccessful attempts to serve process, or

2. Complete service of process and establish an order for support (and paternity, if not already established).

C. Actions subject to expedited process must be completed from the time of successful service of process to the time of disposition within the required timeframes.

D. Repeated unsuccessful service of process attempts are not a valid reason for not meeting the timeframes. If service of process is unsuccessful because of a poor address, the case shall be referred back to the locate function.

6.701 ESTABLISHING SUPPORT OBLIGATIONS

A. All child support obligations must be established using the Colorado child support guidelines as found in Section 14-10-115, C.R.S., to determine the amount to be ordered. Child Support ~~Enforcement~~Services staff shall not deviate from the guidelines. Child Support ~~Enforcement~~Services Units shall refer to Section 6.707 for rules on how to determine income to use in the guideline calculation.

B. In the instance of adoption assistance services, when establishing an order against the adoptive parents, the amount of the monthly support order cannot exceed the amount of the monthly adoption assistance payment. If the calculated guideline amount for the monthly support order exceeds the amount of the monthly adoption assistance payment, the Child Support ~~Enforcement~~Services Unit must treat this as a deviation and request a court hearing pursuant to Section 6.713 to request the court to accept the adoption assistance payment amount as the order.

C. In all cases, the Child Support ~~Enforcement~~Services Unit shall attempt to establish child support obligations and medical support from any person who is legally liable for support of a child.

1. In a foster care referral case, the county Child Support ~~Enforcement~~Services Unit shall attempt to establish a foster care fee obligation.

2. In public assistance, foster care, and low-income child care assistance referral cases, the Child Support ~~Enforcement~~Services Unit shall not pursue the establishment of a child support obligation, child support debt, retroactive support or medical support if good cause exemption has been determined by the county director or designee.

D. Establishing the legal obligation to provide child support includes activities related to establishing the amount of retroactive support due, determining the ability of both parents to provide support, and determining the amount of the support obligation.

6.701.1 HEALTH INSURANCE

For all cases in which current child support is being sought, including zero dollar orders, the Child Support ~~Enforcement~~Services Unit shall include a provision for either party to provide health insurance for his/her children.

6.702 ESTABLISHING DEBT OR RETROACTIVE SUPPORT

The Child Support ~~Enforcement~~Services Unit has the discretion to establish an obligation for child support debt, foster care fee debt, and/or retroactive support due based on the county's procedure.

6.702.1 DEBT

Action taken to establish debt must be pursued in accordance with Section 14-14-104, C.R.S. Debt may be established on public assistance and foster care referral cases.

6.702.2 RETROACTIVE SUPPORT

A. An order for a reasonable amount of retroactive support due may be included in any action, except a paternity-only or debt-only action if requested by a custodial party, if there is a time period which occurred prior to the receipt of public assistance benefits for which such support can be established.

B. The custodial party shall be required to complete an "Affidavit of Retroactive Support" and return it to the Child Support ~~Enforcement~~Services Unit before the initiation of any judicial or administrative action to establish retroactive support. A Child Support ~~Enforcement~~Services Unit shall not establish an order for retroactive support unless an "Affidavit for Retroactive Support" has been received from the custodial party. The county Child Support ~~Enforcement~~Services Unit shall use the State prescribed "Affidavit of Retroactive Support".

C. If the custodial party is waiving the right to retroactive support, this shall be reflected in the support order. If the Child Support ~~Enforcement~~Services Unit does not establish retroactive support on behalf of custodial parties, the order shall contain a statement to this effect and also an advisement to the non-custodial parent that the custodial party may pursue the establishment of retroactive support separately.

D. Retroactive support will not be established for:

1. Any months for which the custodial party received public assistance.

2. Any months for which the children did not reside with the custodial party, including months in which the child(ren) were in out of home placement.

3. Any months when the custodial party, non-custodial parent, and the children lived in the same household.

4. If the retroactive support is being established in a divorce or legal separation action, the amount of retroactive support will be based upon the number of months after the date of physical separation of the parents, the filing date of the action, or the date of service upon the respondent, whichever date is latest.

6.702.3 CALCULATING RETROACTIVE SUPPORT AND CHILD SUPPORT DEBT

A. If action is taken to establish debt in a public assistance case, including Title IV-A, Title IV-E foster care, and non-IV-E foster care referral cases, because no order for a monthly support obligation existed at the time public assistance was paid, the Child Support ~~Enforcement~~Services Unit shall use the current monthly support order amount determined by using the Colorado Child Support Guidelines times the number of months that the custodial party received public assistance or the total amount of public assistance paid, whichever amount is lower as the initial basis for the amount of child support debt owed by the noncustodial parent.

1. In a IV-E foster care case, the amount of the foster care fee debt is limited by the total of the unreimbursed maintenance payments for that child(ren).

2. In a non-IV-E foster care case, the amount of the foster care fee debt is limited by the total cost of placement for that child(ren).

B. If action is taken to establish retroactive support, the Child Support ~~Enforcement~~Services Unit shall use the current monthly support order amount determined by using the Colorado child support guidelines times the number of months that the children lived in the custodial party's home without the presence of the noncustodial parent as the initial basis for the amount of retroactive support owed by the noncustodial parent.

C. The Child Support ~~Enforcement~~Services Unit may take the following factors into consideration in determining whether the initial amount of child support debt, foster care fee debt, or retroactive support calculated pursuant to paragraphs A and B, above, is appropriate and reasonable:

1. An increase in the parent's income since the date of child's birth that may result in the current monthly child support order being higher than it would have been at the time of the child's birth.

2. The length of time that a custodial party waited before requesting the services for the establishment of retroactive support, including whether the noncustodial parent knew or should have known about the existence of the children.

3. Special circumstances that may have inhibited the custodial party from requesting assistance from Child Support ~~Enforcement~~Services at an earlier date.

4. Direct cash or in-kind support provided by the noncustodial parent to custodial party for the children for periods prior to the entry of the support order.

5. Any circumstances beyond the control of the noncustodial parent which might have lengthened the time periods for which child support debt or retroactive support are being established including, but not limited to, non-cooperation by the custodial party.

D. If either the custodial or noncustodial parent does not agree to the proposed amount of retroactive support, a temporary order, according to Section 6.712, must be established and the

case referred for a court hearing. The temporary order may not include any amount for child support debt or retroactive support.

7.703 DISMISSAL

If the court or administrative authority dismisses a party or a case for a support order without prejudice, the Child Support ~~Enforcement~~Services Unit shall, at the time of dismissal, examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future, and seek a support order at that time. This shall be documented on automated child support system chronology and a review date set.

6.704 ADMINISTRATIVE PROCEDURES TO ESTABLISH CHILD SUPPORT AND PATERNITY

Pursuant to Article 13.5 of Title 26, C.R.S., the delegate Child Support ~~Enforcement~~Services Unit is authorized to establish certain paternity and child support obligations through administrative procedures.

6.704.1 CASES SUBJECT TO ADMINISTRATIVE PROCESS

A. Administrative procedures to establish a monthly support obligation, foster care fee order, child support debt, foster care debt, or retroactive support, or to modify an order established by administrative process shall be used by the delegate Child Support ~~Enforcement~~Services Unit in all cases to establish these obligations as appropriate, unless:

1. A court order exists that was issued in this or any other state, tribe, or reciprocating country, which establishes a monthly child support obligation; or,

2. An administrative order exists that was issued in this or any other state, tribe, or reciprocating country, which establishes a monthly child support obligation for the child(ren) of the case but excluding appropriate administrative process add a child actions; or,

3. The case requires paternity establishment and the case involves multiple presumed and/or alleged father(s); or,

4. One or both of the parents is under age eighteen (18); or,

5. In intergovernmental cases, the case requires only paternity establishment and no support is being established; or,

6. A hearing has been scheduled by the court or a request for hearing has been filed with the court by any party on the issue of child support; or,

7. An objection has been filed with the court regarding an order of modification; or,

8. The court has exercised jurisdiction over a child support-related matter; or,

9. The applicant for child support services is the non-custodial parent.

B. Administrative process shall be utilized in cases in which a divorce decree is silent on the issue of child support and service in the divorce was by publication. In these cases, the administrative process action (APA) will be filed under a new court number.

C. In cases in which there is a pending court action in which child support is at issue, the Child Support ~~Enforcement~~Services Unit shall proceed to utilize administrative process as set forth in

these rules. Copies of all documents shall be filed by the Child Support ~~Enforcement~~Services Unit in the existing court case, utilizing the case number of the existing court case.

6.704.2 ESTABLISHING AN ORDER FOR WORK ACTIVITIES

A delegate Child Support ~~Enforcement~~Services Unit may establish an administrative order for a noncustodial parent who is unemployed, not incapacitated, and has an obligation of support to a child receiving assistance. The order would require the noncustodial parent to enter into one or more of the following work activities: private or public employment, job search activities, community service, vocational training, or any other employment related activities available to that particular individual.

6.704.3 ENFORCING COUNTY APPLICATION TO ADMINISTRATIVE PROCESS

Only the enforcing county delegate Child Support ~~Enforcement~~Services Unit may initiate an administrative process action (APA). The enforcing county must close an open APA on ACSES before the enforcing county designation can be changed.

6.705 NOTICE OF FINANCIAL RESPONSIBILITY, NOTICE OF FINANCIAL RESPONSIBILITY-PATERNITY ACTION OR AMENDED NOTICE OF FINANCIAL RESPONSIBILITY

A. A Notice of Financial Responsibility or amended Notice of Financial Responsibility for add a child cases, as prescribed by the State Department, shall be issued in all cases subject to administrative procedure within forty-five (45) days of locating the noncustodial parent by the enforcing county delegate Child Support ~~Enforcement~~Services Unit.

B. “Issued” shall be defined to mean the date the Notice of Financial Responsibility or amended Notice of Financial Responsibility is delivered to: the United States mail for service by certified mail, or the delegate Child Support ~~Enforcement~~Services Unit employee authorized to serve the noncustodial parent, or the delegate Child Support ~~Enforcement~~Services Unit's contractual process server, or the U.S. mail for service by first class mail only in an action to modify an existing administrative order.

C. The Notice of Financial Responsibility or amended Notice of Financial Responsibility shall be signed by the county director or an employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

D. The delegate Child Support ~~Enforcement~~Services Unit issuing a Notice of Financial Responsibility or amended Notice of Financial Responsibility shall:

1. Check on the automated child support system, R/A Financial History, and the Colorado Benefits Management System (CBMS) to determine all amounts of public assistance expended for the children's benefit by all Colorado counties and include the total amount on the Certification of Official Record.

2. Check the automated child support system to determine the total unreimbursed maintenance payments for Title IV-E foster care cases and with the foster care unit to determine the total unreimbursed costs of foster care placement for non-IV-E foster care cases and include the total amount on the Foster Care Arrearage/Unreimbursed Maintenance Payment Calculation or similar form used by the county Child Support ~~Enforcement~~Services Unit.

3. Schedule a negotiation conference date on the Notice of Financial Responsibility or amended Notice of Financial Responsibility thirty (30) calendar days from the date the Notice or amended Notice is issued, and

4. Data enter the issuance date and negotiation conference date on the automated child support system within five (5) working days of issuing the Notice of Financial Responsibility.

In any instance in which the thirtieth (30th) day would fall on a Saturday, Sunday or holiday, the Child Support ~~Enforcement~~Services Unit shall set the negotiation conference on the next working day immediately following.

6.705.1 SUBPOENA TO PRODUCE

A. A Subpoena to Produce, as prescribed by the State Department, shall be served on the noncustodial parent with every Notice of Financial Responsibility or amended Notice of Financial Responsibility.

B. The subpoena to produce shall be signed by the county director or an employee of the delegate Child Support ~~Enforcement~~Services Unit so designated in writing by the county director.

6.705.2 INCOME AND EXPENSE AFFIDAVIT

The delegate Child Support ~~Enforcement~~Services Unit shall include an income and expense affidavit as prescribed by the State Department with every Notice or amended Notice of Financial Responsibility issued.

6.705.3 SERVICE OF THE NOTICE OF FINANCIAL RESPONSIBILITY

A. The delegate Child Support ~~Enforcement~~Services Unit shall serve the Notice or amended Notice of Financial Responsibility on the noncustodial parent at least eleven calendar days prior to the date stated in the Notice or amended Notice for the negotiation conference.

B. The following forms shall be included in the packet served on the obligor.

1. Notice or amended Notice of Financial Responsibility,

2. Subpoena to Produce, and

3. Income and Expense Affidavit.

C. Either a Return of Service or a Waiver of Service must be obtained in all cases. Within five (5) working days of receipt of a Return of Service or a Waiver of Service, the delegate Child Support ~~Enforcement~~Services Unit shall data enter the date of service or the waiver on the automated child support system and send notice of the negotiation conference to all parties or his/her attorney of record and the other state, if appropriate.

D. If service was by certified mail restricted delivery, the return receipt shall be attached to the return of service. If service was effected by the county director or delegate Child Support ~~Enforcement~~Services Unit employee designated in writing by the county director, he/she shall complete the return of service within five (5) working days of effecting service of process.

6.706 NEGOTIATION CONFERENCE

The county director shall be responsible for determining and authorizing in writing which Child Support ~~Enforcement~~Services Unit employees may conduct negotiation conferences based upon the employee's classification and experience, and shall be responsible for assuring that only those employees with adequate skills, knowledge and training conduct negotiation conferences. Child Support ~~Enforcement~~Services Unit employees authorized by their county director to conduct administrative

process must also be certified by the State Division of Child Support ~~Enforcement~~Services and comply with all State Division of Child Support ~~Enforcement~~Services certification training and testing requirements before conducting administrative process.

6.706.1 STANDARD CONTINUANCES

A. Upon request of the noncustodial parent, the negotiation conference shall be continued once, not to exceed ten (10) calendar days from the originally scheduled date.

B. If a continuance is requested by the noncustodial parent, the delegate Child Support ~~Enforcement~~Services Unit shall issue a Notice of Continuance of Negotiation Conference to the noncustodial parent, the custodial party, or their attorneys of record and the other state if appropriate. The notice shall contain the rescheduled date and shall be provided by first class mail or hand delivery.

C. If a continuance is requested by the noncustodial parent, the delegate Child Support ~~Enforcement~~Services Unit shall data enter the type and reason for the continuance and the date for the rescheduled negotiation conference on the automated child support system.

6.706.2 CONTINUANCES FOR GOOD CAUSE

A. More than one continuance and for any number of days may be granted only for good cause as defined in Section 6.708.

B. Continuances for good cause may be granted only by the county director or delegate Child Support ~~Enforcement~~Services employee designated in writing by the county director.

C. If a continuance for good cause is granted, the delegate Child Support ~~Enforcement~~Services Unit shall issue a Notice of Continuance of Negotiation Conference to the noncustodial parent, the custodial party, or their attorney of record and the other state if appropriate. The notice shall contain the rescheduled date and will be provided by first class mail or hand delivery.

D. If a continuance for good cause is granted, the delegate Child Support ~~Enforcement~~Services Unit shall data enter the type and reason for the continuance and the date for the rescheduled negotiation conference on the automated child support system.

E. A finding of good cause may be made for the following reasons:

1. The case involves a paternity determination and the noncustodial parent has stipulated to submit to genetic tests and the results are needed to proceed; or,

2. A valid contest of paternity is made and paternity has not been established pursuant to the laws of another state; or,

3. Additional time is needed to verify income or other information necessary to calculate a child support order pursuant to the Colorado Child Support Guidelines, Section 14 10 115, C.R.S. as amended; or,

4. An allegation of fraud and referral for investigation; or,

5. The noncustodial parent or his/her attorney, is unable to appear at the negotiation conference due to a sudden severe illness, an accident, or other particular occurrence which, by its emergency nature and drastic effect, prevents the noncustodial parent or his/her attorney's appearance at the negotiation conference, the burden of proof to show cause of this type shall be upon the noncustodial parent; or,

6. No Child Support ~~Enforcement~~Services Unit employee authorized to conduct negotiation conferences is able to attend the negotiation conference due to a sudden severe illness, an accident, or other particular occurrence which, by is emergency nature and drastic effect, prevents an authorized Child Support ~~Enforcement~~Services Unit employee from attending the negotiation conference.

6.707 CALCULATING THE MONTHLY CHILD SUPPORT OBLIGATION

A. In any order for financial responsibility, the delegate Child Support ~~Enforcement~~Services Unit shall calculate the monthly child support obligation pursuant to the Colorado Child Support Guidelines, Section 14-10-115, C.R.S. The delegate Child Support ~~Enforcement~~Services Unit shall not deviate from the amount calculated pursuant to Section 14-10-115, C.R.S.

B. In the instance of adoption assistance services, when establishing an order against the adoptive parents, the amount of the monthly support order cannot exceed the amount of the monthly adoption assistance payment. If the calculated guideline amount for the monthly support order exceeds the amount of the monthly adoption assistance payment, the Child Support ~~Enforcement~~Services Unit must treat this as a deviation and request a court hearing pursuant to Section 6.713 to request the court to accept the adoption assistance payment amount as the order.

6.707.1 DETERMINING INCOME

A. The delegate Child Support ~~Enforcement~~Services Unit shall calculate the monthly support obligation using reliable information concerning the parents' actual and/or potential income, as appropriate, which may include, but is not limited to, the following:

1. Wage statements; or,

2. Wage information obtained from the Department of Labor and Employment; or,

3. Tax records; or,

4. Verified statement by the obligee, as prescribed by the State Department; or,

5. Income and Expense Affidavit, as prescribed by the State Department.

B. The delegate Child Support ~~Enforcement~~Services Unit may obtain credit reports for purposes of establishing a child support order. Prior to obtaining a credit report for the noncustodial parent the Child Support ~~Enforcement~~Services Unit must verify that paternity has been established or acknowledged. If paternity is not an issue, the Child Support ~~Enforcement~~Services Unit must:

1. Send a ten-day notice to the noncustodial parent or attorney of record by certified mail or registered mail that a full credit report will be obtained, or

2. Obtain a waiver from the noncustodial parent or attorney of record to obtain a full credit report.

C. ~~In the absence of any reliable information concerning a parent's income, the monthly support obligation shall be computed based on the current minimum wage rate for the parent's state of residence, which may be calculated for up to a forty hour work week.~~ If the Child Support Services Unit determines that a parent is voluntarily unemployed or underemployed or in the absence of reliable information, the Child Support Services Unit shall then determine, and document for the record, the parent's potential income. In determining potential income, the Child Support Services Unit shall consider the specific circumstances of the parent to the extent known,

including consideration of the following when said information is available: the parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the parent, prevailing earnings level in the local community, and other relevant background factors in the case. All steps taken to obtain financial information must be documented.

6.707.2 NEGOTIATE DEBT AMOUNT

The delegate ~~CSE~~CSS Unit shall not negotiate the amount of child support or foster care debt unless:

A. No other county or state has unreimbursed public assistance or unreimbursed maintenance payments or unreimbursed costs of foster care placement (for non-IV-E cases); or,

B. All other counties and states with UPA or UMP or unreimbursed costs of foster care placement (for non-IV-E cases) have agreed to the negotiated amount in writing; and,

C. Automated child support system chronology is updated by the enforcing county delegate Child Support ~~Enforcement~~Services Unit to document the agreed upon negotiation.

6.708 ISSUANCE OF ORDER OF FINANCIAL RESPONSIBILITY

A. If a stipulation is agreed upon at the negotiation conference, the delegate Child Support ~~Enforcement~~Services Unit shall prepare and issue an Order of Financial Responsibility, as prescribed by the State Department.

B. The order shall be signed by the noncustodial parent and by the county director or employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

C. The order shall specify that the noncustodial parent send all payments to the Family Support Registry.

D. The order shall be prepared and signed at the conclusion of the negotiation conference. The order shall advise the noncustodial parent that the unpaid child support balance is entered as judgment.

E. The original order and one copy shall be filed with the clerk of the district court in the county which issued the notice of financial responsibility or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support within five (5) business days of the negotiation conference.

F. The following documents shall be filed with the order:

1. Notice or amended Notice of Financial Responsibility;

2. Return of Service or Waiver of Service: if service was by certified mail, the return receipt must be attached to the Return of Service;

3. Guidelines worksheets;

4. Income and Expense Affidavit for noncustodial parent and custodial party;

5. Subpoena to Produce;

6. Retroactive support affidavit, if the action is for support of the child(ren) prior to entry of the support order; and,

7. Adoption Assistance Agreement, if applicable.

G. Upon receipt of a copy of the order with a docket number assigned by the court, the delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days:

1. Update automated child support system with court order and initiate a ledger; and,

2. Send a copy of the order to the noncustodial parent, or his/her attorney of record, and to the custodial party of the child by first class mail.

3. For intergovernmental cases, send a copy to the initiating agency.

7.708.1 NOTICE TO WITHHOLD INCOME

If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~Services Unit shall, unless the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(II)(A), C.R.S.:

A. Send a notice to withhold income for support within fifteen (15) calendar days of the date the order is entered;

B. Send a notice to withhold income for support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires;

C. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

6.709 ISSUANCE OF ORDER ESTABLISHING PATERNITY AND FINANCIAL RESPONSIBILITY

A. The delegate Child Support ~~Enforcement~~Services Unit shall issue an order establishing paternity and financial responsibility after a negotiation conference if:

1. Neither the custodial party nor the noncustodial parent is contesting the issue of paternity, and

2. A Father's Paternity Advisement and Admission and a Mother's Parentage Advisement and Admission, as prescribed by the State Department, is provided to and signed by the noncustodial parent and the mother.

B. The order shall be signed by the noncustodial parent and by the county director or the employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

C. The order shall be prepared and signed at the conclusion of the negotiation conference. The order shall advise the obligor that the unpaid child support balance is entered as judgment.

6.709.1 CONTESTING PATERNITY

A. If the noncustodial parent asserts a valid objection that he or she is not the parent of the dependent child or contests paternity, the delegate Child Support ~~Enforcement~~Services Unit shall issue an Order for Genetic Testing. The negotiation conference may be continued in accordance with the provision of Section 6.706.2.

B. A finding of good cause to reschedule genetic testing may be made for the following reasons:

1. The noncustodial parent is unable to appear at the appointed time or place for genetic testing due to a sudden severe illness, an accident, or other particular occurrence which, by its emergency nature and drastic effect, prevents the noncustodial parent's appearance at the time or place for genetic testing. The burden of proof to show good cause of this type shall be upon the noncustodial parent.

2. Any other reason beyond the noncustodial parent's control (i.e., if the person authorized to collect the genetic testing sample is unable to appear or fails to appear at the time and place for genetic testing).

C. Rescheduling of the time and place for genetic testing may be granted only by the county director or delegate Child Support ~~Enforcement~~Services employee designated in writing by the county director.

D. If rescheduling for good cause is granted, the delegate Child Support ~~Enforcement~~Services Unit shall issue an Order for Genetic Testing to the noncustodial parent with the new date for the genetic testing which shall be served on the noncustodial parent by first class mail or by hand delivery.

E. If the mother and child(ren) fail to appear for or submit to genetic testing, the case shall be set for hearing pursuant to Section 6.713. Upon receipt of the test results, if a stipulation is not reached, the case shall be set for hearing pursuant to Section 6.713.

6.709.2 REQUEST FOR COURT HEARING WHEN PATERNITY IS AT ISSUE

If no stipulation is agreed upon at the negotiation conference because the noncustodial parent contests the issue of paternity, the delegate Child Support ~~Enforcement~~Services Unit shall file the Notice of Financial Responsibility and proof of service with the clerk of the court, and shall request the court set a hearing in accordance with Section 6.713.

6.709.3 FILING THE ORDER

The original order and one copy shall be filed with the clerk of the district court in the county which issued the notice of financial responsibility or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support within five (5) working days of the negotiation conference.

A. The following documents shall be filed with the order:

1. Notice or amended Notice of Financial Responsibility (Paternity Action);

2. Return of Service or Waiver of Service: if service was by certified mail, the return receipt must be attached to the Return of Service.

3. Father's Paternity Advisement and Admission;

4. Mother's Parentage Advisement and Admission;

5. Guideline Worksheets;

6. Income and Expense Affidavits;

7. Subpoena to Produce;

8. Retroactive support affidavit, if the action is for support of the child(ren) prior to the entry of the order establishing paternity; and,

9. Adoption Assistance Agreement, if applicable.

B. Upon receipt of a copy of the order with a docket number assigned by the court, the delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days:

1. Update automated child support system with paternity, court order and initiate a ledger, and

2. Send a copy of the order to the noncustodial parent, the custodial party, or his/her attorney, and the initiating agency, if appropriate, by first class mail.

C. If the obligor's employer's address is known, the delegate child support ~~enforcement~~Services unit shall, unless the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(ii)(a), C.R.S.:

1. Send a notice to withhold income for support within fifteen (15) calendar days of the date the order is entered;

2. Send a notice to withhold income for support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires.

D. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

E. The order shall specify that the noncustodial parent send all payments to the Family Support Registry.

6.710 ISSUANCE OF DEFAULT ORDER OF FINANCIAL RESPONSIBILITY

A. After service pursuant to Section 6.705.3, if the noncustodial parent fails to appear for the negotiation conference as stated in the Notice or amended Notice of Financial Responsibility, and fails to reschedule the negotiation conference prior to the date and time stated in the Notice or amended Notice of Financial Responsibility, or fails to appear for a rescheduled negotiation conference, the delegate Child Support ~~Enforcement~~Services Unit shall:

1. Within five (5) working days of the date of the negotiation conference; or,

2. Within fifteen (15) calendar days of the negotiation conference if the delegate Child Support ~~Enforcement~~Services Unit has mailed the non-custodial parent a stipulated order and it has not been signed and returned by the non-custodial parent or a rescheduled negotiation conference has not been conducted within the fifteen (15) days.

   File an original Order of Default, as prescribed by the State Department, and one copy with the clerk of the district court in the county in which the Notice of Financial Responsibility was issued, or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support.

B. A Default Order of Financial Responsibility will not be issued when the noncustodial parent is incarcerated and fails to appear for the negotiation conference or the rescheduled negotiation conference. In these circumstances, the delegate Child Support ~~Enforcement~~Services Unit's worker shall close the administrative process action for the reason that a hearing has been requested. The delegate Child Support ~~Enforcement~~Services Unit's worker shall follow the process for requesting a court hearing pursuant to Section 6.713.

6.710.1 FILING THE ORDER OF DEFAULT

A. The following documents shall be filed with the Order of Default:

1. Return of Service or Waiver of Service and, if service was by certified mail, the return receipt must be attached to the Return of Service.

2. Affidavit of Non-Appearance as prescribed by the State Department; and,

3. Notice or amended Notice of Financial Responsibility; and,

4. Verified Statement of Obligee, as prescribed by the State Department, used to set the monthly support obligation, or other documentation supporting the guideline calculation of the monthly support obligation such as wage information obtained from the Department of Labor and Employment; and,

5. Affidavit and Certification of Official Record or Foster Care Arrearage/Unreimbursed Maintenance Payment Calculation as prescribed by the State Department, or documentation supporting the calculation of child support debt such as public assistance payment records, foster care payment records, or arrears calculation information, if appropriate; and,

6. Guidelines worksheets; and,

7. Subpoena to Produce; and,

8. Income and Expense Affidavit for each parent, if available; and,

9. Retroactive Support Affidavit, if any; and,

10. Adoption Assistance Agreement, if applicable.

B. The default order shall be signed by the county director or employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

C. The delegate Child Support ~~Enforcement~~Services Unit shall not take any action to enforce the default order until a copy signed by the court approving the default order is received.

D. If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~Services Unit shall, unless the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(ii)(A), C.R.S.:

1. Send a Notice to Withhold Income for Support within fifteen (15) calendar days of the date the order is entered;

2. Send a Notice to Withhold Income for Support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires;

3. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

E. The order shall specify that the noncustodial parent send all payments through the Family Support Registry.

F. The effective date of the default order shall be the date signed by the court approving the default order.

G. If the default order is returned to the Child Support ~~Enforcement~~Services Unit by the court as not approved, the delegate Child Support ~~Enforcement~~Services Unit shall take appropriate action to cure the defect stated by the court as grounds for disapproval.

6.710.2 RECEIPT OF THE ORDER OF DEFAULT

Upon receipt of a copy of the default order approved by the court, the delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days:

A. Update automated child support system with court order and initiate a ledger, and

B. Send a copy of the order to the noncustodial parent, the custodial party, or his/her attorney, and to the initiating agency, if appropriate, by first class mail.

6.711 ISSUANCE OF DEFAULT ORDER ESTABLISHING PATERNITY AND FINANCIAL RESPONSIBILITY

A. A default order may be issued in cases where paternity is at issue if, after service pursuant to Section 6.705.2:

1. The alleged father fails to appear for the initial negotiation conference as scheduled in the Notice of Financial Responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the Notice of Financial Responsibility or fails to appear for a rescheduled negotiation conference;

2. The alleged father fails to take or appear for a genetic test and a finding of good cause as described in Section 6.709.1 has not been made; or,

3. The genetic test results show a ninety-seven percent (97%) or greater probability that the alleged father is the father of the child(ren), and he fails to appear at the negotiation conference and fails to reschedule the negotiation conference.

B. The delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days of the date of the negotiation conference, or the date of the scheduled genetic test, or within fifteen (15) calendar days of the negotiation conference if the delegate Child Support ~~Enforcement~~Services Unit has mailed the noncustodial parent a stipulated order and it has not been signed and returned by the noncustodial parent or a rescheduled negotiation conference has not been conducted within the fifteen (15) days, file an original Order of Default, as prescribed by the State Department, and one copy with the clerk of the District Court in the county in which the Notice or amended Notice of Financial Responsibility-Paternity Action was issued, or in the District Court where an action relating to paternity and child support is pending.

C. A Default Order Establishing Paternity and Financial Responsibility will not be issued when the noncustodial parent is incarcerated and fails to appear for the negotiation conference or the rescheduled negotiation conference. In these circumstances, the delegate Child Support ~~Enforcement~~Services Unit's worker shall close the administrative process action for the reason that a hearing has been requested. The delegate Child Support ~~Enforcement~~Services Unit's worker shall follow the process for requesting a court hearing pursuant to Section 6.713.

6.711.1 FILING THE ORDER OF DEFAULT

A. The following documents shall be filed with the Order of Default:

1. Return of Service or Waiver of Service: if service was by certified mail, the return receipt must be attached to the Return of Service;

2. Affidavit of Non-Appearance as prescribed by the State Department;

3. Notice or amended Notice of Financial Responsibility (Paternity Action);

4. Verified Affidavit of Obligee as prescribed by the State Department, regarding paternity and genetic tests, if any;

5. Other documentation supporting the guideline calculation of the monthly support obligation such as wage information obtained from the Department of Labor and Employment;

6. Affidavit and Certification of Official Record or foster care arrearage/unreimbursed maintenance payment calculation, as prescribed by the State Department, or documentation supporting the calculation of child support debt such as public assistance payment records, foster care payment records, or arrears calculation information, if appropriate;

7. Guidelines worksheets;

8. Subpoena to Produce;

9. Income and Expense Affidavit for each parent if available;

10. Retroactive Support Affidavit, if any; and,

11. Adoption Assistance Agreement, if applicable.

B. The default order shall be signed by the county director or employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

C. The delegate Child Support ~~Enforcement~~Services Unit shall not take any action to enforce the default order until a copy signed by the court approving the default order is received.

D. If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~Services Unit shall, unless the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(ii)(A), C.R.S.:

1. Send a Notice to Withhold Income for Support within fifteen (15) calendar days of the date the order is entered;

2. Send a Notice to Withhold Income for Support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires;

3. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

E. The court shall specify that the noncustodial parent send all payments through the Family Support Registry.

F. The effective date of the default order shall be the date signed by the court approving the default order.

G. If the default order is returned to the Child Support ~~Enforcement~~Services Unit by the court as not approved, the delegate Child Support ~~Enforcement~~Services Unit shall take appropriate action to cure the defect stated by the court as grounds for disapproval.

H. Upon receipt of a copy of the default order approved by the court, the delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days:

1. Update automated child support system with court order, paternity information and initiate a ledger, and

2. Send a copy of the order to the noncustodial parent or his attorney of record to the custodial party and the initiating agency, if appropriate, by first class mail.

6.712 ISSUANCE OF A TEMPORARY ORDER IF NO STIPULATION IS REACHED

If no stipulation is agreed upon at the negotiation conference and paternity is not an issue, or if the obligor contests paternity and the genetic test results are ninety-seven percent (97%) or higher probability of paternity or parentage has previously been determined by another state, the delegate Child Support ~~Enforcement~~Services Unit shall issue temporary orders establishing the monthly support obligation only. The Notice or amended Notice of Financial Responsibility and proof of service shall then be filed with the clerk of the court. The Child Support ~~Enforcement~~Services Unit shall file a request for hearing in accordance with Section 6.713.

6.713 REQUEST FOR COURT HEARING

A request for a court hearing is made when:

A. No stipulation is agreed upon at a negotiation conference and a temporary order is completed; or,

B. A case is referred to court without entry of an administrative order because a deviation is required in the case of adoption assistance services; or,

C. An order needs to be established but for other reasons cannot be established at the negotiation conference.

In these instances, a hearing shall be held and appropriate permanent orders shall be entered without the necessity of a complaint being issued or served on the parties. The delegate Child Support ~~Enforcement~~Services Unit shall request the court to set a hearing in the matter by:

A. Filing a Child Support ~~Enforcement~~Services Unit Request for Court Hearing, as prescribed by the State Department, with the clerk of the district court in the county in which the Notice of Financial Responsibility was issued or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support.

B. Attaching to the Child Support ~~Enforcement~~Services Unit Request for Court Hearing the following:

1. Notice of Hearing, as prescribed by the State Department;

2. Notice of Financial Responsibility;

3. Return of Service or Waiver of Service: if service was by certified mail, the return receipt must be attached to the Return of Service;

4. Income and Expense Affidavits of each parent, if available;

5. Temporary Order of Financial Responsibility;

6. Adoption Assistance Agreement, if applicable.

D. The delegate Child Support ~~Enforcement~~Services Unit shall file a request for hearing within ninety (90) days of service of the Notice of Financial Responsibility or Notice of Financial Responsibility-Paternity Action on the noncustodial parent.

E. The Notice of Hearing must be sent to the noncustodial parent or the noncustodial parent's attorney and the custodial party and other agency, if appropriate, by the delegate Child Support ~~Enforcement~~Services Unit if delegated and authorized by the court in writing.

F. The delegate Child Support ~~Enforcement~~Services Unit is responsible for notifying the court of the last day for a hearing to be held in order to decide the issue of child support within ninety days after receipt of notice, commencing on the date the service of the Notice or amended Notice of Financial Responsibility is accomplished. This is the date on the return receipt if service is by certified mail or the date on the return of service, if through personal services.

6.714 MODIFICATION OF ADMINISTRATIVE ORDERS

Colorado administrative orders of financial responsibility and administrative default orders shall be modified by administrative process, if appropriate, by the delegate Child Support ~~Enforcement~~Services Unit.

6.800 COLLECTION

6.801 PROCESSING COLLECTIONS

6.801.1 Family Support Registry

A. All support collections shall be receipted timely by the Family Support Registry and the county department of social services as prescribed by the state.

B. All child support collections receipted in the Family Support Registry or the county department of social services shall be processed on the automated child support system.

6.801.2 Colorado Date of Receipt

Collections shall be entered on the automated child support system screens using the Colorado Date of Receipt.

6.801.3 County Processes

The county department shall assure that procedures for processing the flow of support payments be established and maintained, including the following functions:

A. Establish, maintain, and employ procedures which assure that persons responsible for handling cash receipts of support payments are not responsible for accounting functions of processing and monitoring such payments;

B. Ensure that only collections received by the Child Support ~~Enforcement~~Services Unit or the Family Support Registry are recorded as IV-D payments on the Automated Child Support Enforcement System (ACSES) ledger or the Automated Child Support Enforcement System 360 series of screens and reported to the state office as child support ~~enforcement~~Services collections;

C. Establish, maintain, and employ procedures which assure that all support payments received are accounted for in the financial records; and,

D. Establish, maintain, and employ procedures which provide for the allocation, distribution, and disbursement of child and spousal support payments and/or specific medical dollar order amounts.

6.801.4 Information on Automated Systems

Amounts allocated, distributed, and disbursed according to the information available on the automated child support system, the Colorado Benefits Management System, and Trails regarding the public assistance or placement status of a child(ren) during an eligible month shall remain as such even if the eligibility or placement status of the child changes in the current or a later month.

6.802 ALLOCATION

A. The court-ordered Monthly Support Obligation (MSO) shall be posted each month on all IV-D ledgers where a current obligation is due for the current accounting month. The monthly support obligation shall be retroactively posted for each month that it was due for which the ~~CSE~~CSS Unit was responsible for enforcing the MSO that month, but it was previously not posted.

B. If there is a Monthly Medical Obligation (MMO) due, the entire monthly support obligation, monthly medical obligation, and arrears balances shall be posted on a manual ledger for all IV-D cases where a current medical obligation is due for the current accounting month.

C. Allocations shall be made at a child level.

D. All collections shall be allocated within two (2) business days after being receipted in the Family Support Registry or the Child Support ~~Enforcement~~Services Unit.

E. All manual overrides of allocation on the automated child support system shall be documented in the automated child support system case chronology.

F. Allocation to multiple arrears obligations on the same ledger shall prorate to class of balances as listed below under Section 6.802.2, “Collections on Cases with Support Orders”.

G. Allocation to multiple arrears obligations on the same ledger shall satisfy the most recent obligation first based on the beginning accrual date of the obligation.

6.802.1 Voluntary Collections on Cases With No Support Orders

If collections are received on a case that has no support order established yet, the county will first initiate a voluntary ledger. The collections shall then be allocated to the ledger in the following order:

A. The collection will first satisfy any noncustodial parent erroneous disbursement ledger balance.

B. If there is any remaining amount, the user shall first post the Monthly Support Obligation to zero and then shall allocate the payment to the Monthly Support Obligation.

6.802.2 Collections on Cases With Support Orders

All collections, except those from a federal income tax intercept or designated as a judgment payment, shall be allocated to the ledger as follows:

A. First, to the Monthly Support Obligation (MSO) where the Monthly Support Obligation has been posted for the current accounting month, prorated among each class of Monthly Support Obligation posted on the ledger.

B. Second, to A Monthly Medical Obligation (MMO) when there is a specific dollar amount ordered.

C. Third, to non-assigned arrears balances. Arrears payments are allocated in the following order to the various types of balances due. Within those types of balances due, an arrears payment will allocate to: 1) non-IV-A, either never assistance or post assistance, ordered specific dollar amounts for medical, non-IV-E foster care, or non-IV-D, and 2) IV-A unassigned pre-assistance, and shall be prorated across ledger balances.

1. In-state current delinquency.

2. In-state non-judgment obligations.

3. In-state judgment obligations.

4. Out-of-state current delinquency.

5. Out-of-state non-judgment obligations.

6. Out-of-state judgment obligations.

D. Fourth, to obligor erroneous disbursement ledger balances.

E. Fifth, to costs due, in the following order:

1. Judgment costs due the county.

2. In-state costs due the Child Support ~~Enforcement~~Services Unit that incurred the cost.

3. Out-of-state costs due another state.

4. Costs due to the custodial party.

F. Sixth, to Title IV-A or Title IV-E assigned arrears balances. Arrears payments are allocated in the following order to the various types of balances due, and shall be prorated across ledger balances:

1. In-state current delinquency.

2. In-state non-judgment obligations.

3. In-state judgment obligations.

4. Out-of-state current delinquency.

5. Out-of-state non-judgment obligations.

6. Out-of-state judgment obligations.

If there is a balance for IV-A assigned pre-assistance arrears for an accounting period prior to October 1, 2009, these arrears will be paid before permanently assigned arrears.

G. Seventh, to prepay if an ongoing monthly support obligation exists. Counties must research the ledger to ensure that the payments should be considered prepay payments.

H. Eighth, to obligor over collect, if no obligation or arrears balance exists on the ledger. Counties must research the ledger to ensure that the payments should be considered over collect payments prior to disbursing to the obligor.

6.802.3 IRS Collections

Collections made via an IRS refund shall be allocated to the ledger as follows:

A. First, to any pre-assistance arrears owed to the state.

B. Second, to title IV-A, Title IV-E, or medical assigned arrears balances. Arrears payments are allocated in the following order to the various types of balances due and shall be prorated across ledger balances:

1. In-state current delinquency.

2. In-state non-judgment obligations.

3. In-state judgment obligations.

4. Out-of-state current delinquency.

5. Out-of-state non-judgment obligations.

6. Out-of-state judgment obligations.

C. Third, to non-assigned arrears balances, including non-IV-A post, non-IV-A never, or non-IV-E. Arrears payments are allocated in the following order to the various types of balances due and shall be prorated across ledger balances:

1. In-state current delinquency.

2. In-state non-judgment obligations.

3. In-state judgment obligations.

4. Out-of-state current delinquency.

5. Out-of-state non-judgment obligations.

6. Out-of-state judgment obligations.

D. Fourth, to obligor over collect, and shall be refunded to the noncustodial parent. If the intercepted collection was based on a joint tax return, the over collect refund will be issued in both joint filers' names.

6.802.4 Judgment Collections

Collections made specifically for a judgment arrears balance shall be allocated to the ledger as follows:

A. First, to the Monthly Support Obligation (MSO) where the Monthly Support Obligation has been posted for the current accounting month, prorated among each class of Monthly Support Obligation posted on the ledger.

B. Second, to a Monthly Medical Obligation (MMO) when there is a specified dollar amount ordered.

C. Third, to non-assigned judgment balances, pro rated across ledger balances.

D. Fourth, to judgment costs due the department.

E. Fifth, to Title IV-A, Title IV-E, or medical assigned judgment balances, prorated across balances. Any assigned pre-assistance balance for an accounting period prior to October 1, 2009, shall be paid before a permanently assigned balance.

F. Sixth, to noncustodial parent over collect, if no obligation or arrears balance exists on the ledger. Counties must research the ledger to ensure that the payments should be considered over collect payments prior to disbursing to the obligor.

6.803 DISTRIBUTION OF SUPPORT COLLECTIONS

6.803.1 Distribution from a Title IV-A Allocation

The Pass Through of current child support collections is dependent upon legislative funding availability. When Pass Through is funded, the Deficit Reduction Act (DRA) distribution rules shall apply. When Pass Through is not funded, standard distribution rules shall apply.

DRA Distribution of collections from a Title IV-A allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO) shall be applied in the following order:

1. First towards any unfunded disbursement balance according to the agreement with the obligee, up to 10% of the payment received or $10.00, whichever is greater, from current support; to the family if there is no unfunded disbursement balance.

B. Amounts applied to a IV-A arrears balance shall first apply towards any obligee unfunded disbursement balance and then toward any unreimbursed public assistance and/or unreimbursed specific medical dollar order amounts.

1. Unreimbursed public assistance will be satisfied first in the enforcing county for all periods of public assistance, then Last In First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.

2. In the event no other county has such monetary interest in the case, excess over unreimbursed public assistance will be paid to the obligee.

STANDARD Distribution of collections from a Title IV-A allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO):

1. Shall apply towards any obligee unfunded disbursement balance.

2. Shall be used to reimburse the total unreimbursed public assistance (UPA) provided to the family.

3. Shall be sent to the family as excess over unreimbursed public assistance if there is no unreimbursed public assistance (UPA) balance.

B. Amounts applied to a IV-A arrears balance shall first apply towards any obligee unfunded disbursement balance, and are then used to reimburse unreimbursed public assistance and/or unreimbursed specific medical dollar order amounts.

1. Unreimbursed public assistance will be satisfied first in the enforcing county for all periods of public assistance, and then Last in First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.

2. In the event no other county has such monetary interest in the case, excess over unreimbursed public assistance will be paid to the obligee.

6.803.2 Distribution From a Title IV-E Allocation

Distribution of collections from a Title IV-E allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO):

1. Shall be used to reimburse the foster care maintenance payment for the month in which the maintenance payment was made.

2. Shall be forwarded to the county business office to be applied according to the state's reporting and accounting procedures, if the amounts applied to the monthly support obligation exceed the foster care maintenance payment.

3. Amounts of the foster care maintenance payment that exceed the monthly support collection are added to the balance of unreimbursed maintenance payments (UMP).

B. Amounts applied to Title IV-E assigned arrears balances:

1. Shall be used to reimburse unreimbursed maintenance payments.

2. Shall be used to reimburse unreimbursed public assistance, if any exists on the case and there is no unreimbursed maintenance payments balance. Any remaining collections are paid to other counties that have a monetary interest in the case.

   Unreimbursed public assistance and/or unreimbursed maintenance payments will be satisfied first in the enforcing county for all periods of public assistance, then Last in First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A OR IV-E assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.

3. In the event no other county has such monetary interest in the case:

   a. Any remaining collections are forwarded to the county business office if the child is actively in placement at the time the payment was allocated; or,

   b. Forwarded to the obligee if the child is not actively in placement at the time the payment was allocated.

6.803.3 Distribution From a Non-IV-A Allocation

Distribution of collections from a non-IV-A allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO) or any arrears balance:

1. Shall first apply towards any unfunded disbursement balance according to the agreement with the obligee.

2. Shall then be applied to any non-PA service fee still owed by the obligee, whether or not such fee has already been reported to the federal government.

3. Shall be paid to the family.

4. Amounts that represent payment on the required support obligation for future months shall be applied to those future months and shall be paid to the family.

B. Non IV-A applicants shall be charged a twenty-five dollar ($25) certification fee only if an actual federal tax intercept occurs. The certification fee shall be deducted yearly from the first Federal Income Tax refund intercept that occurs, regardless of the number of obligors. If the total yearly amount of all tax refunds for a case is less than twenty-five dollars ($25), that amount will satisfy the certification fee.

6.803.4 Distribution From a Non-IV-E Allocation

Distribution of collections from a non-IV-E allocation shall be as follows:

All payments allocated to the current monthly amount due or to any arrears balances shall be forwarded to the county business office.

6.804 DISBURSEMENT OF SUPPORT COLLECTIONS

Any disbursement to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child(ren).

6.804.1 Disbursement from a Title IV-A Allocation

Disbursement of collections from a title IV-A allocation shall be as follows:

A. Disbursements of Pass Through or Excess Pass Through amounts shall be paid to the family within two (2) business days from the Colorado date of receipt if sufficient information identifying the payee is provided.

B. Disbursements to excess over UPA shall be paid to the family within two (2) business days of the end of the month in which the collection was received if sufficient information identifying the payee is provided.

C. If the collection was received from a federal income tax return, the excess over unreimbursed public assistance payment must be sent to the family within thirty (30) calendar days of the Colorado date of receipt unless based on a joint tax return (see Section 6.804.6).

6.804.2 Disbursement From a Title IV-E Allocation

Disbursement of collections from a Title IV-E allocation shall be as follows:

A. Disbursements to the IV-E agency shall be forwarded to the business office within fifteen (15) business days of the end of the month in which the collection was received.

B. Disbursements to excess over UMP which are due to the obligee and not child welfare shall be paid to the obligee within two (2) business days of the end of the month in which the collection was received if sufficient information identifying the payee is provided.

C. If the collection was received from a federal income tax return, the collection must be forwarded to the IV-E agency or to the family as appropriate, within thirty (30) calendar days of the Colorado initial date of receipt unless based on a joint tax return (see Section 6.804.6).

6.804.3 Disbursement from a Non-IV-A Allocation

Disbursement of collections from a non-IV-A allocation shall be as follows:

A. If any moneys are owed for the non-PA service fee, those moneys will be held from any disbursement being sent to the obligee, whether from the current monthly support obligation or from an arrears or judgment disbursement.

B. All disbursements for the monthly support amount and arrears amounts shall be paid to the family within two (2) business days from the Colorado initial date of receipt if sufficient information identifying the payee is provided unless the collection was received from a federal IRS tax return (see Section 6.804.6).

6.804.4 DISBURSEMENT FROM A NON-IV-E ALLOCATION

Disbursement of collections from a non-IV-E allocation shall be as follows:

A. Disbursements to child welfare shall be paid within fifteen (15) business days of the end of the month in which the collection was received.

B. If the collection was received from a federal income tax return, the collection must be forwarded to child welfare within thirty (30) calendar days of the Colorado initial date of receipt unless based on a joint tax return (see Section 6.804.6).

6.804.5 Disbursement in Intergovernmental Cases

Disbursement of collections on intergovernmental cases shall be as follows:

A. In responding intergovernmental cases, for which collections are made on behalf of another child support ~~enforcement~~Services agency, the payment must be forwarded to the location specified by the initiating child support ~~enforcement~~Services agency. Collections must be forwarded to the initiating child support ~~enforcement~~Services agency within two (2) business days of the Colorado date of receipt if sufficient information identifying the payee is provided and within thirty (30) calendar days of the date the payment is received from tax offset collections.

B. In transmitting collections, the responding child support ~~enforcement~~Services agency must provide the initiating child support ~~enforcement~~Services agency with sufficient information to identify the case, the initial date of receipt, and the responding agency's FIPS code.

6.804.6 Disbursements From Federal Income Tax Return Allocations

Disbursements of collections from federal income tax return allocations must be sent to the family within thirty (30) calendar days of the Colorado initial date of receipt, except if a disbursement is from a joint federal income tax refund, the county Child Support ~~Enforcement~~Services Unit may delay disbursement to the family until:

A. The Child Support ~~Enforcement~~Services Unit is notified that the unobligated spouse's proper share of the refund has been paid; or,

B. For a period not to exceed six months from notification of offset, whichever date is earlier.

C. A disbursement to obligor over-collect must be sent within a reasonable time period.

6.804.7 Erroneous Intercept Collection

When an intercept collection is identified as an erroneous certification intercept collection such as the amount was not owed at the time of certification or the wrong person was intercepted, the Child Support ~~Enforcement~~Services Unit shall refund the collection within two (2) working days from the time the erroneously intercepted person provides notice of intercept. This payment shall be disbursed even if the erroneous intercept collection has not been received by the county Child Support ~~Enforcement~~Services Unit.

6.804.8 Erroneous Collection From an Enforcement Remedy

When a collection from any enforcement remedy is identified as an erroneous withholding, the Child Support ~~Enforcement~~Services Unit shall refund the withheld monies within two (2) working days from the date the obligor provides notice of erroneous withholding. This payment shall be disbursed to the obligor even if the erroneous withholding was not retained by the Child Support ~~Enforcement~~Services Unit.

6.805 ADMINISTRATIVE REVIEW OF CONTESTED ARREARS

6.805.1 COUNTY LEVEL REVIEW

A. The county department shall establish procedures for reviewing arrearage amounts that are to be reported to a consumer credit reporting agency or have been certified for the administrative offset program, administrative lien and levy, tax offset, lottery intercept, workers' compensation attachment, state vendor offset program, gambling intercept, license suspension, or administrative lien and attachment of insurance claim payments, awards, and settlements.

B. Upon written request for an administrative review, within the time frame specified on the advance notice for reporting arrears to a consumer credit reporting agency, the pre offset notice for tax purposes, the notice of intercept of lottery winnings, the Administrative Lien and Attachment for workers' compensation benefits, the notice for license suspension, the notice of administrative lien and levy, the notice for state vendor offset program, the notice of intercept of gambling winnings, the notice for federal administrative offset program, or the notice of administrative lien and attachment of insurance claim payments, awards, and settlements, the county Child Support ~~Enforcement~~Services Unit shall:

1. Schedule and advise the obligor, and the obligee in a non public assistance case, of the date, time and place of the review and initiate administrative review information on the administrative review tracking system screen in the automated child support system.

2. Request from the obligor copies of any modifications of the support order.

3. Request from the obligor records of payments made by the obligor.

4. Advise the obligor this review is a review of the records only and not a judicial determination.

5. Request proof from the obligor if he/she has contested being the obligor.

6. Advise the obligor that a decision will be rendered within thirty (30) days of the request for a review.

C. The county department shall notify the obligor that an administrative review will only be held if the request for an administrative review concerns an issue of mistaken identity of the obligor or the amount of arrearages specified on the advance notice for reporting to a consumer credit reporting agency, the pre-offset notice for tax offset, the notice for lottery intercept, administrative lien and attachment for workers' compensation benefits, the notice of license suspension, the notice for federal administrative offset program, the notice for state vendor offset program, the notice of intercept of gambling winnings, the notice for administrative lien and levy, or the notice of administrative lien and attachment of insurance claim payments, awards, and settlements.

D. On the date established, the county department shall review the child support case record and the documents submitted by the obligor and determine the arrears.

E. Within ten (10) calendar days of the decision rendered, the county department shall update the automated child support system, take any additional action appropriate to reflect the decision, notify the obligor, and the obligee in a non-public assistance case, of the decision rendered. The written decision shall include the timeframes reviewed, balance due for that timeframe, court

orders reviewed including the child support terms of those orders, payment records reviewed, and amounts credited based on those records.

F. The county department shall notify the obligor of his/her right to request a further review by the State Department. The obligor must be advised that the request must be made in writing and be received by the state office within thirty (30) calendar days of the mailing of the county decision to the obligor.

6.805.2 STATE LEVEL REVIEW

Upon written request from the obligor to the State Department for review of arrearage amounts, that are to be reported to a consumer credit reporting agency, or have been certified for tax offset, for lottery intercept, for workers' compensation benefits attachment, license suspension, federal administrative offset program, state vendor offset program, gambling intercept, administrative lien and levy, and administrative lien and attachment of insurance claim payments, awards, and settlements, the State Department shall

A. Determine if a county level administrative review occurred.

1. If not and the obligor is within the time frame specified on the notice, forward the request to the appropriate county and ensure that the county conducts an administrative review within thirty (30) calendar days of receiving the request from the State Department.

2. If not and the obligor is outside of the time frame specified on the notice, the obligor has lost the right to contest the arrears through the administrative review process.

3. If yes, set a date, time, and place for the review, which shall be within thirty (30) calendar days from the date the written request for review was received by the State Department.

B. Provide a written notice to the obligor, and the obligee in a non-public assistance case, of the date, time, and place of the review. This notice shall contain a statement which advises the parties:

1. The only issues to be reviewed are a mistake in the identity of the obligor or a disagreement of the amount of arrears.

2. The review is a review of the records only and not a judicial determination.

3. The obligor must provide all records of his or her support payments.

4. That a decision will be rendered within thirty (30) days of the review.

C. Request that the county provide:

1. The records that established the arrearages; and,

2. A copy of its decision if not previously provided by the noncustodial parent.

D. On the date established for the review, the State Department shall review the records and determine the arrears. If more time is required to review the records or render a decision, the State Department may extend the time for rendering a decision by an additional thirty (30) days.

E. Within ten (10) calendar days of the decision rendered, the State Department shall notify, in writing, the obligor, the obligee in a non-public assistance case, and the county Child Support ~~Enforcement~~Services Unit of the decision rendered. Any party shall have the right to appeal the

decision. The written decision shall include the timeframes reviewed, balance due for those timeframes, court orders reviewed including the child support terms of those orders, payment records reviewed, and amount credited based on those records.

F. Update the Automated Child Support Enforcement system to reflect the administrative review.

G. A decision will be rendered within thirty (30) calendar days of the receipt of the written request for review unless the parties fail to provide the required information.

6.805.21 Reflect Decision Rendered

The county department, upon receiving the decisions rendered by the State Department after a state level review, shall, within ten (10) calendar days, adjust the Automated Child Support Enforcement System records to reflect the decision rendered and take any additional action appropriate.

6.805.3 Intergovernmental Review

Procedure for Reviewing arrearage amounts that have been certified and submitted for a federal income tax refund offset on an intergovernmental case.

A. Within ten (10) calendar days of the receipt of a written request for an administrative review where Colorado is the submitting state and the requester has requested that the order-issuing state conduct the review or Colorado, as the submitting state, cannot resolve the matter, the county ~~CSE~~CSS Unit shall notify the order-issuing state and send all necessary information which was considered in the decision of an arrearage amount. Colorado, as the submitting state, shall be bound by the decision of the order-issuing state.

B. Within ten (10) calendar days of the receipt of a written request for an administrative review where Colorado is the order-issuing state and the requester has requested that the order-issuing state conduct the review or the submitting state cannot resolve the matter, the county Child Support ~~Enforcement~~Services Unit shall:

1. Schedule and advise the obligor, and the obligee in a non public assistance case, and the other state, of the date, time, and place of the administrative review.

2. Advise the obligor, and the obligee in a non public assistance case and the other state that a decision will be rendered within forty five (45) calendar days of the receipt of the submitting state's request and information.

3. On the date established, the order-issuing state shall review the child support case record, and the documents submitted by the requester and forwarded by the submitting state, and determine the arrears.

4. Within ten (10) calendar days of the decision rendered, the order-issuing state shall notify in writing, the obligor, the obligee, and the submitting state of the decision rendered. The written decision shall include the timeframes reviewed, balance due for those timeframes, court orders reviewed including the child support terms of those orders, payment records reviewed, and amounts credited based on those records.

5. The county department shall notify the obligor of his/her right to request a further review by the State Department. The obligor must be advised that the request must be made in writing and be received by the state office within thirty (30) calendar days of the mailing of the county decision to the obligor.

6. The county department, upon receiving the decisions rendered by the other state shall, within ten (10) calendar days, adjust the Automated Child Support Enforcement System records to reflect the decision rendered and take any additional appropriate action.

6.805.4 Administrative Review of Contested Distribution of Amounts Collected

6.805.41 County Responsibility

A. Following verbal or written contact from an obligee regarding questions or disagreement about distribution of amounts collected, the ~~CSE~~CSS unit shall review the distribution and respond verbally or in writing. The obligee must be advised that if there is still disagreement, he/she must submit a written request for an administrative review by the Child Support ~~Enforcement~~Services Unit.

B. Within ten (10) calendar days of the receipt of a written request for an administrative review, the Child Support ~~Enforcement~~Services unit shall:

1. Schedule and advise the obligee of the date, time and place of the review;

2. Request from the obligee copies of any modification of the support order that have not been previously provided to the Child Support ~~Enforcement~~Services Unit;

3. Request from the obligee records of any payments made directly to the family from the obligor;

4. Advise the obligee that a written decision will be rendered within thirty (30) days of the date of the review;

5. Request from the obligee any other information to support his/her contention that the collections were distributed in error.

C. If the request for an administrative review concerns an issue other than the distribution of current support and/or arrearage payments, the Child Support ~~Enforcement~~Services unit shall notify the obligee that a review will not be held.

D. On the date established for the administrative review, the Child Support ~~Enforcement~~Services unit shall review the child support case record and any information submitted by the obligee and determine if the distribution of the amounts collected was correct.

E. The Child Support ~~Enforcement~~Services unit shall promptly notify the obligee in writing of the decision rendered and will provide a copy of the decision to the State Department within five (5) days of the date the decision is rendered.

F. The Child Support ~~Enforcement~~Services Unit shall notify the obligee in writing of his/her right to request a further review by the State Department. The obligee will be advised that the written request must be received by the state office within thirty (30) calendar days of the mailing of the county decision to the obligee.

G. The Child Support ~~Enforcement~~Services Unit, upon receiving the decision rendered by the State Department after a state level review shall, within ten (10) calendar days, adjust the automated child support enforcement system records to reflect the decision rendered and take any additional action as appropriate.

6.805.42 State Responsibilities

Upon written request for further administrative review, the State Department shall:

A. Provide notice to the obligee, which shall contain:

1. A statement that the only issue to be reviewed is the distribution of current support and/or arrearage payments collected;

2. A statement that the review is a review of the records only and not a judicial determination and that the review will be limited to the documentation in the ~~CSE~~CSS file and any written material the obligee wishes to present.

B. Request from the ~~CSE~~CSS Unit or obtain from the automated child support system, the records used for the distribution;

C. Request from the ~~CSE~~CSS Unit a copy of its decision;

D. Request from the county records of support payment paid directly to the family which were provided by the obligee during the administrative review;

E. Advise the obligee that a written decision will be made within thirty calendar days of the receipt of the request;

F. Advise the obligee of his/her right to appeal the state determination to State District Court on Judicial Review within thirty calendar days of the mailing of the decision.

6.805.43 Notify of Decision Rendered

The State Department shall, within thirty days of the date of the state level review, promptly notify in writing the obligee and the county ~~CSE~~CSS Unit of the decision rendered.

6.805.5 Appeal of Joint Account Collection From FIDM

When a FIDM notice of lien and levy is made on a joint or shared ownership account, as defined at Section 15-15-201(5), C.R.S., the non-debtor account holder may appeal the seizure of his or her share of the funds (see Section 6.906.5), first through the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, and then, if still disputed, judicially. If the appeal is approved, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall release all or part of the lien and levy within two (2) working days from the date the appeal decision is made by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, or within two working days of the receipt of the judicial order approving the appeal. In the event that the financial institution has already remitted payment to the Family Support Registry at the time of the appeal ruling, the payment shall be refunded to the non-debtor account holder pursuant to the appeal ruling.

6.806 INTEREST

Collection of interest is optional for county Child Support ~~Enforcement~~Services Units. If a county chooses to collect interest, the following rules shall apply.

A. Interest on support collections that are deposited in a financial institution in interest bearing accounts shall be used to reduce administrative costs as prescribed by the State Department.

B. Interest collected through support arrears/debt shall be considered a support collection and shall be used to reduce the UPA/UMP balances or, for non IV-A cases, paid to the family.

1. In order to collect interest on a Colorado order, the interest rate will be calculated as prescribed by the State Department on the balance past due at the current interest rate in effect as set forth in Sections 5-12-101 and 14-14-106, C.R.S.

2. Interest on arrears balances will be calculated for a specific amount of arrearages/debt covering a specific period of time. The amount of interest will be listed separately from the amount listed for child support arrears/debt and shall be added to the IV-D ledger on the automated child support enforcement system using the appropriate interest adjustment reason codes. The two figures will be added together to show the total amount of judgment or non-judgment balances.

3. A county may charge interest on a Colorado child support order according to statute. If a county intends to calculate interest, it must:

   a. Send a written notice to the obligor or his/her attorney of record, if one exists, that interest will be assessed on the order.

   b. Only assess interest beginning with the date of the notice referenced in paragraph a, of this section.

   c. Complete an updated interest calculation every six (6) months for all cases where notice, in paragraph "a" of this section, was provided and shall provide written notification of the amount of interest assessed to the obligor or his/her attorney of record, if one exists.

   d. Notify the responding agency in an initiating reciprocal action, at least annually, and upon request in an individual case, of interest charges, if any, owed on overdue support.

4. The county Child Support ~~Enforcement~~Services Unit may waive the collection of interest if it wishes to use interest as a negotiating tool to reach a payment settlement on both public assistance and non public assistance cases.

5. Counties must collect interest on responding interjurisdictional cases if they are enforcing another jurisdiction's order and the initiating jurisdiction requests collection of interest.

6.807 DISBURSEMENTS ON HOLD

A. If a disbursement returns as undeliverable mail, if there is no existing address on the automated child support system, or if a disbursement has been reported as lost or stolen, the user shall put all disbursements for that ledger on hold until the issue is resolved.

B. Child Support ~~Enforcement~~Services Units shall ensure that procedures are established in the county to work the scheduled disbursements daily.

C. The county Child Support ~~Enforcement~~Services Unit shall utilize all appropriate local, state, and federal sources to determine the location of the payee.

D. If the obligee cannot be located within ninety (90) calendar days of the original warrant issue date, the Child Support ~~Enforcement~~Services worker shall allocate the payment(s) first to any obligor erroneous disbursement balance and second to any assigned arrears balance.

E. If there are no obligor erroneous disbursement or assigned arrears balances, the Child Support ~~Enforcement~~Services worker shall allocate the payment to obligor over collect and disburse to the obligor.

F. If the obligor cannot be located within one hundred eighty (180) calendar days of the original warrant issue date, the Child Support ~~Enforcement~~Services worker shall, by the one hundred eighty-first (181st) calendar day, mark the collection to transfer to the abandoned collections account on the disbursement record on the automated child support enforcement system.

The automated child support enforcement system will automatically reimburse any obligee unfunded disbursement balance on the ledger before the payment is transferred to the abandoned collections account.

G. If the payee requests payment of the disbursement once it has been transferred to the abandoned collections account, the transfer will be reversed through a problem log to the state office, and the disbursement will be scheduled.

6.808 UNFUNDED DISBURSEMENTS

A. The county Child Support ~~Enforcement~~Services Unit shall make every reasonable effort to recover unfunded disbursements.

B. If the payment was allocated to the wrong account, the county Child Support ~~Enforcement~~Services Unit shall allocate and disburse the payment to the correct account within five (5) working days of discovering the error, even if the county has not received a recovery from the payee who received the original disbursement.

6.808.1 Notification

A. The county Child Support ~~Enforcement~~Services Unit must ensure that the obligee or the initiating jurisdiction has received notification of the unfunded disbursement prior to automatic recovery of the unfunded disbursement amount. This notification may occur through the application for Colorado Works, Child Support ~~Enforcement services~~Services, or through the automated child support system noticing process.

B. The county Child Support ~~Enforcement~~Services Unit must have an agreement with the obligee in order to recover the unfunded disbursement. If the obligee does not agree to the unfunded disbursement recovery, county Child Support ~~Enforcement~~Services Units may pursue recovery through civil means or may write off the unfunded disbursement amount.

C. The notice of the unfunded disbursement amount will inform the obligee or the initiating jurisdiction of her/his responsibility to repay the balance and will state that failure to respond to the notice constitutes an agreement of her/his part.

6.808.2 Recovery

A. The primary contact county shall be responsible for any negotiations with the obligee and for ensuring that the statewide unfunded disbursement balance is paid. The automated child support enforcement system will determine the primary county.

B. Any county ~~CSE~~CSS Unit can accept a cash payment from the obligee to recover the unfunded disbursement amount.

C. The automated process will recover one hundred percent (100%) of any Title IV-A distribution. County ~~CSE~~CSS staff can negotiate a percent or amount of recovery with the obligee on a non-IV-A distribution but the automated child support system will automatically recover at least ten percent (10%) of the payment or ten dollars ($10), whichever is greater.

6.808.3 Balance Statement

The county Child Support ~~Enforcement~~Services Unit must send an unfunded disbursement balance statement to the obligee if one is requested. Balance statements requested on intergovernmental cases will be sent to the other agency.

6.808.4 Balance Write-Off

The Automated Child Support Enforcement System will automatically write off unfunded disbursement balances for obligees who have no open cases anywhere in Colorado and with no financial history activity throughout the State for seven years.

6.809 CHILD SUPPORT INCENTIVE PAYMENTS

Child support incentives distributed to counties shall be the total amount of the federal incentives paid to the state plus no less than one-half of the state share of retained collections. Child support incentives shall be paid to counties quarterly. The federal and state share incentives shall be calculated separately but using the same formula.

6.809.1 Incentive Formula

The following formula to calculate incentives is used at the federal level to calculate incentives to distribute to states and shall be used in Colorado to calculate incentives to distribute to counties.

A.	Two (2) X (collections for current and former IV-A and IV-E cases) + collections for non-PA and non-IV-E cases	=	"Collections Base"
B.	Total "collections base" X the weight for each performance measure	=	County "collections base amount" for each performance measure
C.	Convert each actual performance ratio using the conversion table	=	"Performance incentive factor" for each performance measure
E.	Each county's "unadjusted incentive amount" ÷ state total of "unadjusted incentive amounts"	=	Each county's percent of the state "unadjusted incentive amount"
F.	Each county's percent of the "unadjusted incentive amount" X the statewide incentive to be distributed for each performance measure	=	"County incentive" for each performance measure
G.	Sum of the "county incentive" for each performance measure	=	Total "county quarterly federal incentive payment" or "county quarterly state share incentive payment"
H.	Sum of county quarterly federal and state share incentives	=	Total "county quarterly incentive payment"

6.809.2 Performance Measures

All incentives will be distributed to counties based on five (5) performance measures. Each performance measure will be calculated at the end of the quarter for each county.

A. Paternity establishment percentage (PEP) is:

The total number of children born out of wedlock in the IV-D caseload with paternity established as of the end of the present month divided by the total number of children born out of wedlock in the IV-D caseload as of the end of the corresponding month of the previous year.

B. The percent of caseload with support orders is:

The total number of cases with an order for support as of the end of the present month divided by the total number of cases in the caseload as of the end of the present month.

C. The percent of current support paid is:

The total dollar amount of child support payments made to current monthly support obligations from the beginning of the year to the present time divided by the total dollar amount of current monthly support obligations due from the beginning of the year to the present time.

D. The percent of arrears cases with a payment is:

The total number of cases with a payment made to an arrears obligation or current delinquency balance during the previous 12 months divided by the total number of cases with an arrears obligation or current delinquency owed as of the end of the present month.

E. The cost effectiveness ratio is:

The total county combined collections divided by the total county administrative costs.

The paternity establishment percentage, the percent of caseload with orders, and the percent of current support paid shall have a weight of one hundred percent (100%). The percent of arrears cases with a payment and the cost effectiveness ratio shall have a weight of seventy-five percent (75%).

6.809.3 "Statewide Incentive Amount" for Each Performance Measure

The total amount of incentives to be distributed shall be the quarterly estimated incentive amount received from the federal government plus the state share incentive.

6.809.4 Conversion Tables

Each performance measure has a bottom threshold; no incentives will be paid for performance ratios below the bottom threshold. The bottom threshold is fifty percent (50%) for the paternity establishment percentage and the percent of caseload with orders. The bottom threshold of the table is forty percent (40%) for the percent of current support paid and the percent of arrears cases with a payment.

Each performance ratio, except for the cost effectiveness ratio, converts, by means of the following table, to a performance incentive factor.

If the performance ratio is at least	But is less than	The performance incentive factor equals:	If the performance ratio is at least	But is less than	The performance incentive factor equals:
80%		100%	59%	60%	69%
79%	80%	98%	58%	59%	68%
78%	79%	96%	57%	58%	67%
77%	78%	94%	56%	57%	66%
76%	77%	92%	55%	56%	65%
75%	76%	90%	54%	55%	64%
74%	75%	88%	53%	54%	63%
73%	74%	86%	52%	53%	62%
72%	73%	84%	51%	52%	61%
71%	72%	82%	50%	51%	60%
70%	71%	80%	49%	50%	59%
69%	70%	79%	48%	49%	58%
68%	69%	78%	47%	48%	57%
67%	68%	77%	46%	47%	56%
66%	67%	76%	45%	46%	55%
65%	66%	75%	44%	45%	54%
64%	65%	74%	43%	44%	53%
63%	64%	73%	42%	43%	52%
62%	63%	72%	41%	42%	51%
61%	62%	71%	40%	41%	50%
60%	61%	70%			

The cost effectiveness ratio converts, by means of the following table, to a performance incentive factor. No incentives will be paid for a cost effectiveness ratio under two dollars ($2.00).

If the CER is at least	But is less than	The performance incentive factor equals:
$5.00	--	100%
$4.50	$4.99	90%
$4.00	$4.49	80%
$3.50	$3.99	70%
$3.00	$3.49	60%
$2.50	$2.99	50%
$2.00	$2.49	40%

6.809.5 Adjustment

An annual adjustment will be done at the end of the federal fiscal year, replacing the estimated state incentive with the actual statewide incentive payment received from the federal office of Child Support Enforcement. The adjustment is done in the quarter following the date the state office receives the adjustment letter from the federal office. The adjusted amounts are incorporated into the current quarter's incentive payments. If there are counties that have a negative incentive amount in the adjusted quarter, they will be billed for this amount by the state Division of Accounting.

6.809.6 Reinvestment

A. Federal regulations require that all federal incentives received be reinvested into the child support program to ensure continued improvement, adequate resources, and maintenance of a high performance level for the child support ~~enforcement~~services program.

B. When a county's federal incentives for a calendar year exceed the county thirty-four percent (34%) share of county administrative expenditures, the county shall demonstrate to the state Child Support ~~Enforcement~~Services Unit how the excess federal incentives are reinvested in the child support program. Counties shall report this information to the state Child Support ~~Enforcement~~Services Unit within two calendar years of receipt of the federal incentives, or if counties are unable or unwilling to reinvest the federal incentives in the child support program, they shall return that amount to the state office.

C. Counties must gain state approval of any plan to reinvest federal incentives that exceed their thirty-four percent (34%) share of county administrative expenditures by presenting to the state Child Support ~~Enforcement~~Services Unit a written proposal of their plan. The reinvestment can be made directly into the Child Support ~~Enforcement~~Services program or can be made to a program not approved for IV-D federal participation of expenditures, as long as the county can demonstrate to the state office how the proposed program will benefit the Child Support ~~Enforcement~~Services program. The cost effectiveness ratio converts, by means of the following table, to a performance incentive factor. No incentives will be paid for a cost effectiveness ratio under two dollars ($2.00).

6.900 ENFORCEMENT

6.901 ENFORCEMENT PROCEDURES

The county Child Support ~~Enforcement~~Services Units shall establish procedures to ensure that the full range of enforcement activities are undertaken and completed within the timeframes specified. The timeframes begin when the obligor is located or on the date the obligor fails to make a payment or when other support related non-compliance occurs. The timeframes end when enforcement action is taken. All enforcement activities must be documented in the automated child support system.

6.902 ENFORCEMENT FUNCTIONS

6.902.1

The following functions are the responsibility of the Child Support ~~Enforcement~~Services Unit with regard to the enforcement of child support obligations for all CSS~~E~~ cases.

6.902.11 County Procedures

Within thirty calendar days of identifying a delinquency or other non-compliance with the order, or location of the obligor, whichever occurs later, the Child Support ~~Enforcement~~Services Unit must take appropriate enforcement action. The Child Support ~~Enforcement~~Services Unit must assess each enforcement case to determine appropriate enforcement actions pursuant to Section 6.903.11.

A. When an obligor fails to make full payment in the month the payment is due, appropriate enforcement action shall be taken.

B. Income Assignment

1. For support orders entered on or after January first, nineteen ninety (1990), the Notice to Withhold Income for Support must be sent within two business days after receipt of an income source.

2. For support orders entered before January first, nineteen ninety (1990), if income assignment is not included in the court order, the Notice of Pending Income Assignment, the Advance Notice to Activate an Income Assignment and the Objection to Activate an Income Assignment must be sent within two business days after receipt of an income source. If the obligor does not file an objection to the activation of the income assignment, the Notice to Withhold Income for Support must be sent within two business days of the end of the fourteen (14) day objection period.

3. A copy of the Notice to Withhold Income for Support shall be provided to the obligor by the employer.

4. Exception to automated income assignments. If an automated income assignment can not be issued due to an exception, the automated child support system will electronically generate a message to the enforcing county and the county child support ~~enforcement~~services worker shall complete the following within two working days of the date of the receipt of the message:

   a. Research the case to determine whether the exception is valid and correct the exception data if possible;

   b. Document the findings and the actions taken to correct the exception in the automated child support system;

   c. Issue the income assignment to the employer, if appropriate.

C. Service of Process

1. If service of process is necessary, service must be completed and enforcement action taken within 60 calendar days of identifying a delinquency or of locating the obligor, whichever occurs later.

2. Repeated unsuccessful service of process attempts are not a valid reason for not meeting the timeframes. If service of process is unsuccessful because of a poor address, the case shall be referred back to the locate function.

6.902.12 Public Assistance Cases

In public assistance and foster care cases, the Child Support ~~Enforcement~~Services Unit shall enforce court-ordered child support obligations from any person who is legally liable for such support until such obligations are satisfied, including assigned arrearages, unless good cause exemption from referral to the Child Support ~~Enforcement~~Services Unit has been determined to exist by the county director or designee. Spousal maintenance must also be enforced if established in the same court action and if the former spouse has physical custody of the children.

6.902.13 Non-Public Assistance Cases

In non-public assistance cases, the Child Support ~~Enforcement~~Services Unit shall enforce court-ordered child support obligations from any person who is legally liable for such support until such obligations are satisfied or services are no longer requested. Spousal maintenance must also be enforced if established in the same court action and if the former spouse has physical custody of the children. When the current

support order and/or the child support arrears are no longer being enforced, the Child Support ~~Enforcement~~Services Unit shall cease enforcement of spousal maintenance.

6.902.14 Arrears Calculation

For all cases, the Child Support ~~Enforcement~~Services Unit is required to calculate arrearages from the date the child support order is entered, including those cases where the date of the order is prior to the date of referral or application.

6.902.15 National Medical Support Notice

The Child Support ~~Enforcement~~Services Unit shall enforce a medical support order when health insurance for the child(ren) is no longer being provided, by issuance of the National Medical Support Notice to the obligor's employer, when such an employer is known, or unless the court or administrative order contains alternative health care coverage.

6.902.16 Notice of Emancipation of a Child

The enforcing Child Support ~~Enforcement~~Services Unit must respond to the automated child support system's electronic message indicating the automatic generation of the right to request review notice for each party or his/her attorney of record. The electronic message alerts the worker when a child(ren) has reached the age of emancipation. Within five working days of receiving the electronic message and the generation of the right to request review notices, the worker must read the active order and determine if the child(ren) included in the order is emancipated pursuant to Section 14-10-115, Colorado Revised Statutes. If the child(ren) is emancipated and is not the youngest child on the order, the worker shall mail a right to request review notice to each party or his/her attorney of record.

6.902.17 Credit Reporting (CRA)

6.902.171 Selection

Obligors shall be selected for referral on all of their court orders when the following two conditions exist in the same accounting period on at least one court order: 1) current balance exceeds five hundred dollars ($500) and 2) there is an amount that is at least sixty calendar days past due. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will generate a report which displays the orders that have been selected for credit reporting. The Child Support ~~Enforcement~~Services Units shall take the following actions within thirty calendar days of the generation date of the credit reporting agency notification list:

A. Ensure that the monthly support obligation, monthly amount due, monthly payment due and current balance are correct; and,

B. Ensure that the arrears in the inactive ledgers are not a duplication of those in the active ledgers; and,

C. Ensure that the Social Security Number is correct; and,

D. Clear any financial holds; and,

E. Electronically send a request for suppression of the court order to the “SEU CRA” mailbox if selection has been made on an incorrect person.

F. Document in the automated child support system all changes or other actions taken.

6.902.172 Notice

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, generates the pre-referral notice, thirty calendar days after the case is selected for credit bureau reporting. The obligor has thirty calendar days from the date of the pre-referral notice to pay the past-due obligation, pay a lump sum toward the current balance or submit a written request for an administrative review. If a written request for administrative review is received, the county child support enforcement worker shall follow Section 6.805.

Once sixty (60) calendar days have lapsed, the child support data will be submitted to the credit reporting agencies.

6.902.173 Disputes

If, during the monthly referral to the credit reporting agencies, the obligor contacts the county child support enforcement worker to dispute the information contained in his/her credit report, the county child support enforcement worker shall:

A. Enter the dispute code in the automated child support system within one working day of contact.

B. Research the case to determine if the information is correct or incorrect. If incorrect, the necessary changes must be made to the child support case. The changes will be reflected in the next monthly update to the credit reporting agencies.

C. Document in the automated child support system all changes or other actions taken.

The county Child Support ~~Enforcement~~Services Units shall respond to requests from the Division of Child Support ~~Enforcement~~Services within two working days for payoff amounts and status information and within six working days for information needed to complete the investigation of a consumer credit dispute. If the Child Support ~~Enforcement~~Services Unit receives a request for information from a lender, credit reporting agency or obligor, it shall follow Section 6.~~210.14~~902.174.

6.902.174 Limited Point of Contact

The Fair Credit Reporting Act, which governs credit reporting agencies, requires a limited point of contact between credit reporting agencies and users of credit information. When a Child Support ~~Enforcement~~Services Unit receives a request for credit status information from a lender, an underwriter, a mortgage company, a credit verifier, an obligor or from a credit reporting agency, the request shall be forwarded to the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, which shall respond to the request for information or to the request for confirmation or clarification of information submitted to credit reporting agencies by the Child Support ~~Enforcement~~Services program. All requests for credit reporting status letters shall be forwarded to the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services.

6.902.175 Arrears or Payoff Requests

If the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, requests arrears or payoff information as referenced in Section 6.902.174, the Child Support ~~Enforcement~~Services Unit shall provide the information within two (2) working days, as required at Section 6.902.173.

6.902.2 SELECTION FOR DRIVER'S LICENSE SUSPENSION PROCESS

The obligor's court orders will be selected for the drivers' license suspension process if the monthly support obligation is not paid in full each month.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between Child Support ~~Enforcement~~Services and the Colorado Department of Revenue, Division of Motor Vehicles.

6.902.21 Reports

A. A report is generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, indicating any cases that have changed status with regards to driver's license suspension. County Child Support Enforcement workers shall take the following actions within thirty calendar days of the generation date of the EM-008, County License Suspension Action Report:

1. Suppress driver's license suspension action, if appropriate. A suppression may be entered at the court order level by the county child support enforcement worker or the technician may request a suppression at the person level, by electronically sending a request to the “SEU DLS” mailbox.

2. Document in the automated child support system all changes or other actions taken.

B. A report is generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, indicating cases that have been suppressed from the driver's license suspension process. County child support enforcement workers shall review the case within thirty calendar days of the generation date of the combined suppression report and take the following actions:

1. If appropriate, remove the court case level suppression or request a release of the suppression at the obligor level, by electronically sending a release request to the “SEU DLS” mailbox.

2. Document in the automated child support system all changes or other actions taken.

6.902.22 Notices

The following notices are generated by the state office based on the specifics of each case.

A. The obligor has thirty calendar days from the notice of noncompliance date to meet the paying criteria, pay the past due obligation, negotiate a payment plan or request, in writing, an administrative review. If a written request for an administrative review is received, the county child support enforcement worker shall follow Section 6.805~~3~~.

B. If a new payment plan is reached with the obligor, the county child support enforcement worker shall enter the new payment plan on the automated child support system pursuant to Section 6.902.3.

C. If the obligor has not paid the past due obligation, negotiated a new payment plan, requested an administrative review or met the paying criteria after the notice of noncompliance is issued, and at least thirty calendar days have lapsed, the automated child support system will electronically send an initial notice of failure to comply to the Colorado Department of Revenue, Division of Motor Vehicles, to suspend the license. A paper copy of the initial notice of failure to comply is sent to the obligor at the same time.

D. If the obligor complies and is sent a notice of compliance after the initial notice of failure to comply and then subsequently fails to meet the paying criteria, the automated child support system will electronically send a subsequent notice of failure to comply to the Colorado Department of Revenue, Division of Motor Vehicles, asking that the license be suspended. A paper copy of the subsequent notice of failure to comply is sent to the obligor at the same time.

E. When a manual notice of compliance is needed to stop a suspension, the county child support ~~enforcement~~services worker shall electronically request a manual notice of compliance from the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~ Services, which will determine if the request is warranted. If the request is approved, within one working day from the date of the decision, Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall fax a manual notice of compliance to the Colorado Department of Revenue, Division of Motor Vehicles.

6.902.23 Rescission

A. Within one working day of the discovery that an erroneous suspension of an obligor's driver's license has occurred due to a county or state Child Support ~~Enforcement~~Services office error only, the county child support ~~enforcement~~services worker shall electronically notify the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, via the "SEU DLS" mailbox. The message shall contain the date of the erroneous suspension, the specific error that caused the erroneous suspension, and any other relevant facts.

B. Within two working days from the receipt of the electronic message, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall review the case to verify whether an error occurred and whether the error is documented in the automated child support system:

1. If the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, determines that the suspension occurred erroneously, the Colorado Department of Revenue, Division of Motor Vehicles, shall be notified that the erroneous suspension must be rescinded.

2. If the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, determines that the suspension was not erroneous, the county child support ~~enforcement~~ services worker shall be electronically notified within two working days of the determination.

6.902.3 PAYMENT PLAN

The payment plan displays the monthly payment due. The monthly payment due consists of the monthly support obligation and Monthly Amount Due (MAD) on the arrears. The total monthly payment due shall not exceed the maximum amount of disposable income that is eligible to be withheld pursuant to Section 13-54-104(3)(b)(I & II), C.R.S.

A. If the obligor has a court ordered MAD on the arrears balance, the county child support worker must enter this amount and the correct code on the court ordered screen in the automated child support system. The code and amount must be removed when the court ordered MAD is no longer valid.

B. If the obligor has a MAD set by the county child support worker, the following must be done when an obligor contacts the county to request a reduction of the MAD:

1. The county child support worker shall inform the obligor that documentation of their current income must be provided to adjust the MAD. The obligor must provide one of the following types of documentation:

   a. Pay check stubs for the last three months;

   b. Business bank statements for the last year;

   c. Federal/State tax return for the last three years;

   d. Documentation of disability; or,

   e. Letter from parole/probation officer of current financial circumstances.

2. The county child support worker shall enter the monthly gross income amount for the obligor, as determined by the documentation provided, into the income data screens on the automated child support system.

3. If the obligor has more than one child support ~~enforcement~~services case, all counties must honor the income data entered on the income data screens by changing the MAD for their case to between the automated child support system calculated fair share MAD and the minimum MAD.

4. Income documentation from the obligor shall be required in order for the county child support worker to update the income data screens. The income data can only be changed upon receipt of updated income documentation as outlined above in Number 1.

5. Income documentation shall be retained in the county case file.

6. When the pay plan amounts change, the county child support worker shall issue an amended order/notice to withhold income for support to reflect the new pay plan amount.

C. If the obligor has a MAD set by the child support system that is not a previously technician set MAD, the county shall review the case and ensure the default MAD amount is appropriate and document findings in chronology.

6.902.4 UNEMPLOYMENT COMPENSATION BENEFITS (UCB)

Automated, electronic income assignments are sent to the Colorado Department of Labor and Employment, Division of Unemployment Benefits (UCB), to attach an obligor's unemployment compensation benefits.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between Child Support ~~Enforcement~~Services and the Colorado Department of Labor and Employment, Division of Unemployment Compensation Benefits.

When a case is unable to attach to a valid unemployment compensation claim, the county child support ~~enforcement~~services worker shall take the following actions as appropriate within two working days of being electronically notified:

A. Name mismatch – research the case to determine whether the correct name is entered and make any necessary corrections.

B. Exclusion – research the case to determine whether the exclusion is valid and make any necessary corrections.

C. All changes or other actions taken to resolve the exclusions shall be documented in the automated child support system by the county child support ~~enforcement~~ services worker.

6.903 ENFORCEMENT ACTIVITIES

6.903.1

The county department shall assure that the full range of enforcement activities are utilized, as applicable, for all ~~CSE~~CSS cases pursuant to ~~CSE~~CSS caseload categorization requirements as contained in these rules and consistent with cost-benefit caseload management.

6.903.11 Enforcement Remedies

The following enforcement remedies shall be utilized as appropriate:

A. One of two processes of assignment from any type of income through a Notice to Withhold Income for Support:

1. Immediate income assignment - the process whereby the income assignment is ordered in the original or modified court or administrative order or where the original or modified support order was issued after a certain date and takes effect immediately without any further notice to the obligor;

2. Other income assignment - the process whereby the order for income assignment is not part of the original order or the original order was issued before a certain date and the obligor is afforded due process through advance notification.

B. Immediate health insurance premium withholding through a National Medical Support Notice (NMSN) - notice of health insurance premium withholding shall be included in the original or modified court or administrative order and take effect immediately without any further notice to the parties. The NMSN shall be issued in accordance with Section 6.240.

C. Judgment for arrearages - the process of filing with the court of record a verified entry of judgment or motion and order for judgment for the amount of arrearages owed by the noncustodial parent.

D. Post Judgment remedies - the execution of legal remedies that are available in state law and procedure that are used to satisfy judgment. Such remedies include, but are not limited to:

1. Garnishment of earnings;

2. Garnishment of assets;

3. Liens upon real property;

4. Liens upon personal property;

5. Forced sale of real or personal property;

6. Liens upon motor vehicles.

E. Intercept Program Participation - the participation in state and federal intercept programs which includes:

- IRS income tax refunds,
- State lottery winnings,
- Unemployment Compensation Benefits,
- State income tax refunds,
- Gambling intercepts;
- Federal administrative offset, and
- State vendor offset.

F. Billings and delinquency notices - the process of billing noncustodial parents or noticing delinquent noncustodial parents as a reminder of support obligations due and past due.

G. Contempt Actions - the process of demonstrating to the court of record at a court hearing that the noncustodial parent has failed to comply with a court order and therefore should be held in contempt of court;

H. Criminal Non-Support Actions - the process of demonstrating to the court of record at a court hearing that the noncustodial parent should be held criminally liable for the failure to support his/her family;

I. Payment Guarantee Action - request to the court to order the obligor to post security, bond, or other form of guarantee to secure payment of the child support order;

J. Contact with the noncustodial parent - the process of obtaining a support collection by contacting the noncustodial parent by telephone or in writing;

K. Internal Revenue Service full collection service - levy by Internal Revenue Service against noncustodial parent's income or assets;

L. Denial, Revocation, or Limitation of Passports - certifying to the United States Secretary of Health and Human Services the names of noncustodial parents that have failed to comply with a court order to pay child support and who owe the amount of federally mandated arrears for the purpose of denying, revoking, or limiting their passports;

M. Fraudulent Transfers - a petition to the court to void transfers of property by an noncustodial parent to another party;

N. Refer case for prosecution under the Federal Child Support Recovery Act;

O. Administrative Lien and Attachment - form used to attach noncustodial parent's Department of Corrections inmate accounts.

6.903.2 PRIORITY OF OBLIGATION ENFORCEMENT

6.903.21

The county Child Support ~~Enforcement~~Services Units shall utilize enforcement activities based upon the type of obligation and the results to be achieved. The order of effectiveness of obligation enforcement is as follows:

A. Enforcement activities that will result in regular collections to satisfy the monthly support obligation for public assistance and non-public assistance cases.

B. Enforcement activities that will result in the collection of arrearages insofar as such enforcement does not interrupt the regular payment of the monthly support obligation by affecting the noncustodial parent's wages.

C. Enforcement activities that will result in the collection of court-ordered costs due to the county department.

6.903.31 Civil Contempt Actions

The county Child Support Services Unit may file civil contempt actions with the local court. The CSS Unit must:

A. Screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order;

B. Provide the court with such information regarding the noncustodial parent's ability to pay or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with purge conditions; and

C. Provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

6.904 ADMINISTRATIVE LIEN AND ATTACHMENT OF INSURANCE CLAIM PAYMENTS, AWARDS, AND SETTLEMENTS

The Colorado Department of Human Services, Division of Child Support Services, shall attach the insurance claim payments, awards, or settlements due to an obligor who is responsible for the payment of past-due child support obligations or past-due maintenance or maintenance when combined with child support obligations.

6.904.1 SELECTION

A. The State Child Support ~~Enforcement~~Services Unit shall attach claim payments, awards, or settlements or obligors who owe more than $500.00, across all court orders, in past-due child support, past-due maintenance or a combination thereof.

B. Pursuant to Section 26-13-122.7, C.R.S., for purposes of this section 6.904, an insurance claim payment, award, or settlement is defined as an individual's receipt of moneys in excess of $1,000.00 after making a claim for payment under an insurance policy for:

1. Personal injury under a policy for liability;

2. Wrongful death; or

3. Workers' compensation.

C. Such insurance claim payment, award, or settlement only includes the portion payable to the obligor or the obligor's representative, and does not include any monies payable as attorney fees

or litigation expenses, documented unpaid medical expenses, or payment for damage or loss to real or personal property.

D. The State Child Support ~~Enforcement~~Services Unit shall recover any fees assessed from the monies collected under the administrative lien. If it chooses not to pursue collection under the administrative lien, the county Child Support ~~Enforcement~~Services Unit is still responsible for fees assessed by the State Department related to the lien, including a data match fee.

6.904.2 NOTICES

The State Child Support ~~Enforcement~~Services Unit shall send a notice of administrative lien and attachment to the insurance company, and send to the obligor a copy of the notice of administrative lien and attachment along with notice of the obligor's right to request an administrative review. The notices shall be sent via first class mail or electronically, if mutually agreed upon. The obligor has thirty (30) calendar days from the date on the notice to request, in writing, an administrative review. When a written request is timely received, the county Child Support ~~Enforcement~~Services worker shall follow section 6.805.

6.904.3 POINT OF CONTACT

The Colorado Department of Human Services, Division of Child Support Services, is the single point of contact between Child Support ~~Enforcement~~Services and the Child Support Lien Network, or similar program, and the insurance companies.

6.905 PROFESSIONAL OCCUPATIONAL LICENSE SUSPENSION PROCESS

Referral will be made to the appropriate licensing board to suspend the professional or occupational license of obligors who:

A. Meet the selection criteria;

B. Have been sent the required notices; and,

C. Have failed to comply with a support order.

6.905.1 SELECTION

Obligors will be selected for the professional occupational license process if they owe more than six months' gross dollar amount of child support and are paying less than fifty percent (50%) of their current, monthly child support obligation.

6.905.2 REPORTS

The reports that are generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, and used by county ~~CSE~~CSS Units to process professional occupational license suspension cases must be worked within thirty (30) days of receipt and all changes or other actions taken must be documented in the automated child support enforcement system.

6.905.3 NOTICES

A. The obligor has thirty calendar days from the notice of noncompliance date to pay the past-due obligation, to negotiate a new payment plan or to request, in writing, an Administrative Review. When a written request is received, the county child support ~~enforcement~~services worker shall follow Section 6.805~~3~~.

B. When a new payment plan is negotiated with the obligor, the county child support ~~enforcement~~services worker shall enter the new payment plan into the automated child support system pursuant to Section 6.902.3.

C. If the obligor has not paid the past-due obligation, negotiated a new payment plan, requested an Administrative Review or met the paying criteria after the notice of noncompliance, an initial notice of failure to comply shall be electronically sent to the licensing board asking the licensing board to suspend the license. A paper copy shall be sent to the obligor.

D. If the obligor is issued a notice of compliance after the initial notice of failure to comply, but has again become delinquent, a subsequent notice of failure to comply shall be electronically sent to the licensing board asking the licensing board to suspend the license. A paper copy shall be sent to the obligor.

E. When a notice of compliance is needed in less than twenty-four hours to stop the license suspension, the county child support ~~enforcement~~services worker shall electronically request a manual notice of compliance from the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, which will fax a notice of compliance to the licensing agency.

F. All changes or other actions taken shall be documented in the automated child support system by the county child support ~~enforcement~~services worker.

6.905.4 POINT OF CONTACT

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between child support ~~enforcement~~services and the Department of Regulatory Agencies representing the licensing boards. County child support ~~enforcement~~services workers shall contact the Division of Child Support ~~Enforcement~~Services for assistance with questions or concerns through the automated child support system. The Division of Child Support ~~Enforcement~~Services shall resolve the questions or concerns with the Department of Regulatory Agencies and communicate the resolution to the county child support ~~enforcement~~services worker through the automated child support system.

6.906 SELECTION FOR FINANCIAL INSTITUTION DATA MATCH (FIDM)

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between Child Support ~~Enforcement~~Services and the financial institutions.

Obligors shall be selected for Financial Institution Data Match on all of their court orders after they have been advised of their due process rights by the issuance of the annual pre-offset notice and the following selection criteria:

A. Arrears balance is $1,000.00 or greater; and,

B. Full monthly support obligation is not paid each month.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall exclude partnership, custodial, and commercial accounts or accounts otherwise precluded by law. Pursuant to Section 26-13-128, C.R.S., and the “Uniform Transfers to Minors Act” and trust accounts of monies held in trust by a third party shall not be attached, encumbered or surrendered.

6.906.1 REVIEW OF SELECTED CASES

Within seven (7) calendar days of the date the electronic notification is generated from the automated child support system, the county child support ~~enforcement~~services worker shall review the accepted match to ensure that the ledger is accurate and to ensure that issuing a lien and levy against the obligor's financial account is appropriate.

All changes or other actions taken shall be documented in the automated child support system by the county child support ~~enforcement~~services worker.

6.906.2 SUPPRESSION

6.906.21 Temporary Suppression

The county Child Support ~~Enforcement~~Services worker may, within the allotted seven (7) calendar days, suppress the accepted court order match on a temporary basis by updating the suppression code on the automated child support system.

6.906.22 Indefinite Suppression

The request for an indefinite suppression shall be submitted to the "SEU FIDM" mailbox electronically by the administrator of the Child Support ~~Enforcement~~Services Unit.

6.906.3 CREATION OF THE LIEN AND LEVY

If the court order match has not been suppressed, the automated child support system will create a lien and levy document on the eighth calendar day after the accepted match. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will submit the lien and levy to the financial institution.

Seven calendar days after the lien and levy document has been sent to the financial institution, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will notify the obligor and any non-debtor account holders of the lien and levy of the account along with the exception/exemption policy and/or the appeal policy.

6.906.4 EXCEPTION OR EXEMPTION CLAIM

A. Within twenty (20) calendar days from the date of the lien, the obligor may request an exception claim per State policy from the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, if there is terminal illness of the obligor or the obligor's biological or adopted child.

B. Within 20 calendar days from the date of the lien, the obligor may request an exemption claim per State statute from the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, if there is:

1. Misidentification; or,

2. A custodial account created pursuant to the "Colorado Uniform Transfers to Minors Act", Article 50 of Title 11, C.R.S., or a trust account of moneys held in trust for a third party; or,

3. An account held with a corporate tax identification number; or,

4. An account used to receive deposits of Supplemental Social Security Income benefits, Social Security survivors benefits, Veterans Administration disability benefits, child support payments, or public assistance benefits; or,

5. An account used to receive "earnings" as defined in Section 13-54-104, C.R.S. The maximum percentage amount of the account balance that can be seized will be determined based upon the documentation provided by the obligor. Documentation requirements are specified on the notice that the obligor receives.

The obligor is responsible for providing the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, documentation in support of the above situations.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall review the claim and document its decision whether to approve or deny the claim. The claim shall be reviewed within three business days of receipt based upon the documentation outlined in the lien and levy exception/exemption policy that is included with the Notice of Lien and Levy. If the claim is approved, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will issue a release of lien and levy to the financial institution. If the claim is denied, the lien and levy will remain in effect. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall notify the obligor and the county child support ~~enforcement~~services worker of the claim decision.

6.906.5 APPEAL PROCESS FOR JOINT ACCOUNTS

The lien placed on any and all types of joint account(s) shall require the financial institution to freeze one hundred percent (100%) of the assets on deposit as of the date of the lien. "Joint accounts" means multiple party accounts as defined in Section 15-15-201(5), C.R.S. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall take the following actions:

A. The non-debtor account holders are noticed that they have twenty (20) calendar days from the date of the lien to request an appeal of the frozen funds on the basis that there is proof of contribution of the funds on deposit up to one hundred percent (100%) as of the date of the lien as governed by Section 15-15-211, C.R.S.

B. The request for appeal and the required documentation shall be reviewed by the Division of Child Support ~~Enforcement~~Services within three working days of receipt.

1. If the appeal is approved, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will issue a release of lien and levy to the financial institution releasing the contribution of the non-debtor account holder.

2. If the appeal is denied, the lien and levy will remain in effect as to the amount frozen at the time of the lien.

3. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall notify the non-debtor account holder and the county child support ~~enforcement~~services worker of the appeal decision.

6.906.6 ALLOCATION OF FUNDS

The levied funds are sent to the Family Support Registry and are allocated according to the obligor's court orders that were included on the FIDM lien and levy.

6.907 VENDOR OFFSET

This enforcement remedy allows the State Controller's Office to intercept monies from vendors/contractors who perform work for the State of Colorado and owe child support arrearages.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between Child Support ~~Enforcement~~Services and the State Controller's Office.

6.907.1 SELECTION AND REFERRAL TO VENDOR OFFSET

Obligors shall be selected for referral on their court order when the monthly support obligation is not paid in full.

The selection criteria is applied to each court order and subsequent court orders for the obligor. When a match is made between the obligor record and the vendor offset table, the county child support ~~enforcement~~services worker will be notified electronically through the automated child support system. The vendor offset table is maintained by the controller's office and lists all vendors used by the State of Colorado.

6.907.2 REVIEW OF SELECTED CASES

When the county child support ~~enforcement~~services worker is notified that the case has been selected for vendor offset, he/she shall review the case to ensure that the ledger balances are correct. If the county child support ~~enforcement~~services worker determines that vendor offset is not appropriate for the case, an electronic message must be sent through the automated child support system to the "SEU VO" mailbox to request suppression. The case will remain suppressed until the county child support ~~enforcement~~services worker electronically requests the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, lift the suppression.

6.907.3 NOTICE

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, generates a Notice of State Vendor Payment Offset when there is a match with the obligor with the vendor table and the match is not suppressed by the county Child Support ~~Enforcement~~Services Unit. The obligor has thirty calendar days from the generation date of the Notice of State Vendor Payment Offset to take one of the following actions to stop the intercept of the vendor payment:

A. Contact the county child support ~~enforcement~~services worker and enter into a payment plan and pay the monthly payment due (MPD). If a payment plan is reached with the obligor, the county child support ~~enforcement~~services worker shall update the payment plan on the automated child support system pursuant to Section 6.902.3 concerning maintenance of the payment plan; or,

B. Pay the total amount due on the court order; or,

C. Submit a written request for an administrative review. If an administrative review is received, the county Child Support ~~Enforcement~~Services worker shall follow Section 6.805~~3~~.

All changes or other actions taken shall be documented in the automated child support system by the county child support ~~enforcement~~Services worker.

6.908 RECREATIONAL LICENSE SUSPENSION

Referral will be made to the Colorado Department of Natural Resources, ~~Division of Wildlife~~Parks and Wildlife, to suspend the recreational license of obligors who:

A. Meet the selection criteria;

B. Have been sent the required notices; and,

C. Have failed to comply with a support order.

6.908.1 SELECTION

Obligors will be selected for the recreational license suspension process if they owe more than six months' gross dollar amount of child support and are paying less than fifty percent of their current monthly child support obligation.

6.908.2 NOTICES

A. The obligor has thirty calendar days from the notice of the noncompliance date to pay the past-due obligation, to enter into a payment plan and begin paying the required amount within the 30 days or to request, in writing, an administrative review. If a written request is received, the county child support ~~enforcement~~services worker shall follow Section 6.805~~3~~.

B. If the obligor enters into a payment plan, the county child support ~~enforcement~~services worker must enter the payment plan on the automated child support system pursuant to Section 6.902.3.

C. All changes or other actions taken shall be documented in the automated child support system by the county child support ~~enforcement~~services worker.

D. The automated child support system will electronically send a failure notice to the Department of Natural Resources, Parks and Wildlife to suspend the license privilege and shall send a paper copy to the obligor in the following circumstances:

1. Obligor has not paid the past-due obligation;

2. Obligor entered into a new payment plan but failed to make a payment within 30 days of the pay plan; or,

3. Obligor failed to request an administrative review.

6.908.3 REPORT

The reports that are generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, and used by county ~~CSE~~CSS units to process recreational license suspension cases must be worked within thirty days of receipt and all changes or other action taken must be documented in the automated child support enforcement system.

6.908.4 POINT OF CONTACT

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the only point of contact with the Department of Natural Resources, ~~Division of Wildlife~~Parks and Wildlife. County child support ~~enforcement~~Services workers shall electronically contact the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, with any questions or concerns through

the automated child support system. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall resolve child support enforcement issues with the Department of Natural Resources, Parks and Wildlife and electronically communicate the resolution to the county child support ~~enforcement~~Services worker through the automated child support system.

6.908.5 MISTAKEN IDENTITY

In cases of mistaken identity, the county child support ~~enforcement~~Services worker shall notify the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, through the automated child support system of the error. The county child support ~~enforcement~~Services worker shall not enter the name of the innocent party into the alias screen in the automated child support system. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall notify the Colorado Department of Natural Resources, ~~Division of Wildlife~~Parks and Wildlife, to resolve the error.

6.908.6 POINT OF CONTACT

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the only point of contact with the Department of Natural Resources, ~~Division of Wildlife~~Parks and Wildlife. County child support ~~enforcement~~Services workers shall electronically contact the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, with any questions or concerns through the automated child support system. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall resolve child support enforcement issues with the Department of Natural Resources, Parks and Wildlife and electronically communicate the resolution to the county child support ~~enforcement~~Services worker through the automated child support system.

Title of Proposed Rule: **Implementation of Office of Child Support Enforcement Final Rule**

Rule-making#: **17-06-06-01**

Office, Division, & Program:	Rule Author:	Phone: (303) 866-5428
OES, Child Support Services	Tracy Rumans	E-Mail: tracy.rumans@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

(State what the rule says or does, explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule. How do these rule changes align with the outcomes that we are trying to achieve, such as those measured in C-Stat?)

The purpose of the proposed rule is to implement the Final Rule issued by the federal Office of Child Support Enforcement (OCSE) on December 20, 2016. Several areas of the Child Support Services program are affected by the provisions of the Final Rule, including the calculation of child support obligations, enforcement of child support orders through contempt proceedings, and criteria for closure of child support cases. In addition, technical cleanup is required in several areas, including the change in the name of the Colorado Child Support Services program.

The Final Rule issued by OCSE makes changes to child support guidelines in order to ensure that child support orders are consistent with the noncustodial parent's ability to pay. The rule enumerates several factors that must be considered when determining the income of a parent. These factors include the parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other reemployment barriers. In order to comply with the Final Rule, Volume 6 should be revised to include the factors that must be reviewed when determining a parent's income. These factors apply when child support obligations are initially established, as well as during the review and adjustment process.

When a parent is incarcerated, that parent's ability to comply with existing child support obligations is severely restricted. In order to prevent a parent accumulating high levels of child support debt due to incarceration, the Final Rule requires the Child Support Services program to utilize a review and adjustment process. The county Child Support Services office will be required to provide notice to the parents of the right to request a review of the support order within 15 days of learning of the incarceration of the noncustodial parent for more than 180 calendar days, which will be accomplished through enhancements to the Automated Child Support Enforcement System (ACSES).

Contempt of court is a legal tool used by county Child Support Services offices to enforce child support obligations. The Final Rule mandates that cases are screened by the Child Support Services office prior to the filing of a civil contempt action that could result in the noncustodial parent being sent to jail. In addition, the contempt process must ensure due process to the noncustodial parent by providing clear notice that his or her ability to pay is critical issue determined by the court in the contempt action.

The Final Rule provides flexibility to the Child Support Services program by permitting case closure in situations where there is no current support order and all arrears are owed to the state, there is an intact two-parent household, or the parent is living with the child. The rule also permits case closure where the noncustodial parent lacks assets above subsistence level and is disabled or has entered long-term care. Finally, the rule reduces the amount of time required to perform diligent locate efforts before the case may be closed.

Several sections of Volume 6 require changes to incorrect citations to other program rules, outdated program names. In addition, the Division of Child Support Services changed the program's name to reflect the focus on providing services to the families that use the child support program. Therefore, Volume 6 should be revised to change "Enforcement" to "Services" in the program name throughout.

Title of Proposed Rule: **Implementation of Office of Child Support Enforcement Final Rule**

Rule-making#: **17-06-06-01**

Office, Division, & Program:	Rule Author:	Phone: (303) 866-5428
OES, Child Support Services	Tracy Rumans	E-Mail: tracy.rumans@state.co.us

Authority for Rule:
State Board Authority: 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:
(give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority)

Federal regulations:
45 CFR 302.56 - concerning guidelines for setting child support orders;
45 CFR 303.4 - concerning establishment of support obligations;
45 CFR 303.6 - concerning enforcement of support obligations;
45 CFR 303.8 - review and adjustment of child support orders;
45 CFR 303.11 - case closure criteria;
45 CFR 303.31 - concerning securing and enforcing medical support obligations.

Does the rule incorporate material by reference?		Yes	X	No
Does this rule repeat language found in statute?		Yes	X	No

If yes, please explain.

The program has sent this proposed rule-making package to which stakeholders?

Office of Economic Security (OES) Sub-PAC
County Human Services Directors and designees
County Child Support Services Administrators
Regional Partners—Federal Office of Child Support Enforcement
IV-D Attorneys
Colorado Judicial Department
Colorado Legal Services
Center on Fathering

[Note: Changes to rule text are identified as follows: deletions are shown as "strikethrough", additions are in "all caps", and changes made between initial review and final adoption are in brackets.]

Attachments:
Regulatory Analysis
Overview of Proposed Rule
Stakeholder Comment Summary

Office, Division, & Program: OES, Child Support Services

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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?

Custodial parties and noncustodial parents receiving services through the Colorado Child Support Services program will benefit from this rule.

Both custodial parties and noncustodial parents will benefit from the thorough review of case circumstances to ensure the correct support amount that reflects their ability to pay is established when parents are voluntarily underemployed or unemployed.

Noncustodial parents that are incarcerated will benefit from receiving notice that their support orders may be reviewed to reflect their ability to pay while incarcerated.

Noncustodial parents will benefit from receiving due process through notice that the ability to pay is the critical issue determined by the court in a contempt hearing. Parents and the judicial system will benefit from increased scrutiny of cases when contempt actions are screened by county Child Support Services offices.

County Child Support Services offices will benefit from a reduced workload by removing the requirement for the federal required distribution notice to be generated manually. The Division of Child Support Services will bear the initial burden of developing an efficient process to produce the distribution notice.

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?

In the long term, custodial parties and noncustodial parents will benefit from support orders being established and modified based on the parents' ability to pay. By setting accurate orders, the likelihood that the parent will comply with the support order increases. This will lead to more custodial parties being able to rely on consistent support payments for their children.

The ability of a parent to pay support is incorporated into this rule change in several areas. Noncustodial parents that have been incarcerated for more than 180 days face a substantial reduction in their ability to pay a support order that may have been established based upon prior employment. By requiring the notice of the right to review that order, more parents will have their support orders modified to accurately reflect their present circumstances. This will reduce the number of cases where noncustodial parents face an insurmountable child support arrears balance upon their release from incarceration.

With more refined use of the civil contempt remedy to enforce child support orders, the courts and parents will benefit. By requiring screening prior to the filing of a contempt action, the remedy will be focused on those cases where it is appropriate, and will prevent the waste of judicial resources spent in court determining that a parent does not have the ability to pay.

The expansion of case closure criteria will benefit county Child Support Services offices as resources may be directed to cases where collections are possible. This will, in turn, improve customer service and case management practices.

State staff will bear the burden, in the short-term, of updating ACSES programming, developing procedures, and conducting training of county staff. Staff resources that currently deliver training will be utilized.

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)***

Changes to the Automated Child Support Enforcement System (ACSES) will be completed with funds already available to the program.

Costs of training will be absorbed within current state positions that currently conduct training.

County Fiscal Impact

There are no expected county fiscal impacts associated with this rule change. There will be a reduction in workload for county offices due to the removal of the requirement to generate the federal distribution notice.

Federal Fiscal Impact

There are no federal fiscal impacts associated with this rule change.

Other Fiscal Impact ***(such as providers, local governments, etc.)***

There are no other fiscal impacts associated with this rule change.

4. Data Description:

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Because this rule is required in order to implement the Office of Child Support Enforcement Final Rule, other data sources were not obtained in developing the rule.

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.

No other alternatives to rule-making are available because the rules must be changed and created in order to comply with the Office of Child Support Enforcement Final Rule.

Title of Proposed Rule: **Implementation of Office of Child Support Enforcement Final Rule**

Rule-making#: **17-06-06-01**

Office, Division, & Program:	Rule Author:	Phone: (303) 866-5428
OES, Child Support Services	Tracy Rumans	E-Mail: tracy.rumans@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Section Numbers	Current Regulation	Proposed Change	Stakeholder Comment	
			Yes	*No*
6.260.5	Notice and Reasons for Closure	Additional criteria authorized by federal rule change allows closure when noncustodial parent lacks assets above subsistence level and reduces time frame required to locate parents	X	
6.261.2	Notice of Right to Request Review	Adds requirement to notify parties to case of right to request review of child support order amount when noncustodial parent is incarcerated for more than 180 days		X
6.261.4	Conducting the Review	Provides required factors to be reviewed by child support caseworker during review process before imputing potential income to a voluntarily underemployed or unemployed parent		X
6.707.1	Determining Income	Provides required factors to be reviewed by child support caseworker before imputing potential income to a voluntarily underemployed or unemployed parent. Applies to establishment and review of support order amount		X
6.903.31	Civil Contempt Actions	Child support caseworker must screen cases prior to filing contempt action and notify noncustodial parent that the ability to pay is the critical question in a contempt action		X
6.240 (and Definitions section 6.002)	Medical Support	Definition of health care coverage includes public health care coverage under which medical services could be provided to the child	X	
Various	Child Support Enforcement	References to Child Support Enforcement were changed to Child Support Services to reflect program name change		X

Office, Division, & Program: OES, Child Support Services
Rule Author: Tracy Rumans
Phone: (303) 866-5428
E-Mail: tracy.rumans@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 Support Services
Arapahoe County CSS
Boulder county CSS
Broomfield County CSS
El Paso County CSS
Larimer County CSS
Weld County CSS
Colorado Judicial Department Child Support Liaison

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:

Office of Economic Security (OES) Sub-PAC
County Human Services Directors and designees
County Child Support Services Administrators
Regional Partners—Federal Office of Child Support Enforcement
IV-D Attorneys
Colorado Judicial Department
Colorado Legal Services
Center on Fathering

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 [X] No

If yes, who was contacted and what was their input?

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Date presented: July 6, 2017

What issues were raised? None

If not presented, explain why.

Comments were received from stakeholders on the proposed rules:

[X] 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.

Section 6.240.2

Julie Krow, Executive Director, El Paso County Department of Human Services

Our team reviewed the changes to the child support regulations and think they are great, with one possible addition courtesy of Jeff Ball. See Below.

We are wondering if an explicit statement should be made in the medical support section. As proposed:

6.240.2 MEDICAL SUPPORT ENFORCEMENT [Eff. 4/1/13]

The National Medical Support Notice (NMSN) must be sent to the obligor's employer if the obligor is ordered to provide health insurance, the obligor is eligible for health insurance, the health insurance is accessible to the child(ren), and the monthly premiums are reasonable in cost.

A. A notice must be sent to the obligor, informing him/her that the NMSN was sent to his/her employer and describing the rights and conditions regarding the issuance of the NMSN. The obligor has ten (10) calendar days from the date of the mailing to object with the Child Support Enforcement Unit if the obligor believes there is a mistake in identity and he/she is not the obligor, there is no order for the obligor to provide health insurance, the health insurance is not accessible to the children, or the monthly premiums are not reasonable in cost.

1. Health insurance is considered not accessible to the child(ren) if the child(ren) resides outside the geographic area of coverage.

2. A premium amount is considered reasonable in cost if the premium payments (child(ren)s' portion) are less than twenty percent (20%) of the paying parent's gross income or application of the premium payment (child(ren)s' portion) on the guidelines does not result in a Monthly Support Obligation of fifty dollars ($50) or less.

B. The Child Support Enforcement Unit will have ten (10) calendar days from the date the objection is mailed to determine if the objection is valid. If the obligor objects to the enforcement of the NMSN claiming it exceeds the reasonable cost standard, the Child Support Enforcement Unit must determine if the premium amount is twenty percent (20%) or more of the obligors' gross monthly income.

C. If the obligor's objection is valid, the Child Support Enforcement Unit must send a notice of termination to the obligor's employer with a copy to the obligor. If the obligor's objection is not valid, the Child Support Enforcement Unit must notify the obligor that the NMSN will remain in effect and that the obligor has the right to object with the court.

D. In subsidized adoption cases, CSE units have the option of enforcing medical support through a NMSN. Verification of the subsidized adoption is required if the Child Support Enforcement Unit chooses not to enforce.

Here is part of the OCSE new rule regarding medical support (from the December 19, 2016 Federal Register):

§ 303.31 Securing and enforcing medical support obligations.

(a) * * *

(2) Health care coverage includes fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child(ren).

We would add this sentence verbatim to 6.240.2, perhaps before the NMSN is mentioned.

Otherwise, we think the changes are very clear. (There may be a paternity only application option added at a later date.)

Response: Based on this comment, the Division of Child Support Services has further reviewed the medical support provisions of the Final Rule issued by the Office of Child Support Enforcement, and agrees that this change in the definition should be included in the proposed revisions. The term "health insurance" was replaced by "health care coverage" and defined to include public health care coverage along with private health insurance. Therefore, the definition of "health insurance" has been included in the revisions, along with revisions to the language in section 6.240.1, medical support establishment, and section 6.240.2, medical support enforcement.

Section 6.260.5

Christian Maddy, Denver County Child Support Services

Feedback for proposed changes to Volume 6 to implement Federal Office of Child Support Enforcement File Rule 2016

45 CFR 303.11(b)(7)(ii) – "*The IV-D agency may elect to close of case if … the noncustodial parent's location is unknown…. Over a 6-month period when there is not sufficient information to initiate an automated locate effort…*"

There is no proposed change to Volume 6, 6.260.51, which requires a 1-year timeframe, at this time.

The federal 6-month will have the intended impact of improving the flexibility, efficiency, and modernization of the program. To keep to 1-year time frame in effect suggests that the program's manual locate abilities, tools and practices have not improved since the rules inception. While anecdotal evidence may suggest that either more or less time may be required to have a successful outcome for these cases, imperial data should be collected and analyzed before deciding to further limit the federal requirement at the state level. As such, the 6-month timeframe should be incorporated in Volume 6 until such time that data reveals that an additional six months significantly contributes to the likelihood of a positive outcome.

45 CFR 303.11(b)(9)(i) and (ii) - "*The IV-D agency may elect to close of case if …. The non-custodial parent's sole income is from Supplemental Security Income (SSI) payments …. or ….*

Both SSI and Social Security Disability Income (SSDI)…."

There is no proposed change to Volume 6, 6.260.51, which is silent to these specific situations, at this time.

45 CFR 303.11(b)(8) is a complex paragraph that contains a 7-part test to determine whether the case has met closure criteria. While paragraph 8 has been integrated in Volume 6, the integration of 45 CFR 303.11(b)(9)(i) and (ii) would greatly simplify the agencies decision making process, thus improving the program's flexibility, efficiency, and modernization. Additionally, the inclusion of these paragraphs will prevent confusion at the county level as to whether these specific closure criteria apply by bridging the gap between federal and state regulations. Ultimately, our program will no longer face any ambiguity about perusing NCP's who are, by definition, physically or mentally debilitated and have no other means to comply with their orders. It appears to be clear, at the federal level, that we should not.

Please let me know if I can be of any further assistance.

Response: Based on this comment, the Division of Child Support Services has further reviewed the optional case closure criteria. With regard to 45 CFR 303.11(b)(7)(ii), when information on the noncustodial parent is added but no social security number is provided, the case is rejected by the Federal Case Registry, and requires further action by the case worker to obtain additional locate information. The Federal Case Registry pulls the case in 90-day increments to review for further locate information that can be used to find a social security number. Based on this process and possible delays in the intake step, several months may have elapsed before the actual locate request is made. Therefore, closing the case within 6 months would not allow sufficient time to fully utilize the tools available to locate the parent. However, we will pursue your suggestion of reviewing data to determine the rate of effectiveness of 6 months versus 1 year of locate efforts. As this case closure criterion is an optional part of the rule, depending on the results of that analysis, the rule can certainly be reviewed again in the future.

With regard to 45 CFR 303.11(b)(9), we have adopted your suggestion, and included a specific subsection to allow for closure of a case where the noncustodial parent's sole source of income is SSI. Because of the importance of establishing paternity and support orders for the children benefiting from the services of the child support program, closure is limited in those situations to cases where paternity and support has been established. The proposed revisions to section 6.260.51 now include an additional subsection F to address these SSI cases.

DEPARTMENT OF HUMAN SERVICES

Child Support ~~Enforcement~~Services

RULE MANUAL VOLUME 6, CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES RULES

9 CCR 2504-1

STATEMENT OF BASIS AND PURPOSE, AND, SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO THE CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES STAFF MANUAL

****

6.000 CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES PROGRAM

6.001 INTRODUCTION

6.001.1 PURPOSE

The Colorado Child Support ~~Enforcement~~ Services (CSS~~E~~) Program is established to collect support, to reimburse, in part or whole, Title IV-A grants paid to families, help remove IV-A recipients from the IV-A program by assuring continuing support payments, and assist persons who do not receive IV-A or IV E foster care to remain financially independent. Such purpose is achieved by: locating noncustodial parents, establishing the paternity of children born out of wedlock, establishing child support obligations and health insurance, reviewing the order for a possible adjustment, and enforcing and collecting support. Although this program must be closely coordinated with the IV-A, Medicaid, Low-Income Child Care Assistance, and foster care programs, it is a separate and distinct program with defined functions, which must be performed by a distinct administrative unit.

This manual sets forth the policies and rules by which the Colorado Child Support ~~Enforcement~~ Services (CSS~~E~~) program must be administered and describes the coordination that must take place with the IV-A and foster care programs. IV-A and IV E foster care cases in these rules are also referred to as public assistance (PA) cases. Cases that do not contain IV-A or IV E recipients and cases receiving continued services are referred to as non public assistance (Non PA; NPA) cases. Non-IV-E foster care, Medicaid, and Low-Income Child Care Assistance cases are also included in NPA cases. The policies and rules for the IV-A, Medicaid, Low-Income Child Care Assistance, and foster care programs are set forth in the respective staff manuals.

6.002 DEFINITIONS

“Abandoned Collections Account” - the State IV-D account into which undeliverable collections are transferred once a determination has been made that the payment cannot be disbursed. This account is used to reimburse state expenditures.

“ACSES” - the acronym for the Automated Child Support Enforcement system, a comprehensive statewide on line computer system providing case management, financial management, reports, statistics and an extensive cross reference system.

“Adjustment” or “Modification” - is a legal action to change the amount of the child support or foster care fee order, which can increase or decrease based upon application of the state's presumptive guideline; or to add a provision for medical support or to change the party ordered to provide medical support.

“Administrative Costs” - the amount of court ordered costs that must be repaid to the Child Support ~~Enforcement~~ Services Unit such as genetic tests, service of process fees, or attorney's costs.

“Administrative Lien and Attachment” - a notice to withhold child support, child support arrearages, child support debt, or retroactive support due from a noncustodial parent's workers' compensation benefits that is issued to any person, insurance company, or agency providing such benefits.

“Administrative Process Action (APA)” - determination of paternity and/or support obligations through a non-judicial process.

“Administrative Review” - a county or state level review of the following four issues only: the payments made, the arrearage amounts, the distribution of amounts collected, or a mistake in the identity of the person who owes the child support.

“Alleged Parent” - a person who has been identified as the possible biological parent of a child and/or who may be the legal parent of a child.

“Allocation” - the process of apportionment of a collection to a specific noncustodial parent's obligation based on the legal order for support to satisfy the various classes of the noncustodial parent's receivables.

“Application” - the state prescribed ~~form, CSE-6, which~~ form which indicates that the individual is applying for Child Support ~~Enforcement services~~Services. The application is signed by the individual applying for services and a fee is paid or waived on basis of hardship, and then paid by the county.

“Arrearages” - the total amount of the court ordered support obligations that are past due and unpaid. Such amount is calculated by multiplying the amount of the support obligation (including any modification thereto) by the number of months that have elapsed since the inception of the order and subtracting from the product the amount of support paid by the noncustodial parent, through the court, directly to the obligee, Child Support ~~Enforcement~~ Services Unit, or Family Support Registry (FSR).

“Assignment of Support Rights” - the determination that a family is eligible for IV-A benefits automatically invokes a state law (Section 26-2-111(3), C.R.S., as amended) that assigns to the State Department all rights that the applicant may have to support from any other person on his/her own behalf or on behalf of any other family member for whom application is made. The assignment is effective for both current support and support that accrues as arrears during the period that the family receives assistance. The assignment is limited by the total amount of IV-A assistance received. When a child is placed in foster care, all rights to current and accrued child support for the benefit of the child are assigned to the State Department pursuant to Section 26-13-113, C.R.S.

“Automated Child Support Enforcement System (ACSES)” - the statewide computer program used by Child Support ~~Enforcement~~ Services for daily operations.

“Caretaker” - a person who is related to the dependent child by blood or by law, or who lives with the child and who exercises parental responsibility (care, control and supervision) of the child in the absence of the child's parent.

“Case Category” - category of a case identifies the type of IV-D case. Case categories must be maintained on the automated child support system as prescribed by the State Department.

“Cash Medical Support” - see definition of “specific dollar amount for medical purposes”.

“Challenge” - when either party disagrees in writing with the review results because the guideline calculation contained an alleged mathematical or factual error. The parties' right to challenge is included

in the Post Review Notice or the Administrative Process, Notice of Financial Responsibility for Modification.

"Child Support ~~Enforcement~~ Services (CS~~E~~S) Unit" - the county unit administering or supervising the contract for another private or public entity to administer the Child Support ~~Enforcement~~ Services (CSS~~E~~) Program.

"Colorado Date of Receipt" (CDOR) - the date the child support payment is first received by the Child Support ~~Enforcement~~ Services program, either the Family Support Registry or the Child Support ~~Enforcement~~Services Unit.

"Confidential" - privileged information of individuals which is private and not for release, disclosure, or distribution unless specifically authorized in statute, regulation, or rule.

"Consumer Credit Reporting Agency" - any person who, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part, in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

"Continued Services Cases" - non public assistance Child Support ~~Enforcement~~ Services cases in which the Child Support ~~Enforcement~~ Services Unit continues to provide services after IV-A financial or IV-E foster care eligibility ceases unless notified by the custodial party that continued services are not desired.

"Cost Effectiveness Ratio" - the ratio of total child support collections to total administrative costs.

"County Department" - a county department of social services, human services, housing and human services, or health and human services.

"C.R.S." - Colorado Revised Statutes.

"~~CSE~~CSS Case" - a child support case in which services are provided to establish, modify, and enforce support and medical obligations pursuant to the state IV D plan.

"Custodial Party" - the legally responsible parent, blood relative, adoptive relative, adult who exercises responsibility for a dependent child(ren), or agency. Also known as the caretaker relative, custodial relative, custodian, government agency (for foster care cases) or, on ACSES, as the recipient/applicant and abbreviated as R/A.

"Date of Withholding" - the date the employer withheld the child support from the employee's wages.

"Disbursement" - processing of the payable to payees other than the Department of Human Services.

"Disposition" - the date on which a support order is officially established and/or recorded or the action is dismissed.

"Distribution" - application of the allocated collection to the IV D retained and/or payable accounts according to federal regulations based on assignment of rights to support, continued services, and application for services.

"EFPLS" - Expanded Federal Parent Locator Service

"Electronic Benefits Transfer (EBT) Notice" - the notice that is sent to the IV-A recipient at the beginning of each month informing him/her of how much public assistance money was deposited into his/her

account. The notice also contains information about how much child support was paid by the noncustodial parent during that month.

“Enforcing County” - Colorado county responsible for processing the case and providing Child Support ~~Enforcement s~~Services.

“Erroneous Disbursement” - see “Unfunded Disbursement”.

“Excess Pass Through Amount” – means an assigned child support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse for assistance provided to the family over the Pass Through Amount.

“Expedited Processes” - administrative or expedited judicial processes or both which increase effectiveness and meet specified processing timeframes and under which the presiding officer is not a judge of the court. Actions to establish or enforce support obligations in IV D cases must be completed within the timeframes specified in federal regulations.

“Family Support Registry (FSR)” - the contracted fiscal agent responsible for processing all child support payments.

“FFP” - Federal financial participation.

“Federal Tax Information (FTI)” - any information contained in, or that derived from, a federal tax return.

“Financial Institution Data Match (FIDM)” - Federal mandate requiring the state to do a periodic match of noncustodial parents who owe arrearages to accounts maintained at financial institutions.

“Financial Institution Data Match Lien and Levy” - a notice generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, to freeze and seize assets contained in financial accounts. The notice is issued to any financial institution or state entity maintaining accounts for obligors with child support arrearages, child support debt or retroactive support.

“FIPS” - Federal Information Processing Standard - a code number assigned to each state and county within the United States.

“Former Arrears Due (FAD) Case” - any IV-D case in which the custodial party or the child(ren) formerly received IV-A cash assistance or IV-E maintenance but no longer receives CSS~~E~~ services and where there are still assigned arrears due.

“Former Assistance Case” - any IV-D case in which the custodial party or the child(ren) formerly received IV-A cash assistance or IV-E maintenance.

“Foster Care Fee Debt” - the amount of support due in a foster care case from the placing parent for the time period between the date the child was placed in out-of-home placement to the date the fee order was established.

“Foster Care Fee Order” - a monthly amount assessed by application of the Colorado Child Support guidelines, which are found under 14-10-115(7), C.R.S., to the legally responsible person(s) whose child(ren) are receiving substitute care through a foster care placement as ordered by a court or through administrative process by a county Child Support ~~Enforcement~~ Services Unit.

“FPLS” - Federal Parent Locator Service.

“Genetic Testing” - a scientific test that shows the probability of biological parentage of a child which can lead to the establishment of paternity.

~~"Health Insurance" - medical insurance or medical and dental insurance that may be provided through a parent's employer or acquired individually by the parent.~~

"Health Care Coverage/Health Insurance" – Fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child(ren).

"HHS" - the U.S. Department of Health and Human Services.

"High Volume Automated Administrative Enforcement in Interstate Cases" - the use of automated data processing on interstate cases to search various state data bases and seize identified assets of delinquent obligors, using the same techniques as used in intrastate cases upon request of another state.

"Income Assignment" - the process whereby a noncustodial parent's child support payments are taken directly from his/her income and forwarded to the FSR through a notice to the employer, trustee, or other payor of funds.

"Initial Date of Receipt" (IDOR) - the date on which the support collection is initially received by the Title IV-D agency or the legal entity of any state or political subdivision actually making the collection or, if made via income assignment, the date of withholding, whichever is earliest.

"Initiating State/Jurisdiction" -

A. The state/jurisdiction which requests ~~CSE~~CSS services from the state/jurisdiction where the noncustodial parent resides, has property, or derives income; or,

B. The state where the custodial party resides if a modification has been requested and it is appropriate for that state to review the order.

"Intergovernmental Case" - a ~~CSE~~CSS services case which involves more than one state, country or tribe.

"Interstate Central Registry" - the Interstate Network unit within the Colorado Division of Child Support ~~Enforcement~~ Services (CS~~S~~S~~E~~) which receives and distributes responding cases and has oversight responsibility for intergovernmental IV-D cases.

"Interstate Network" - the unit in the Colorado Division of Child Support ~~Enforcement~~ Services which has responsibility for interstate central registry functions.

"In-State Case" - a case being worked in Colorado with no other jurisdiction involved.

"IV-A Cash Assistance" - payments paid to or on behalf of families with children pursuant to Title IV-A of the Social Security Act.

"IV-A Case" - a case referred from the IV-A Unit to the ~~CSE~~CSS office for child support services when the family has been approved for IV-A financial benefits and/or medical benefits.

"IV-A Unit" - the county unit administering the IV-A cash assistance program.

"IV-D Program" - Child Support ~~Enforcement~~ Services Program pursuant to Title IV D of the Social Security Act.

"IV-E Foster Care Case" - a case with a child(ren) who qualifies for public assistance under Title IV-E of the Social Security Act. These cases are mandatory referrals to the ~~CSE~~CSS Unit.

“IV-E Payment” - payment made on behalf of a child for his/her foster care maintenance in accordance with Title IV E of the Social Security Act.

“Judgment” - by operation of law, a child support payment becomes a final money judgment when it is due and not paid. A missed payment, or a series of missed payments, may also be reduced into a single judgment by the court.

“Legal Father” - see “Paternity”.

“Locate” - information concerning the physical whereabouts of the noncustodial parent or the noncustodial parent's employer(s), other sources of income, or assets, as appropriate, which is sufficient to take the next appropriate action in a case.

“Medicaid Referral Cases” - cases in which families, with a noncustodial parent, receive Medicaid and are referred to ~~CSE~~CSS from a Medicaid agency for ~~CSE~~CSS services if the Medicaid recipient voluntarily wants ~~CSE~~CSS services.

“Medical Coverage” - any health coverage provided for a child(ren), including: 1) private health insurance; 2) publicly-funded health coverage; 3) cash medical support; or 4) payment of medical bills, including dental or vision.

“Medical Support” - a subset of medical coverage which includes health coverage provided for a child(ren) in a IV-D case in which there is a medical support order. This includes: 1) private health insurance; 2) publicly-funded health coverage, if a parent is ordered by a court or administrative process to provide cash medical support payments to help pay the cost of Medicaid or State Child Health Insurance Program (SCHIP); 3) cash medical support, including payment of health insurance premiums; and 4) payment of medical bills, including dental or vision. Indian health service and tricare are acceptable forms of medical support.

“Modification” - see “Adjustment”.

“Monthly Amount Due” - the monthly amount the obligor is expected to pay toward the arrearages.

“Monthly Payment Due” - the monthly amount that the obligor is expected to pay each month; the amount includes the court ordered current support and the monthly amount due towards any arrears.

“Monthly Support Obligation” - the monthly obligation amount ordered by a court or through administrative process by a county Child Support ~~Enforcement~~ Services Unit to be paid on behalf of (a) child(ren) or (b) child(ren) and former spouse, if established in the same court order and if the former spouse is living with the child(ren).

“National Medical Support Notice (NMSN)” - a federally mandated notice sent to employers by the delegate ~~CSE~~CSS Units. The NMSN requires an employer to enroll a child(ren) in the employer’s health insurance plan if it is available, the employee is eligible, and it is reasonable in cost.

“Non-IV-E Foster Care Case” - a case with a child(ren) receiving Title IV-B foster care services who does not qualify for IV-E public assistance. These cases are classified by the State ~~CSE~~CSS Division on the automated child support system as a Non-PA case, but are treated like public assistance cases because they originate within Child Welfare Services and, pursuant to statute, contain an automatic assignment of support.

“Non-Public Assistance (Non-PA) Case” - a IV D case in which the family currently does not receive public assistance. Non-PA cases include Medicaid referral cases.

“Noncustodial Parent (NCP)” - the legally responsible parent, adoptive parent, or alleged parent who is not living with the dependent children. Also known on ACSES as the absent parent and abbreviated as “A/P”.

“Not in Child's Best Interest” - order would not be reviewed based on a good cause determination in cases with an assignment of rights as defined in Section 6.230.1.

“Notice of Collection” - a periodic report of Child Support collection information which is sent by the Child Support ~~Enforcement~~ Services Unit to current and former Colorado Works Program recipients who have assigned their rights to support.

“Obligee” - the party to whom an obligation of support is owed.

“Obligor” - the party bound by a court or administrative order to provide support.

“OCSE” - Office of Child Support Enforcement. The Health and Human Services agency responsible for the supervision of state child support enforcement programs pursuant to Title IV D of the Social Security Act.

“Original Order” - means the first support order that orders a parent to pay support for a child.

“Parties to the Action” - those individuals or entities named in a petition, motion, or administrative process notice of financial responsibility and joined, or to be joined, in a legal action.

“Pass Through Amount” – means an assigned child support collection (applied to current support) that the State elects to pay to the family rather than retain to reimburse for assistance provided to the family. In current-assistance cases, the federal share will be waived for up to $100 per month for TANF families with one child and up to $200 per month for families with two or more children, as long as both the federal and state share of the Pass Through are paid to the family and are disregarded in determining the TANF Basic Cash amount of assistance provided to the family.

“Paternity” - is the legal establishment of fatherhood for a child, either by court determination, administrative process, or voluntary acknowledgment.

“Permanently Assigned Arrears” - arrears which accrued under a court or administrative order and were assigned prior to October 1, 1997, plus all arrears which accrue while a family is receiving public assistance after October 1, 1997.

“Placing Parent” - the legally responsible parent who the child(ren) was living with prior to foster care placement.

“Post Assistance Arrears” - the arrears that accrue under a court or administrative order on a continued services case after the obligee discontinues IV-A services.

“Pre-Assistance Arrears” - the arrears that accrued from October 1, 1997, forward, under a court or administrative order before the obligee started receiving IV-A assistance.

“Pre-Offset Notice” - a notice generated yearly by the state Office of Child Support ~~Enforcement~~ Services notifying noncustodial parents of the enforcement remedies that may be applied to their cases and advising of their right(s) to request an administrative review.

“Pre-Review Screening” - an assessment of the IV-D case to determine the appropriateness for review.

“Presumed Father” - a man who is more likely than not to be the legal father of a child because certain facts exist.

"Primary Contact County" - the county that the obligee will contact to resolve issues concerning an unfunded disbursement balance.

"Procedure" - processes developed by county Child Support ~~Enforcement~~ Services Units and/or the State Department to implement state policy and rules.

"Public Assistance" - assistance payments provided to or on behalf of eligible recipients through programs administered or supervised by the State Department under Titles IV-A or IV-E of the Social Security Act or under Child Welfare Services.

"Public Assistance (PA) Case" - a case that has met established criteria by the IV-A or IV-E divisions to be referred to the ~~CSE~~CSS Unit for child support services.

"Responding State/Jurisdiction" - the state/jurisdiction where the obligor resides, has property, or derives income, which provides Child Support ~~Enforcement~~ Services Unit services upon request from another state/ jurisdiction.

"Retroactive Support Due" - the amount of support due for a time period prior to the entry of an order establishing paternity and/or support.

"Review" - an evaluation of the parties' income information to determine the child support order amount and whether a medical support provision needs to be added to the child support order or if the party ordered to provide medical support needs to change.

"Service Fee" – the annual fee charged to an obligee who has never received cash public assistance.

"Specific Dollar Amount for Medical Purposes or Cash Medical Support" - an amount ordered to be paid toward the cost of health insurance provided by a public entity or by another party through employment or otherwise, or for other medical costs not covered by insurance.

"SPLS" - the State Parent Locator Service.

"State Department" - the Colorado Department of Human Services.

"State Plan" - the comprehensive statement submitted by the State Department to the Department of Health and Human Services describing the nature and scope of its Child Support ~~Enforcement~~ Services Program and giving assurance that it will be administered in conformity with the specific requirements stipulated in Title IV D of the Social Security Act and other official issuances of Health and Human Services.

"Support" - a medical support order and/or financial amount ordered by a court or through administrative process by a county Child Support ~~Enforcement~~ Services Unit on behalf of (a) child(ren) or (b) child(ren) and former spouse, if established in the same court order and if the former spouse is living with the child(ren).

"Termination of Review and Adjustment" - the review/adjustment activity ceases based on specific criteria which are set forth in Section 6.261.5.

"Total Program Expenditures" - the total amount of costs associated with the Child Support ~~Enforcement~~ Services program billed to the federal government for reimbursement.

"UIFSA" - Uniform Interstate Family Support Act, Title 14, Article 5, Colorado Revised Statutes (C.R.S.) which governs interstate case processing.

"UMP" - Unreimbursed Maintenance Payments. The amount of IV E foster care maintenance payments which have not been reimbursed by child support collections or other recoveries.

"Unassigned Arrears" - any arrears that are not assigned to the state, either because the obligee never received public assistance or because, for an obligee who is or was receiving public assistance, the arrears accrued during a time period when the obligee was not receiving public assistance.

"Unfunded Disbursement" - a disbursement that is paid but subsequently found to contain an error or found to have insufficient funds to pay the disbursement.

"UPA" - Unreimbursed Public Assistance. The amount of IV-A payments which have not been reimbursed by child and spousal support collections or reduced by IV A established recoveries.

"URESA" or "RURESA" - The Revised Uniform Reciprocal Enforcement of Support Act, Title 14, Article 5, C.R.S., as amended. Repealed in Colorado on January 1, 1995, the effective date of Uniform Interstate Family Support Act.

6.100 ADMINISTRATION OF THE COLORADO CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES PROGRAM

6.101 STATE DEPARTMENT OF HUMAN SERVICES

The State Department of Human Services is responsible for statewide supervision or administration and, as provided in these rules, direct administrative activities concerning the Child Support ~~Enforcement~~ Services Program as required by the federal government under its provisions for financial participation.

6.102 County Departments Of Social Services

6.102.1 County departments shall strictly administer the Child Support ~~Enforcement~~ Services Program in accordance with the rules set forth in this manual.

6.102.2 Duties Of The County Department

6.102.21

The duties of the county department or its delegate shall include the following:

A. Establishing, maintaining, and implementing specific written procedures for the operation of the Child Support ~~Enforcement~~ Services Program in accordance with these rules;

B. Maintaining the Child Support ~~Enforcement~~ Services staff manual, required state forms, and copies of county letters;

C. Establishing and monitoring agreements with local law enforcement officials, legal services providers and other organizations for the provision of services in support of the Colorado Child Support ~~Enforcement~~ Services Program;

D. Securing compliance with the requirements of the Colorado Child Support ~~Enforcement~~ Services Program in operations delegated under any agreement;

E. Implementing and utilizing a statewide, comprehensive automated Child Support ~~Enforcement system~~Enforcement system, as prescribed by the state department;

F. Certifying delinquent cases to the state department for the interception of Internal Revenue Service refunds and for interception of state income tax refunds;

G. Ensure the accuracy and integrity of the automatic child support system;

H. ~~Send a quarterly notice of current support and arrearage payment collections to current and former IV-A recipients with support obligations who have assigned their rights to support. Collections shall be reported on Form CSE-33, as prescribed by the State Department,~~Conduct an administrative review at the request of the custodial party as a result of the quarterly notice of current support and arrearage payment posted to the CSS website by the State Department. The county will review its files prior to or at the administrative review as provided for in state regulations at Section 6.220. The quarterly notice will be posted for current and former IV-A recipients with support obligations who have assigned their rights to support and shall contain:

1. Explanation of the assignment of support rights,

2. Name of the noncustodial parent from whom the support is collected,

3. The starting date of the period reported,

4. The ending date of the period reported,

5. A separate listing of payments collected from each noncustodial parent when more than one noncustodial parent owes support,

6. Amount collected from each noncustodial parent which was retained to reimburse public assistance,

7. Amount collected from each noncustodial parent which was paid to the family in the form of excess collections,

~~8. An Advisement to the custodial party of his/her right to call or write the Child Support Enforcement Unit if he/she has questions or disagreements about the distribution. The Advisement will notice the custodial party that the family is entitled to:~~

~~a. An administrative review,~~

~~b. Bring a representative to the administrative review, and~~

~~c. Review its files prior to or at the administrative review as provided for in state regulations at Section 6.220.~~

~~9. Such other information as deemed appropriate by the State Department.~~

I. Periodically, not less than annually, publicizing the availability of Child Support ~~Enforcement~~ Services services, including address and telephone number of the county Child Support ~~Enforcement~~ Services Unit;

J. Establishing an order for either party to provide medical support in new or modified court or administrative orders for child support, and enforcing the medical support provision when health insurance is accessible and available at reasonable cost to the obligor;

K. Obtaining information regarding the health insurance available through the custodial party and/or noncustodial parent when a change in circumstance occurs that would warrant a change in the health insurance status and reporting such information on the automated child support system. The automated child support system will generate a report to the state Medicaid Third Party Resource Section;

L. Conducting administrative reviews of contested arrears;

M. If the county director or the delegate exercises the option of referring Low-Income Child Care Assistance recipients to the Child Support ~~Enforcement~~ Services Unit, the county must comply with all provisions found in these rules and in Section 3.900, in the "Income Maintenance" rule manual (9 CCR 2503-9) relating to the referral of Low-Income Child Care Assistance recipients to the Child Support ~~Enforcement~~ Services Unit;

N. Using diligent efforts to complete all actions appropriately and within the timeframes required by the applicable federal regulations, statute or rule. Diligent efforts shall include the following:

1. Initiating a task within the required time period;

2. Completion of the task, including any follow up activities within the required time period;

3. Taking the necessary actions in response to receipt of information that indicates that the task may not be on track to be completed within the required timeframe.

6.102.3 Establishment of the County Department Child Support ~~Enforcement~~ Services Unit

Allocation of Staff: Sufficient staff shall be assigned to the Child Support ~~Enforcement~~ Services Unit to provide the following child support ~~enforcement~~ services functions: intake, locate, legal determination of parentage, establishment of the legal obligation, collection, enforcement, investigation and reporting as prescribed by these rules.

6.103 - 6.109 (None)

6.110 None

6.120 REIMBURSEMENT OF EXPENDITURES

6.120.1

The state department shall pass through to county departments of social services federal matching funds as prescribed by the state department for necessary expenditures for child support ~~enforcement~~ services and activities provided to PA recipients and NPA families in accordance with these rules.

6.120.2 Federal matching funds will not be passed through to county departments of social services for:

21 Activities not related to the Child Support ~~Enforcement~~ Services Program;

22 Construction or major renovations;

23 Purchases of child support ~~enforcement~~ services which are not secured in accordance with these rules and regulations;

24 Education and training programs and educational services except the direct costs of approved short-term training, as defined and approved by the state department;

25 Activities related to investigation or prosecution of fraud except for referring the discovery of same to the appropriate program;

26 Activities that are beyond the scope of these rules as determined by the state department;

27 Activities performed pursuant to an agreement that has expired and has not been renewed in accordance with these rules; and

28 The amount of any fees, costs, or interest on child support collections deposited in a financial institution and collected by the ~~CSE~~CSS Unit that have not been used to reduce county ~~CSE~~CSS program expenditures.

6.130 STATE DEPARTMENT TO SUPERVISE ~~CSE~~CSS PROGRAM

The Colorado Department of Human Services is responsible for statewide supervision and direct administrative activities concerning the ~~CSE~~CSS program as required by the Federal government under its provisions for financial participation.

County departments shall strictly administer the ~~CSE~~CSS program in accordance with the requirements of Title IV-D of the Social Security Act, and the federal and state rules and regulations which govern the operations of the ~~CSE~~CSS program.

6.140 PENALTY FOR FAILURE TO COMPLY WITH STATE AND FEDERAL REGULATIONS

If a county fails to comply with the requirements of Title IV-D of the Social Security Act, and the federal and state rules and regulations which govern the operations of the ~~CSE~~CSS program, the State Department may reduce or withhold incentive payments or take other actions as provided for in state statute or Department rules referenced in Colorado Department of Human Services' rule manual Volume 1 (9 CCR 2501-1).

6.200 GENERAL PROVISIONS

6.201 Application Requirements

County ~~CSE~~CSS Units shall establish procedures to ensure that all appropriate functions and activities regarding applications and information on available services are undertaken and completed within the timeframes specified and that all activities are documented on ACSES.

6.201.1 Public Assistance (PA) Cases

A. Public assistance cases shall be provided full support services as required by the Child Support ~~Enforcement~~ Services program upon referral without an application requirement. Referral is defined as the Colorado Benefits Management System (CBMS) generated automated referral and the State prescribed Social Services Single Purposes Application (SSSPA) form or another county form containing, at a minimum, the information found in the State prescribed form.

B. The following information shall be provided to PA clients on the appropriate state prescribed form:

1. The assignment of rights to support payments;

2. Available services;

3. The individual's rights and responsibilities;

4. Fees, cost-recovery and distribution policies;

5. Case categorization and the information necessary to change the category;

6. The requirement, in appropriate cases, for good cause exemption from referral to the ~~CSE~~CSS Unit to be granted by the county director or the designate IV-A staff; and

7. The lack of an attorney-client relationship.

C. Counties must document in the case record the date of referral, which is the date the recipient received the program information.

6.201.2 NON-PUBLIC ASSISTANCE (NPA) CASES

A. Continued Services Cases

1. The Child Support ~~Enforcement~~ Services Unit shall provide to the person whose IV-A grant or IV-E foster care eligibility is discontinued, continued CSS~~E~~ services, without a formal application or fee unless the CSS~~E~~ agency is notified to the contrary by the person whose IV-A grant or IV-E foster care eligibility is discontinued.

2. Form SMR-3, Notice to Recipient, will be generated and mailed to the recipient when they are discontinued from IV-A. The form will be sent to the recipient ten (10) days prior to the effective date of the discontinuation.

3. Form SS-4, Notice of Social Service Action, will be completed by the county services worker and mailed to recipients when a person(s) is discontinued from IV-E foster care. The form will be sent to the recipient five (5) days prior to the effective date of the discontinuation.

   The Notice to Recipient (SMR-3) and the Notice of Social Service Action (SS-4) shall:

   a. Notify the person whose IV-A grant or IV-E foster care has been discontinued, that the ~~CSE~~CSS Unit shall continue to provide ~~CSE~~CSS services unless the ~~CSE~~CSS Unit is notified by the former IV-A or IV-E foster care recipient to the contrary;

   b. Specify the ~~CSE~~CSS services that are available;

   c. Inform the person that the quality of information provided will affect the category of the case;

   d. Specify the name of the person whose IV-A grant and/or IV-E foster care has been discontinued; and,

   e. Specify the household number;

   f. Specify the unique case identifiers;

   g. Require the signature of the person discontinued who wishes to terminate ~~CSE~~CSS services;

   h. Specify the ~~CSE~~CSS unit will collect overdue support to repay past IV-A or IV-E foster care maintenance.

   i. Contain any other information deemed appropriate by the State Department.

4. The county Low-Income Child Care Assistance unit must provide written notice to the person whose IV-A grant or IV-E foster care eligibility is discontinued, if continued cooperation with the ~~CSE~~CSS Unit will be required due to the receipt of Low-Income Child Care Assistance within five days of referral from any of these referenced programs.

The county Low-Income Child Care Assistance Program must also notify the county Child Support ~~Enforcement~~ Services Unit within the same time frame.

B. Application Cases

1. Persons who do not receive public assistance or continued CS~~E~~S services may apply for full CS~~E~~S services by completing ~~CSE-6,~~ the Application for Child Support ~~Enforcement~~ Services, as prescribed by the State Department. Applications for child support services shall be readily accessible to the public. If the county department has elected to require Low-Income Child Care Assistance recipients to cooperate with the CS~~E~~S Unit, the recipients must complete the State prescribed application for Child Support ~~Enforcement services~~Services. Applications will not be accepted if all of the children associated with a specific obligee and obligor are emancipated, as defined in the existing child support order and the laws of the state where the child support order was entered. This same requirement applies to new interstate referrals sent to Colorado from another initiating state or jurisdiction. In a responding intergovernmental case, if the case was opened in the other state prior to emancipation and/or has state debt due, the application shall be accepted.

2. Upon application, the services established for IV-A recipients to locate, establish paternity of a child (or children), establish court orders for child support, review and modify orders for child support, and secure support from noncustodial and/or alleged parents shall also be made available on behalf of children who are or were deprived of parental support due to the absence of a parent or parents, but, for other reasons, are not recipients of IV-A, including those children who are receiving foster care services from funds other than Title IV-E of the Social Security Act.

3. The application on behalf of the child for child support ~~enforcement~~ services may be made by either of the child's parents (custodial or non-custodial), an alleged father, legal guardian, or other person or agency.

4. When the applicant is not a parent of the child, an ~~CSE-6~~ application for child support services must be obtained for each noncustodial parent.

5. Requests for Application

   a. When an individual requests an application or CS~~E~~S services in person, the CS~~E~~S Unit shall provide an application on the day requested.

   b. When an individual requests an application by phone or in writing, the application shall be sent by the county CS~~E~~S Unit within no more than five (5) business days from the date of request.

   c. The application shall include the following information:

      1) available services;

      2) the individual's rights and responsibilities;

      3) fees, cost recovery and distribution policies;

      4) case categorization and the information necessary to change the category; and

      5) the lack of an attorney-client relationship.

d. The ~~CSE~~CSS Unit must maintain a log of requests for services which includes the following information:

1) name of person requesting an application;

2) type of request (in person, phone, mail);

3) date of request;

4) date the application was mailed or provided;

5) date the application is accepted.

6. The application for non-PA ~~CSE~~CSS services shall be made on the ~~form CSE-6,~~ Application for Child Support ~~Enforcement~~ Services, as prescribed by the state department. The standard Application for Child Support ~~Enforcement~~ Services shall include the following elements:

a. The full name of the noncustodial parent;

b. The full name, date of birth, place of birth, sex and social security number of each child for whom support is sought;

c. The signature, address, telephone number, date of birth and social security number of the applicant and date of application.

7. Acceptance of Applications

a. An application may be filed in any CS~~E~~ office. If there is an existing case in another county, then the application shall be forwarded to the appropriate enforcing county within two (2) working days of receipt in the original county.

b. An application shall be accepted on the day it and the application fee are received, if one or more of the children associated with a specific obligee and obligor are not emancipated as defined in the child support order and the laws of the state where the child support order was entered.

c. An application shall be accepted as filed on the date it is received in the ~~CSE~~CSS office if it includes the following information:

1) applicant's name, address and social security number;

2) the name of the noncustodial parent(s), if known;

3) name, birth date, sex, place of birth and social security number, if available, for each child;

4) applicant's signature.

d. Acceptance of an application involves recording the date of receipt on the application.

8. Upon application, the county CS~~E~~ Unit shall collect a fee of twenty dollars ($20) from the applicant prior to the provision of CS~~E~~ services, except that such fee may be waived in cases where the county director determines that the imposition of such fee would

cause undue financial hardship. In the event of such waiver, the county must initially pay the fee from child support ~~enforcement~~ services funds. The CS~~S~~E Unit may then choose to recover the fee from the noncustodial parent. County CS~~S~~E Units may collect costs incurred in excess of fees. These costs shall be determined on a case by case basis and shall be used to reduce CS~~S~~E program expenditures.

9. Non-PA obligees shall be charged an annual twenty-five dollar ($25) certification fee for collection of IRS tax refunds only if an actual intercept occurs. The fee shall be deducted from the tax refund intercept and charged in addition to the twenty dollar ($20) ~~CSE~~CSS application fee. The certification fee must be used to reduce ~~CSE~~CSS program expenditures.

   If there is more than one tax refund intercept for a case, the twenty-five dollar ($25) certification fee will be charged only once, regardless of the number of obligors, and will be deducted from the first intercept(s) that occurs. If the total amount of all tax refunds for a case is less than twenty-five dollars ($25), the amount of refunds will satisfy the certification fee.

10. Non-PA obligees shall be charged an annual twenty-five dollar ($25) service fee once five hundred dollars ($500) has been disbursed to the family.

    The service fee will be reported to the federal government as program income, and will be shared between the federal and county governments.

    The service fee will be collected for each case set in all intrastate in-state and initiating intergovernmental cases on the ACSES if the $500 disbursement threshold is reached.

C. Locate Only Cases

Persons who request only noncustodial parent locator service may complete the Request for Parent Locator Service. The Colorado State Parent Locator Service shall provide such caretaker with instructions for completing the form and fees to be paid by the caretaker. A non-PA application form is not required.

6.201.3 FOSTER CARE CASES

A. Appropriately referred IV-E or non-IV-E foster care cases pursuant to the CDHS Social Services staff manual (12 CCR 2509-1) shall be provided the full range of services as required by the Child Support ~~Enforcement~~ Services program upon referral. Cases that are not appropriate for referral shall not be initiated.

B. Referral is defined as receipt of the referral packet from the county child welfare agency or the date the case appears in the county's on-line referral list. If the referral is manual, counties must document the date received by the ~~CSE~~CSS Unit as the referral date on the ACSES.

C. Child support ~~enforcement~~ services applications are not required for IV-E foster care cases. An ~~CSE-6~~ application for child support ~~enforcement~~ services, as prescribed by the State Department, shall be completed by the county department having custody of the child(ren) for all non-IV-E foster care cases. A one-time NPA application fee has previously been paid for all Non-IV-E foster care cases.

6.201.4 LOW-INCOME CHILD CARE ASSISTANCE RECIPIENTS

A. Appropriately referred Low-Income Child Care Assistance cases, pursuant to Section ~~3.904.1~~ 3.905.1of the CDHS "Income Maintenance" rule manual (9 CCR 2503-1) shall be provided the full

range of services as required by the Child Support ~~Enforcement~~ Services program upon referral and completion of the State prescribed application form. Referral is defined as receipt of the referral packet from the county Low-Income Child Care Assistance program.

B. The ~~CSE~~CSS Unit must document the case record with the date of referral, which is the date the ~~CSE~~CSS Unit received the packet. The ~~CSE~~CSS Unit must also have a process in place to notify the Child Care Assistance program within five business days after the recipient provides the completed application to the ~~CSE~~CSS Unit.

6.201.5 MEDICAID REFERRAL CASES

Appropriately referred Medicaid cases shall be provided the full range of services required by the Child Support ~~Enforcement~~ Services (CSS~~E~~) program without an application requirement. "Appropriately referred" means that the Medicaid applicant requested ~~CSE~~CSS services.

6.202 - 6.204 (None)

6.205 ENFORCING COUNTY

Designation of the county responsible for accepting the Child Support ~~Enforcement~~ Services application or processing the case, or both, provides for centralized legal and financial activities and prevents duplication of effort and establishment of unnecessary orders for support when an order exists.

Provisions pertaining to enforcing county designation and responsibilities shall apply to all new Child Support ~~Enforcement~~ Services cases and for existing cases where there is a dispute regarding an enforcing county issue.

A. The enforcing county is the county responsible for processing a case for Child Support ~~Enforcement~~ S~~s~~ervices, including locating the noncustodial parent, establishment of paternity, establishment and modification of a support order and enforcement of a support order. Enforcing county means the enforcing county on the automated child support system. The enforcing county is responsible for financial management of the case.

The enforcing county is also the county responsible for the case for audit purposes. When the noncustodial parent resides outside of Colorado, the enforcing county is the county responsible for initiating an intergovernmental action or appropriate instate action for ~~CSE~~CSS services. If the noncustodial parent is the only party in the case residing in Colorado and there is no existing court order and no public assistance has been paid in Colorado, the enforcing county will be considered the county where the noncustodial parent resides.

B. For all cases, the enforcing county for a Colorado Child Support ~~Enforcement~~Services case is the first county where a Child Support ~~Enforcement~~ Services application or referral was made. The enforcing county shall provide the full range of services to the Low-Income Child Care Assistance referral case from another county, even if the enforcing county elected not to require the Low-Income Child Care Assistance recipients in its county to cooperate with the Child Support ~~Enforcement~~ Services Unit.

C. When there is a new application or referral in a county other than the enforcing county, the county of the new application or referral shall assist in the completion of the application and any intergovernmental or other necessary documents. The county of the new application or referral shall forward the application, documents, and fee to the enforcing county, as appropriate, utilizing the form as prescribed by the State Department. For a Low-Income Child Care Assistance referral case, the Low-Income Child Care Assistance Program unit shall deal directly with the Child Support ~~Enforcement~~ Services (CSS~~E~~) Unit located in its county. The CSS~~E~~ Unit will then communicate with the enforcing county.

D. Unless the CSSE Units in the interested counties agree or there is enforcing county resolution to change enforcing county designation, the enforcing county remains the enforcing county until the case is closed in accordance with this manual. The enforcing county does not change when the parties in the case relocate.

E. When a IV-D unit requests enforcing county designation and the interested CSSE Units cannot agree, within five (5) calendar days, upon which county should be the enforcing county, the county directors, or their designees, in the counties will resolve the issue. If agreement cannot be reached, the CSSE office shall refer the matter to the State Division of Child Support Enforcement Services for resolution in accordance with the state procedure and prescribed form. The state decision is final and binding on the interested counties.

6.205.1 ENFORCEMENT OF ORDER AND FINANCIAL MANAGEMENT

A. The enforcing county shall enforce the original order and any subsequent modifications, and modify, as appropriate. Copies of all legal actions, such as modifications, and judgments shall be filed into the original order.

B. When IV-A or foster care placement costs (maintenance and services) have been expended in another Colorado county or counties, the enforcing county must contact all such counties and, within ten (10) working days, such counties shall provide the amount of unreimbursed public assistance or the costs for foster care placement to be included in the establishment of an order or to modify an order for UPA or foster care costs reimbursement. The enforcing county is responsible for coordinating arrearage balances of all interested counties.

C. The enforcing county shall enforce the existing order to the extent possible even if the order was issued by another county. If a court hearing is necessary, the enforcing county may request the IV-D unit in the county of the existing order to have its CSECSS attorney appear on behalf of the enforcing county. When requested, the CSECSS attorney in the order-issuing county shall appear on behalf of the enforcing county and represent the case as if it were his/her own county's case.

D. In cases in which the obligor has now become the obligee, known as role reversal, the county enforcing the existing order shall initiate the role reversal case and modify the existing court order to reflect the new change in circumstance, or initiate a reciprocal action to another jurisdiction, if appropriate, whether the role reversal occurred prior to or after the IV-D referral or application.

6.205.11 Change of Venue

Change of venue shall not be initiated for purposes of having the attorney for the order county take court action or to change the enforcing county for the case. A change of venue may be completed when the court determines it is in the best interests of the custodian, child, or non-custodial parent. Change of venue does not change the enforcing county, except upon agreement of the counties involved.

6.205.12 Controlling Order

In cases with multiple actions or orders, the enforcing county will determine the controlling order pursuant to Section 14-5-207, C.R.S., et seq.

6.205.13 Registration Of Order

In intergovernmental cases, the enforcing county may register a foreign order or enforce administratively, when enforcement is requested by the initiating agency.

There shall be no registration of Colorado orders.

6.205.2 INTERGOVERNMENTAL ENFORCING COUNTY

Responding intergovernmental cases are cases received from a jurisdiction outside Colorado requesting Child Support ~~Enforcement s~~Services because the noncustodial parent resides, is employed or derives income in Colorado. The county that shall work the responding intergovernmental case is determined as follows:

A. If there is an existing open cases, a responding intergovernmental action shall be forwarded to the existing enforcing county.

B. If there is no open enforcing county designation, the responding intergovernmental action will be forwarded to the county where a Colorado order has been entered or a foreign order registered that involves the same obligor and children.

C. If there is no open enforcing county designation and no previous Colorado order or registration of a foreign order, a responding intergovernmental action will be forwarded to the county of the noncustodial parent's place of residence.

D. If there is no open enforcing county designation, no previous Colorado order or registration of a foreign order, and a noncustodial parent's residential location cannot be identified or verified, a responding intergovernmental action will be forwarded to the county of the noncustodial parent's place of employment.

E. If there is no open enforcing county designation, no previous Colorado order or registration of a foreign order, and a noncustodial parent's residential and employment location cannot be identified or verified, a responding intergovernmental action will be put into sixty (60) day closure by the Interstate Unit. It will be returned to the initiating state if the obligor’s residence or employment cannot be verified in Colorado within that time frame. However, if the intergovernmental action was received from a foreign country, it will be forwarded to the county of the noncustodial parent's last known place of residence, if one was provided, or county of last known employment.

F. If the responding case is the enforcing case and is closed by the other state, the current in-state case must take enforcing county designation. If there is more than one current case, the rules for determining the enforcing county shall be followed.

6.206 - 6.209 (None)

6.210 Safeguarding And Protecting Confidential Information

All information contained in electronic or paper case files of the Child Support ~~Enforcement~~ Services program concerning the name(s) or identifying information of custodial parties, noncustodial parents, or children shall be considered confidential and shall be protected, except when otherwise provided for in this section.

6.210.1 Release Of Information

6.210.11

Before any information is released and before any discussion is held with any individual or entity concerning an individual case, the requestor’s identity must be verified and the purpose of the contact or request must be confirmed. If the request is made by fax, phone or Internet, information shall not be released until the requestor’s identity has been verified by requiring the requestor to provide unique identifying information such as Social Security Number, dates of birth for self or child(ren), court case number, child support case number, or Family Support Registry account number.

6.210.12

Child Support ~~Enforcement~~ Services workers shall release the name, mailing and/or residential address, Social Security Number, place of employment, day care amount, income, health insurance information, and date of birth of custodial parties, noncustodial parents or children, and establishment or enforcement information concerning the legal obligation for support only in the following circumstances:

A. When clarification of information is required to provide the next appropriate Child Support ~~Enforcement service~~Services Unit service authorized in Colorado law and described in the Child Support ~~Enforcement~~Services state plan. For example, if a worker from a clerk and recorder's office calls to clarify information contained in a Child Support ~~Enforcement~~ Services Unit's request for a lien to be placed on real property, the child support worker may confirm what action is being requested of the clerk and recorder.

B. In the administration of the plan or any program approved under Part A (Temporary Assistance to Needy Families), Part B (Child Welfare), Part D (Child Support Enforcement), Part E (Foster Care) or Part F (Child Care Services) or Titles XIX (Medicaid) or XXI (State Children's Health Insurance Program) of the Social Security Act, and the Supplemental Nutrition Assistance Program, including data which is necessary for fraud investigation or audit.

1. To assist any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such state plans or programs.

2. To report to the appropriate state or county department staff information that has been reported, to a Child Support ~~Enforcement~~ Services worker, of suspected mental or physical injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support ~~enforcement~~ services activity under circumstances which indicate that the child's health or welfare is threatened.

C. In response to a request received from a party to the action or his/her attorney of record, the requester can receive information specific to himself/herself only, and not the other party. Each party may verify the accuracy of the information related to him/her only that is in the possession of the Child Support ~~Enforcement~~ Services Unit. If the requestor is shown as a child on the case action, even if the child has since reached the age of emancipation, that requestor is not a party to the action and the information shall not be released except upon issuance of a court order.

D. To provide statutorily required information to the court on child support orders and other documents that are completed by the ~~CSE~~CSS Unit and then filed with the court, unless there has been a court order of non-disclosure entered to suppress such information on that particular party.

E. To inform the parties of information regarding the amount of public assistance benefits paid to the family which could be used in an administrative or court proceeding to establish or enforce an order for the past assistance.

6.210.13 Disclosure

Disclosure of any Child Support ~~Enforcement~~ Services case information is prohibited in the following circumstances:

A. At the request of all private collection agencies, unless the requesting agency is a state or county contractor and bonded as required by state or federal statute.

B. In response to a written complaint from the party (constituent) received by a legislator. Child Support ~~Enforcement~~ Services Units may provide only information which indicates what progress is being made on the case or what action has or will be taken to move the case forward.

C. At the request of any attorney who is not the attorney of record as reflected on the automated child support system or in the court files.

D. At the request of a current spouse or other individual even if that person has a notarized statement from the noncustodial parent.

E. Any information received from the Internal Revenue Service that has not been verified by an independent source. Such information can only be released to the taxpayer.

F. Information obtained through the State Income and Eligibility Verification System (IEVS) shall not be disclosed to anyone. The information shall be used exclusively by the Child Support ~~Enforcement~~ Services program.

G. Disclosure to any committee or legislative body (federal, state, or local) of any information that identifies any party to the action by name or address.

H. Genetic test results can only be released to the parties of the action. Pursuant to Sections 19-1-308 and 25-1-122.5, Colorado Revised Statutes, the parties are prohibited from disclosing the information to anyone else.

I. The information obtained from the access of records using the Social Security Number, pursuant to Section 14-14-113, C.R.S., shall only be used for the purposes of establishing paternity or child support ordered, modifying or enforcing child support orders.

J. Upon receipt of a non-disclosure affidavit and required documentation from either party, the county child support ~~enforcement~~ services worker shall create the affidavit of non-disclosure and the affidavit shall be forwarded to the court of jurisdiction. In this instance an individual's identity or location can be released only upon receipt of a court order requiring the override of the non-disclosure. The county child support worker shall update the non-disclosure indicator on the automated child support system within five working days of the date of receipt of the affidavit. Interjurisdictional cases will be handled as follows:

1. Initiating Interjurisdictional Cases: Treated the same as an in-state case with the exception that the affidavit will be sent to the responding jurisdiction along with the other required intergovernmental forms.

2. Responding Interjurisdictional Cases: If the initiating jurisdiction indicates that there is a nondisclosure granted in that jurisdiction, the county child support worker shall update the non-disclosure indicator on the automated child support system within five working days of the date of receipt of the intergovernmental request.

K. No Financial Institution Data Match information or Federal Tax information from the Internal Revenue Service may be disclosed outside of the administration of the Title IV-D program.

L. No information from the National Directory of New Hires or the Federal Case Registry may be disclosed outside of the administration of the Title IV-D program except:

1. In the administration of the plan or any program approved under Part B and Part E of the Social Security Act to locate parents and putative fathers for the purpose of establishing parentage or establishing parental rights with respect to a child.

2. In the administration of the plan or any program approved under Part A, Part B, Part D, and Part E of the Social Security Act, which is incorporated by reference; no amendments or editions are included. They may be examined during regular business hours by contacting the Colorado Department of Human Services, Director of the Division of Child Support ~~Enforcement~~Services, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publications Depository Library. The Social Security Act is also available on-line at: http://www.ssa.gov/op_home/ssact/ssact.htm.

6.210.2 PAYMENT RECORDS

Child support payment records that do not identify the source of the payments are considered public records and may be released upon request of any person pursuant to Section 24-72-202, C.R.S. No federal tax information, address or any other location information shall be included in the documents provided to the requestor or included for use in any court.

6.210.3 CONFLICT OF INTEREST

Child Support ~~Enforcement~~ Services Units shall establish processes in which certain case files are worked only by a supervisor or in a manner that provides limited access to case information. An example of these files: employee files or court ordered "sealed" files. Any employee with a personal interest in a case, including but not limited to his/her own case or a case of a relative or friend, shall not engage in any Child Support ~~Enforcement~~ Services activity related to that case and may not view any case information maintained on the automated child support system for that case.

6.210.4 RECORDS

6.210.41 Taxpayer Records

Federal tax return information obtained from the Internal Revenue Service shall be safeguarded to comply with Internal Revenue Service safeguarding standards, which include storing information in a locked cabinet or by shredding the information. Disclosure of, or access to, unverified data shall be restricted to individuals directly involved in the administration of the Child Support ~~Enforcement~~ Services program. "Unverified" means information which has not been independently verified with the taxpayer or through a third party collateral source. While obtaining verification of locate information, the Child Support ~~Enforcement~~Services worker shall not divulge the source of the data being requested for verification.

6.210.42 Financial Records

Financial records of an individual are to remain confidential, unless they are part of an action to establish a child support order or to complete a review and adjustment of an existing child support order, in which case, supporting financial documentation used to calculate the monthly support obligation shall be provided to both parties. Any person disclosing financial information inappropriately could face civil damages.

6.210.5 ADOPTION INFORMATION

Adoption information such as adoptive parents' names, biological parents' names, or other identifying information shall not be data entered on the automated child support system. The date of adoption or relinquishment shall be documented in the case file to indicate that any prior arrears owed could be assigned to the state.

6.210.6 ACCESS TO INFORMATION

A. No on-line computer access to electronic records through the automated child support system or other systems or databases will be provided to parties or non-parties.

B. Access to the automated child support system or other systems or databases for any personal reason is prohibited. Access is restricted to business use only and can only be accessed in the usual course of business.

C. County directors of social services or their written designee shall establish written processes to assure that system access is only provided to employees which corresponds to each workers' case assignment.

D. No other division within the state department shall have access to the automated child support system without specific approval from the state Division of Child Support ~~Enforcement~~Services. Child Support ~~Enforcement~~ Services information will be released by granting access to specific automated child support system data elements or by making an extract file of case information available, at the state level, for other programs to access.

E. County directors or their written designees must request from the state Child Support ~~Enforcement~~ Services Unit access to the automated child support system, for companies or individuals who have entered into contracts or agreements with state and/or county Child Support ~~Enforcement~~Services Units, by including the request to access case information in the contract or agreement.

F. State and county Child Support ~~Enforcement~~ Services Units must perform a background check on all employees prior to authorizing access to Child Support ~~Enforcement~~ Services information. The background check must include a criminal record check to obtain any criminal history and a Colorado civil court record check to obtain any child support case history of the employee.

G. All information eligible for release to related agencies (such as Internal Revenue Service, lottery, Department of Labor, credit reporting agencies, Department of Revenue, Motor Vehicle, Workers' Compensation, financial institutions, state regulatory agencies, the state controller, and Social Security) will be made available at the state level.

6.210.7 Access to Electronic Vital Records Maintained by the Colorado Department of Public Health and Environment (CDPHE)

A. In order to be granted access to the electronic vital records system maintained by the Colorado Department of Public Health and Environment (CDPHE), an employee of a county delegate Child Support ~~Enforcement~~ Services Unit must complete and provide to CDPHE a criminal background check and all required forms.

B. Each county delegate Child Support ~~Enforcement~~ Services Unit must complete a safeguard assessment for each location where employees will be accessing the electronic vital records system using the form prescribed by CDPHE. The safeguard assessment will be completed on a yearly basis thereafter.

C. Each county delegate Child Support ~~Enforcement~~ Services Unit shall ensure that its employees access the electronic vital records system maintained by CDPHE only for child support ~~enforcement~~ services purposes.

D. If a current or former child support ~~enforcement~~ services employee's access to the electronic records system maintained by CDPHE is terminated or needs to be terminated due to a change of employment or job duties, the county delegate Child Support ~~Enforcement~~ Services Unit shall notify CDPHE and the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, within two (2) business days. The county delegate Child Support ~~Enforcement~~Services Unit shall request that access to the electronic vital records system be terminated when an employee no longer needs access for child support enforcement purposes. However, if there is an emergency situation involving a security breach, the county delegate Child Support ~~Enforcement~~ Services Unit shall notify CDPHE of the need to terminate access, at least on a temporary basis, by the end of the next business day following discovery of the breach. A security breach is defined in the access agreement signed by county delegate child support ~~enforcement~~ services staff.

E. If a county delegate Child Support ~~Enforcement~~ Services Unit determines that the electronic vital records system has been accessed or may have been accessed for non-child support ~~enforcement~~ services purposes or accessed by anyone not authorized to do so, it shall report this to CDPHE and the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, by the end of the next business day following discovery.

F. A county delegate Child Support ~~Enforcement~~ Services Unit shall cooperate with any investigation into a security breach relating to the electronic vital records system, including providing any documentation requested to CDPHE and the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services.

6.220 FEDERAL TAX INFORMATION

A. Federal Tax Information is not to be viewed, either on a computer screen or on a printout of a computer screen, by anyone other than Child Support ~~Enforcement~~ Services (CS~~S~~E) staff, CS~~S~~E contract staff, or CS~~S~~E attorneys. If an unauthorized person inspects or discloses Federal Tax Information, county CS~~S~~E staff must report this violation to the State Child Support ~~Enforcement~~ Services Internal Revenue Services point of contact.

B. Federal Tax Information is not to be printed from the automated child support system except if that Federal Tax Information was originally provided by the taxpayer, unless the screen print is appropriately logged and either filed with secure storage controls or appropriately destroyed. The log must contain the following information:

1. Which screen was printed;
2. Who printed the screen;
3. Who had access to the screen print;
4. The name of the obligor;
5. The IV-D case number;
6. The storage location of the screen print; and,

7. The date, method of destruction, and person who destroyed the screen print.

C. ~~CSE~~CSS Units are prohibited from transmitting Federal Tax Information via a facsimile device or via any form of electronic mail.

D. Only an agency-owned computer and/or other device shall be used to remotely connect and gain access to the automated child support system.

E. If a county uses a visitor's log in its ~~CSE~~CSS Unit, the log must include the following items:

1. Date;

2. Visitor's name;

3. Visitor's place of business;

4. Driver's license number, state, and expiration date;

5. The purpose of the visit;

6. The person who escorted the visitor; and,

7. The time the visitor came into the building and the time the visitor left the building.

6.230 COOPERATION BY CUSTODIAL PARTY

6.230.1 Good Cause

Good cause is defined as circumstances under which cooperation with the Child Support ~~Enforcement~~ Services Unit may not be "in the best interests of the child." In the case of a IV-A referral, the county director or the designate IV-A staff shall make the determination of good cause exemption from referral of a custodial party to the Child Support ~~Enforcement~~ Services Unit. In the case of a Low-Income Child Care Assistance referral, the county director or designee shall make the determination of good cause exemption from referral to the CS~~E~~ Unit. The Child Support ~~Enforcement~~ Services Unit may provide information or participate with the county director or designate IV-A or Low-Income Child Care Assistance staff, as appropriate, to make the determination of good cause exemption.

6.230.11 Cooperation Requirements

The custodial party is required to cooperate with the county Child Support ~~Enforcement~~ Services Unit in:

A. Providing sufficient, verifiable information about the identity and location of the noncustodial parent(s) of the child(ren). Information is sufficient if it includes:

1. Noncustodial parent's full name and Social Security Number; or,

2. Noncustodial parent's full name and at least two of the following items:

a. Noncustodial parent's date of birth;

b. Noncustodial parent's address;

c. Noncustodial parent's telephone number;

d. Noncustodial parent's employer's name and address;

e. The names of the parents of the noncustodial parent;

f. Noncustodial parent's vehicle information (manufacturer, model and license);

g. Noncustodial parent's prison record;

h. Noncustodial parent's military record; or,

3. Noncustodial parent's full name and additional information which leads to the location of the noncustodial parent, or if unable to comply with any of the above.

B. Provide all of the following that the custodial party has or can reasonably obtain that may lead to the identity of noncustodial parent:

1. If paternity has not been established, provide a sworn statement of sexual intercourse between the alleged father(s) and the custodial parent of the child during probable period of conception;

2. Statements as to the identity or location of noncustodial parent from other individuals;

3. Records or information as to the whereabouts of records, from specific agencies;

4. Utility bills, parking tickets, credit card receipts, etc., that contain information about noncustodial parent;

5. Telephone numbers or addresses of others who knew the noncustodial parent;

6. Sworn statement documenting efforts taken by custodial party and obstacles encountered by custodial party in pursuit of information about the noncustodial parent;

7. Any other information that may assist the ~~CSE~~CSS Unit in identifying or locating the noncustodial parent.

C. Establishing parentage of children for whom parentage has not been legally established or is in dispute and for whom assistance or foster care services is requested or provided.

D. Establishing orders for financial and medical support and obtaining medical support for each child, when available to either party, as ordered by the court.

E. Obtaining support payments for the recipient/applicant and for each child for whom assistance or foster care services is requested or provided, and to which the department is entitled to collect pursuant to the assignment of support rights.

F. Obtaining any other payments or property to which the custodial party and/or each child for whom assistance is provided may be entitled, and to which the department is entitled to collect, pursuant to the assignment of support rights.

6.230.13 Cooperation in Foster Care Cases

As a condition of continuing eligibility for assistance or to comply with part of the foster care treatment plan, unless exempted for good cause, the custodial party is required to make a good faith effort to provide information about the noncustodial parent(s) of the child(ren) to the Child Support ~~Enforcement~~ Services Unit.

6.230.2 Cooperation Defined

"Cooperation", as used in this context, is defined as, but not limited to:

A. Appearing at the county department of social services office or other related agency to provide verbal and/or written information, or documentary evidence that is known by, in the possession of, or reasonably obtainable by the individual and which is relevant and necessary;

B. Appearing as a witness in court or other relevant hearing or proceeding;

C. Providing information or attesting to the lack of information requested, under penalty of perjury;

D. Submitting to genetic tests during an administrative or court proceeding conducted to determine parentage;

E. Paying to the ~~CSE~~CSS Unit of the county department of social services all child support payments received from an obligor or a court after being determined eligible for IV- A or foster care services; and,

F. Signing legal documents, as appropriate.

6.230.3 Cooperation Determination

The county IV-D administrator, or a designee, is responsible for making the determination of whether a PA, foster care, or Low-Income Child Care Assistance recipient has cooperated with the ~~CSE~~CSS Unit for the purposes of establishing and enforcing child or medical support.

6.230.4 Notification

The county ~~CSE~~CSS Unit shall notify immediately the IV-A unit, foster care unit, Low-Income Child Care Assistance unit, or Medicaid unit of any IV-A recipient, foster care placing parent, Low-Income Child Care Assistance recipient, or Medicaid referral case recipient who fails to fulfill the cooperation requirements of this section. The notification shall describe the circumstances of the non-cooperation and the date(s) upon which it occurred. For Low-Income Child Care Assistance recipients, the notice will be the sixty (60) day advance notice of case closure for non-cooperation described in Section 6.260.52, B.

The county ~~CSE~~CSS Unit will not attempt to establish paternity and support or collect support or third party information for medical support in those cases where the custodial party is determined to have good cause for refusing to cooperate.

6.230.5 Custodial Party Cooperates

After the ~~CSE~~CSS Unit has notified the IV-A, foster care, or Low-Income Child Care Assistance units of the custodial party's failure to cooperate, the custodial party may decide to cooperate rather than face penalties with the assistance grant, Low-Income Child Care Assistance or foster care treatment plan. Should this occur, the ~~CSE~~CSS Unit shall provide notification to the IV-A, foster care, or Low-Income Child Care Assistance units that the custodial party is now cooperating. The ~~CSE~~CSS Unit shall provide the notification to the IV-A, foster care, or Low-Income Child Care Assistance units within two (2) working days from the date the custodial party cooperated with the ~~CSE~~CSS Unit.

6.230.6 Request for Review Through Title IV-A

When the custodial party requests a review through IV-A of the determination that he/she has failed to cooperate with the ~~CSE~~CSS Unit, the county IV-D administrator, or a designee, shall appear at the IV-A dispute resolution conference and/or state level hearings to provide information concerning the basis for the determination that the custodial party has failed to cooperate with the ~~CSE~~CSS Unit.

6.230.7 Request for Review Through Child Care Assistance Program

If a Low-Income Child Care Assistance recipient requests a review though the Child Care Assistance Program to determine whether or not she should be granted a good cause exemption from cooperation with the Child Support ~~Enforcement~~ Services Unit, the county CSS~~E~~ administrator shall provide to the Low-Income Child Care Assistance Program any information in the possession of the CSS~~E~~ Unit which may support a good cause exemption.

6.240 MEDICAL SUPPORT ESTABLISHMENT AND ENFORCEMENT

6.240.1 MEDICAL SUPPORT ESTABLISHMENT

For all cases in which current child support is being sought (including zero dollar orders), the Child Support ~~Enforcement~~ Services Unit shall include a provision for either party to provide health care coverage~~insurance~~ for his/her child(ren).

6.240.2 MEDICAL SUPPORT ENFORCEMENT

Unless the child(ren) is receiving public health care coverage, t~~T~~he National Medical Support Notice (NMSN) must be sent to the obligor's employer if the obligor is ordered to provide health insurance, the obligor is eligible for health insurance, the health insurance is accessible to the child(ren), and the monthly premiums are reasonable in cost.

A. A notice must be sent to the obligor, informing him/her that the NMSN was sent to his/her employer and describing the rights and conditions regarding the issuance of the NMSN. The obligor has ten (10) calendar days from the date of the mailing to object with the Child Support ~~Enforcement~~ Services Unit if the obligor believes there is a mistake in identity and he/she is not the obligor, there is no order for the obligor to provide health insurance, the health insurance is not accessible to the children, or the monthly premiums are not reasonable in cost.

   1. Health insurance is considered not accessible to the child(ren) if the child(ren) resides outside the geographic area of coverage.

   2. A premium amount is considered reasonable in cost if the premium payments (child(ren)'s portion) are less than five percent (5%) of the paying parent's gross income or application of the premium payment (child(ren)'s portion) on the guidelines does not result in a Monthly Support Obligation of fifty dollars($50) or less.

B. The Child Support ~~Enforcement~~ Services Unit will have ten (10) calendar days from the date the objection is mailed to determine if the objection is valid. If the obligor objects to the enforcement of the NMSN claiming it exceeds the reasonable cost standard, the Child Support ~~Enforcement~~ Services Unit must determine if the premium amount is five percent (5%) or more of the obligor's gross monthly income.

C. If the obligor's objection is valid, the Child Support ~~Enforcement~~ Services Unit must send a notice of termination to the obligor's employer with a copy to the obligor. If the obligor's objection is not valid, the Child Support ~~Enforcement~~ Services Unit must notify the obligor that the NMSN will remain in effect and that the obligor has the right to object with the court.

D. In subsidized adoption cases, CSSE units have the option of enforcing medical support through a NMSN. Verification of the subsidized adoption is required if the Child Support Enforcement Services Unit chooses not to enforce.

6.250 PROVISION OF SERVICES IN INTERGOVERNMENTAL IV-D CASES BY CHILD SUPPORT ENFORCEMENT SERVICES (CSSE) UNITS

6.250.1 INITIATING STATE/JURISDICTION RESPONSIBILITIES

County CSECSS Units shall ensure management of the initiating intergovernmental CSECSS caseload to ensure provision of necessary services, including maintenance of case records and periodic review of program performance on interstate cases.

A. When applicable, use long arm statutes to establish paternity or support. Also, determine if enforcement action can be completed through an instate action such as direct income withholding to the noncustodial parent's out of state source of income.

B. Within twenty (20) calendar days of locating the noncustodial parent in another state, Tribe or country, determine if the filing of an intergovernmental action is appropriate and refer the intergovernmental filing to the Interstate Central Registry of the appropriate state, to the Tribal IV-D program, or to the central authority of the foreign country, or take the next appropriate action.

C. Ask the appropriate intrastate tribunal or refer the case to the appropriate responding state IV-D agency for a determination of the controlling order and a reconciliation of arrearages, if such a determination is necessary.

D. The twenty (20) day time frame begins on the date the obligor's location is verified and/or necessary documentation to process the case is received, whichever date is later. UIFSA petitions are to be sent directly to the Interstate Central Registry of the appropriate state, to the Tribal IV-D program, or to the central authority of the foreign country.

E. Provide sufficient and accurate information on appropriate standardized interstate forms with each action referred to enable the responding agency to take action. The Intergovernmental Child Support Enforcement Transmittal form and other standardized interstate forms, as prescribed by the state, shall be used for each intergovernmental action request.

F. Request that the responding state include health insurance in all new and modified orders for support.

G. Within thirty (30) calendar days of request, provide additional information and any order and payment record information requested by a state IV-D agency for a controlling order determination and reconciliation of arrearages, or notify the requesting office when information will be provided.

H. Within ten (10) working days of receipt of new case information, submit information to the CSECSS office in the responding agency. New information includes case status change or any new information that could assist the other agency in processing the case.

I. Instruct the responding agency to close its intergovernmental case and to stop any withholding order or withholding notice that the responding agency has sent to an employer, before transmitting a withholding order or withholding notice, with respect to the same case, to the same or another employer, unless an alternative agreement is reached with the responding agency regarding how to proceed.

J. Notify the responding agency within ten (10) working days when a case is closed and the reason for closure.

K. The ~~CSE~~CSS Unit may provide any documentation, notification, or information through any electronic means, as long as the electronic transaction is appropriately documented in the case record.

L. If the initiating agency has closed its case pursuant to Section 6.260.5 and has not notified the responding agency to close its corresponding case, the initiating agency must make a diligent effort to locate the obligee, including use of the Federal Parent Locator Service and the State Parent Locator Service, and accept, distribute, and disburse any payment received from a responding agency.

6.250.2 RESPONDING STATE/JURISDICTION RESPONSIBILITIES

County ~~CSE~~CSS Units shall ensure management of the interstate ~~CSE~~CSS caseload to ensure provision of necessary services, including maintenance of case records and periodic review of program performance on interstate cases.

A. Ensure that organizational structure and staff are adequate to provide services in intergovernmental ~~CSE~~CSS cases.

B. County ~~CSE~~CSS Units must initiate any electronic or manual referral from the interstate network within twenty (20) calendar days of the date of referral as found on the ACSES responding interstate recently referred list.

C. If the noncustodial parent is located in another county within ten (10) working days of receipt of the intergovernmental case, the case shall be moved to the county of the noncustodial parent's residence unless:

1. The county was the open enforcing county prior to the intergovernmental referral; or,

2. The county has registered a foreign order; or,

3. The county is the county of the original order.

If the case does need to be moved, the county shall contact the Interstate Network to move the case to the county of the noncustodial parent's residence.

D. Within ten (10) working days of locating the noncustodial parent in another state or country, the ~~CSE~~CSS Unit will notify the initiating state of the new address. At the direction of the initiating agency, the case may be closed or the case may be forwarded to the appropriate Central Registry, to the Tribal IV-D program, or to the central authority of the foreign country in which the noncustodial parent now resides.

6.250.21 Provide Necessary ~~CSE~~CSS Services as Instate Title IV-D Cases

Provide all necessary ~~CSE~~CSS services as would be provided in instate IV-D cases by:

A. Establishing paternity and attempting to obtain a judgment for costs if paternity is established; if paternity has been determined by another state, whether it was established through voluntary acknowledgment, administrative process or judicial process, it shall be enforced and otherwise treated in the same manner as an order of this state;

B. Establishing child support obligations;

C. Establishing an order for either party to provide medical support in all new or modified orders for child support, if not addressed in the original order;

D. Processing and enforcing orders referred by another agency, pursuant to the UIFSA or other legal processes;

E. Enforcing medical support if there is evidence that health insurance is accessible and available to the obligor at a reasonable cost;

F. Collecting and monitoring support payments for the initiating agency and forwarding payments to the location specified by the initiating ~~CSE~~CSS office within two business days of the Colorado date of receipt;

G. If a determination of controlling order has been requested, file the request as defined by Section 14-5-207, C.R.S., with the appropriate tribunal within thirty (30) calendar days of receipt of the request or location of the noncustodial parent, whichever occurs later. Notify the initiating agency, the controlling order state, and any state, country, or Tribe where a support order in the case was issued or registered of the controlling order determination and any reconciled arrearages within thirty (30) calendar days of receipt of the determination from the tribunal.

H. Provide timely notice to the ~~CSE~~CSS office in the initiating agency of any formal hearing regarding establishment or modification of an order. Respond to inquiries regarding intergovernmental case activity within five (5) working days.

I. Respond to inquiries regarding intergovernmental case activity within five (5) working days.

J. Within ten working days of receipt of new information on a case, submit information to the initiating agency. New information includes case status change or any new information that could assist the other agency in processing the case.

K. Notify the initiating state within ten (10) working days of the case closure when a case is closed.

6.250.3 PAYMENT AND RECOVERY OF COSTS IN INTERSTATE IV-D CASES

The responding agency is responsible for payment of genetic tests for establishing paternity.

The responding agency is responsible for attempting to obtain judgment for genetic test costs.

The responding agency is responsible for payment of all costs it incurs in the processing of an interstate case.

The responding agency may not recover costs from a Foreign Reciprocating Country (FRC) or from a foreign obligee in that FRC, when providing services under Sections 454(32) and 459A of the Social Security Act. The documents are incorporated by reference; no amendments or editions are included. They may be examined during regular business hours at the Colorado Department of Human Services, Director of the Division of Child Support ~~Enforcement~~Services, 1575 Sherman Street, Denver, Colorado 80203; or at any state publications depository library. The Social Security Act is also available on-line at: http://www.ssa.gov/OP_Home/ssact/ssact.htm.

6.260 Case Management

6.260.1 ~~CSE~~CSS Case Definition

A ~~CSE~~CSS case is defined as a noncustodial parent who has a duty, or has been alleged to have a duty, of support (not necessarily a court order) whether or not there has been a collection of support. If the

noncustodial parent is responsible for the support of children in more than one family, the noncustodial parent is considered as a separate case with respect to each separate family.

6.260.2 Case Records

6.260.21 Case Record Procedures

County ~~CSE~~CSS Units shall establish procedures to ensure that all appropriate functions and activities related to opening a case record are undertaken and completed within the time frames specified. The time frames begin on the date of referral or acceptance of an application and end when the case is ready for the next appropriate activity, e.g. locate, establishment of paternity, establishment of a support order, or enforcement. All activities must be documented on ACSES within five working days.

6.260.22 Opening a Case

Within twenty (20) calendar days of receipt of an application or referral of a case, the Child Support ~~Enforcement~~ Services (CS~~S~~S~~E~~) Unit must:

A. Open a case by initiating a case record on the State approved automated child support system by following established procedures.

B. For Title IV-A inter-county transfer cases, the new county must initiate the case on the automated child support system within five (5) working days of referral from IV-A in the new county.

C. Determine necessary action needed.

D. Solicit necessary information from the custodial party or other sources.

E. Initiate verification of information.

F. If location information is inadequate, refer the case for further location.

G. Initiate an automated ledger if an order for support exists, including posting Monthly Support Obligation to the correct class and initiating any arrears balances, if such information is known. If order information is unknown when the case is initiated, the ledger must be initiated within twenty (20) days of when the order information becomes available to the Child Support ~~Enforcement~~ Services Unit.

6.260.23 Maintenance of Records

A. For all cases, the Child Support ~~Enforcement~~ Services Unit shall maintain a case record for each noncustodial or alleged parent which contains all information collected pertaining to the case. Such information shall include, but is not limited to the following:

1. A chronological listing of information maintained on the State approved automated child support system. Such information shall include:

   a. Any contacts with the recipient of IV-A, or a Low-Income Child Care Assistance recipient, or foster care placing parent who is required to cooperate with the Child Support ~~Enforcement~~Services Unit, the date and reason, and the results of such contact;

   b. Any contacts with the non-PA or Low-Income Child Care Assistance custodial party for Child Support ~~Enforcement~~ Services~~services~~, the date and reason, and the results of such contact;

c. Any contacts with the noncustodial parent, the date and reason therefore, and the results of such contact;

d. Any contact with any other agency involved in the case.

e. Actions taken to establish or modify a support obligation, establish child support debt, establish parentage, or enforce a support obligation, the dates and results;

f. Identification of the reason for and date of case closure; and

g. Any other significant actions taken regarding the case as deemed necessary for caseload documentation and management.

2. The referral document received from the IV-A or foster care units, or the Application for Child Support Enforcement Services form;

3. The written request from the recipient/applicant or the initiating jurisdiction in a responding intergovernmental case to terminate Child Support ~~Enforcement services~~Services;

4. Information Concerning Noncustodial Parent form, as prescribed by the State Department or similar county created form;

5. A record of efforts to utilize local locate resources and the dates and results of these efforts;

6. A copy of the court or administrative order;

7. A copy of communications to and from the IV-A or the foster care program;

8. A copy of communications to and from the State Department;

9. A copy of communications to and from other Child Support ~~Enforcement~~ Services Units or agencies;

10. A record of case categories and priorities assigned and reassigned to the case, the date of such determination, and identification of the individual who made the determination;

11. A copy of notices to the noncustodial parent and decisions concerning contested arrears.

12. An accurate and updated automated system ledger, including posting the court ordered Monthly Support Obligation and an accurate arrears balance.

B. Child Support ~~Enforcement~~ Services staff shall change case categories as prescribed by the state immediately on the automated child support system when the case is ready for the next activity in order to provide documentation that the time frames have been met.

6.260.3 CATEGORIZATION OF WORKLOAD

6.260.31

The CSS~~E~~ Unit shall provide equal services to all cases in the caseload.

6.260.32 The CSS~~E~~ Unit may utilize a case assessment and category system. Such system shall:

A. Include all cases in the system.

B. Ensure that no service including location, establishment of paternity, establishment and enforcement of support obligation is systematically excluded by the system.

C. Provide for notice to the custodial party that the information provided to the ~~CSE~~CSS Unit, either initially or subsequently, may affect the relative category of the case.

D. Provide that case assessment and category setting shall occur only after the intake information has been reviewed for accuracy and completeness and an attempt has been made to obtain the missing information.

E. Provide for periodic review of cases and notification to the custodial party in those cases that new information may result in a category change for the case.

6.260.33 The CS~~S~~E~~E~~ Unit shall modify the category of cases as case conditions change.

6.260.4 (None)

6.260.5 CLOSURE OF CASES

6.260.51 Notice and Reasons for Closure

Unless otherwise noted, case closure requires a sixty (60) day advance notice of closure to the custodial party. For closure reasons that require notice, the Child Support ~~Enforcement~~ Services Unit must notify the custodial party of the unit's intent to close the case by sending a notice of closure on the form prescribed by the State Department either by paper or electronic notification sixty (60) calendar days prior to closing a public assistance or non-public assistance case. The case must be left open if the custodial party or initiating agency supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of an order. If the case is a responding interstate case, the notice shall be sent to the initiating agency. Responding intergovernmental cases can only be closed using closure reasons “G” or “H” of this section. If the case is a foster care case, the notice of closure is not required because the custodial party (county department) initiated the request for closure based on the child(ren)'s termination from foster care placement. All records of closed cases must be retained for a minimum of three years. All documentation concerning the closure must remain in the case file.

Public assistance and non-public assistance, including Low-Income Child Care Assistance, cases may be closed for one or more of the reasons listed below or in Section 6.260.52 or 6.260.53. If the Low-Income Child Care Assistance case is closed, the county ~~CSE~~CSS Unit must notify the appropriate county Low-Income Child Care Assistance Program.

A. There is no longer a current support order and either no arrearages are owed or arrearages are ~~under $500 or~~ unenforceable under state law.

B. The noncustodial parent or putative father is deceased and the death has been verified through sources such as:

1. A newspaper obituary;

2. A death certificate;

3. Contact with the funeral home;

4. The custodial party's statement has been recorded in the case record; or,

5. The Social Security Death Index, and no further action, including a levy against the estate, can be taken.

C. The Child Support ~~Enforcement~~ Services Unit determines that parentage cannot be established because:

1. The child is at least 18 years old and the action is barred by a statute of limitations;

2. The results of genetic testing have excluded the alleged parent as the father of the child;

3. A court or administrative process has excluded the alleged father;

4. The Child Support ~~Enforcement~~ Services Unit determines it is not in the best interest of the child to establish paternity in a case involving incest, rape, or in any case where legal proceedings for adoption are pending;

5. The identity of the biological, alleged, putative, or presumed father is unknown and cannot be identified after diligent efforts, including at least one interview by the Child Support ~~Enforcement~~ Services Unit with the custodial party; or,

6. The child(ren) in the case has had his/her adoption finalized.

D. The noncustodial parent's location is unknown and the Child Support ~~Enforcement~~ Services Unit has made diligent efforts using multiple sources, pursuant to Section 6.500, all of which have been unsuccessful in locating the noncustodial parent:

1. Over a ~~three~~two-year period when there is sufficient information to initiate an automated locate effort; or,

2. Over a one-year period when there is not sufficient information to initiate an automated locate effort. Sufficient information is defined as a name and Social Security Number and/or Individual Tax Identification Number (ITIN).

3. After a one-year period when there is sufficient information to initiate an automated locate effort, but locate interfaces are unable to verify a Social Security Number.

All cases in the Child Support ~~Enforcement~~ Services caseload will be transmitted from the state case registry to the federal case registry. One step in the transmission will be to submit the case to the Enumeration Verification System (EVS) which will assist in identifying and verifying a Social Security Number.

E. The noncustodial parent cannot pay support for the duration of the child's minority (or the child has reached the age of majority), because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential above the subsistence level, which is defined as the federal poverty level.~~.~~ The Child Support ~~Enforcement~~ Services Unit must determine that no income or assets are available to the noncustodial parent which could be levied or attached for support.

F. The noncustodial parent's sole income is from Supplemental Security Income (SSI) payments, or both SSI payments and Social Security Disability Insurance (SSDI). This closure criterion does not apply when the parent is receiving only SSDI benefits. Paternity and support must be established in order to use this closure criterion.

GF. The noncustodial parent is a citizen of, and lives in, a foreign country, and does not work for the United States government or a company which has its headquarters or offices in the United States and the noncustodial parent has no reachable domestic income or assets and the federal office and the state have been unable to establish reciprocity with the foreign country.

HG. The initiating jurisdiction has requested in writing that the interstate case be closed. The sixty (60) day advance notice of closure is not required for these cases. Any income withholding order must be terminated and the responding case closed within ten (10) working days of the request from the initiating agency unless an alternative agreement is reached with that agency.

IH. The Child Support Enforcement Services Unit documents failure by the initiating agency to take action which is essential for the next step in providing services.

JI. If a case was closed and then subsequently reopened to process child support payments received after case closure, the case should be closed once payment processing is completed. The sixty (60) day advance notice of closure is not required for these cases.

KJ. There has been a change in legal custody in the case.

LK. The custodial parent is deceased.

ML. The responding jurisdiction does not have statutory authority to take the next appropriate action in the case.

6.260.52 Closure of Non-Public Assistance Cases

Non-public assistance, including Low-Income Child Care Assistance, cases may be closed for one of the following reasons or the closure reasons in Section 6.260.51. Unless otherwise noted, case closure requires a 60-day advance notice of closure to the custodial party. If a Low-Income Child Care Assistance case is closed the county CSECSS Unit must notify the appropriate county Low-Income Child Care Assistance Program.

A. The Child Support Enforcement Services Unit is unable to contact the custodial party within a 60 calendar day period despite an attempt of at least one letter sent by first class mail to the last known addressdespite a good faith effort to contact the recipient through at least two different methods: mail, electronic, or telephone. If contact is reestablished with the custodial party in response to the notice which could lead to the establishment of paternity or support, or enforcement of an order, the case must be kept open. After a notice of case closure has been sent, if the custodial party reports a change in circumstances within the 60 days contained in the advance notice of closure, the case shall remain open or be reopened without payment of an additional application fee.

B. The Child Support Enforcement Services Unit documents non-cooperation of the custodial party and that cooperation of the custodial party is essential for the next step in providing support enforcement services. If a Low-Income Child Care Assistance recipient fails to cooperate, then the county CSSE Unit shall send the advance notice of closure to the recipient and to the appropriate county Child Care Assistance Program. The notice shall include the basis of the recipient's failure to cooperate and the dates on which it occurred.

C. The applicant requests closure of the case in writing and there are no arrears owed to the State. The 60 day advance notice of closure is not required for these cases.

D. The Child Support ~~Enforcement~~ Services Unit has provided location only services as requested. The 60 day advance notice of closure is not required for these cases.

E. The status of the case has changed from non-public assistance to public assistance. The 60 day advance notice is not required for these cases.

F. The children have reached the age of majority, the noncustodial parent is entering or has entered long-term care arrangements (such as a residential care facility or home health care), and the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support.

G. The noncustodial parent is living with the minor child (as the primary caregiver or in an intact two parent household), and the IV-D agency has determined that services are not appropriate or are no longer appropriate.

6.260.53 Closure of Public Assistance Cases

Public assistance cases may be closed for one of the following reasons or the closure reasons in Section 6.260.51. Unless otherwise noted, case closure requires a 60 day advance of closure ~~(CSE-211)~~ to the custodial party.

A. The 60 day advance notice of closure is not required for these cases. There has been a finding by the county director or designated IV-A staff of good cause or other exceptions to cooperation with the Child Support ~~Enforcement~~ Services Unit and the county has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.

B. The public assistance case has been closed and all possible assigned arrearages have been collected. ~~The arrearage balance is $500 or less.~~ The Child Support ~~Enforcement~~ Services Unit is no longer providing services for the current monthly support obligation. The 60 day advance notice of closure is not required for these cases.

C. The public assistance case has been closed, the obligor owes no public assistance arrearages, and a case has been subsequently opened as a Child Support ~~Enforcement~~ Services non-public assistance case. The 60 day advance notice of closure is not required for these cases.

D. The public assistance case has been closed, there is no order for child support, child support debt, medical coverage, foster care fees, and where, pre 1984, the custodial parent did not request continued child support services (by signing the CSE-34), or post-1984, the obligee requested closure of his/her child support case in writing. The 60 day advance notice of closure is not required.

E. The children have reached the age of majority, the noncustodial parent is entering or has entered long-term care arrangements (such as a residential care facility or home health care), and the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support.

F. The noncustodial parent is living with the minor child (as the primary caregiver or in an intact two parent household), and the IV-D agency has determined that services are not appropriate or are no longer appropriate.

6.260.54 Closure of Foster Care Cases

A. In addition to the same closure reasons as public assistance cases under Section 6.260.53, foster care fee cases may also be closed because:

1. The child(ren)'s foster care placement has been terminated; and,

2. There is no longer a current support order; and,

3. Either no arrears are owed or arrearages are under $500 or unenforceable under state law.

B. If the child(ren) is in foster care placement, a foster care fee or foster care child support case may be closed:

1. If there is an order terminating parental rights; and,

2. There is no longer a current support order; and,

3. Either no arrears are owed or arrearages are under $500 or unenforceable under state law.

A sixty day advance notice of closure is required to close a foster care child support case, but is not required to close a foster care fee case.

6.260.55 Closure of Caretaker Relative Cases

Child support staff shall not close, at the request of the caretaker relative, one of the two cases against biological parents in caretaker relative cases where each of the biological parents have child support cases.

6.260.56 Closure of Tribal IV-D Cases

Specific codes will be used by the county Child Support Services Unit when dealing with Tribal IV-D programs. These codes will designate the different closure requests made by the Tribal Nations.

6.260.6 MICROFILM AND IMAGING

Certified microfilm and/or other forms of the imaging of the case records may be substituted for the original case records upon prior written approval by the State Department.

Such approval may be granted when the Child Support ~~Enforcement~~ Services Unit provides the State Department with the methods and procedures that conform to federal standards for microfilming and other forms of the imaging of records.

6.260.7 EXPEDITED PROCESSES FOR CHILD SUPPORT ESTABLISHMENT AND ENFORCEMENT ACTIONS

County child support units must develop, have in effect, and use procedures for all cases which ensure compliance with expedited process requirements. The procedures must include meeting the expedited process time frames for processing ~~CSE~~CSS actions based upon the following criteria:

A. Actions to establish an order for support (and paternity, if not previously established) must be completed from the date of service of process to the time of disposition within the following time frames:

1. Seventy five percent (75%) in six (6) months; and,

2. Ninety percent (90%) in twelve (12) months.

B. When an order is established using long arm jurisdiction and disposition occurs within twelve (12) months of service of process on the alleged father or noncustodial parent, the case may be counted as a success within the six-month tier of the expedited process time frame, regardless of when disposition actually occurs within those twelve (12) months.

6.261 REVIEW AND ADJUSTMENT OF CHILD SUPPORT ORDERS

The Child Support ~~Enforcement~~ Services Unit is responsible for the following functions in sub-sections 6.261.2 through 6.261.8 regarding the review and adjustment of child support orders for all cases.

6.261.1 (NONE)

6.261.2 NOTICE OF RIGHT TO REQUEST REVIEW

Both parties or their attorney(s) of record, if any, subject to an order must be notified of their right to request a review.

A. The obligee shall receive notification of his/her right to request a review on the Social Services Single Purpose Application (SSSPA), the Child Support Enforcement application for services, and/or on the Administrative Process Orders or Judicial Order forms for cases having a support order established or modified by the Child Support ~~Enforcement~~ Services Unit. At least every thirty-six months, the obligee or his/her attorney of record shall receive notification of his/her right to request a review via the right to request notice which is automatically generated when a residence or mailing address exists on the obligee's personal record and the order date or the notice date is thirty-six months or older. The obligee (county department) in foster care cases has received a one-time notice of their right to request a review for all foster care cases.

B. The obligor or his/her attorney of record shall receive notification of his/her right to request a review via the right to request notice which is automatically generated when a residence or mailing address exists on the obligor's personal record and the order date or the notice date is thirty-six months or older, whichever is later. The right to request notice generated by the Automated Child Support Enforcement System document generation will automatically be documented in chronology. The obligor or his/her attorney of record shall also receive notification on the administrative process orders or judicial order forms for cases having a support order established or modified by the Child Support ~~Enforcement~~ Services Unit.

C. The enforcing county delegate Child Support ~~Enforcement~~ Services Unit must respond to the Automated Child Support Enforcement System's calendar review message indicating the automatic generation of the right to request review notice of each party or his/her attorney of record. The calendar review alerts the worker when a child(ren) has reached the age of emancipation. Within five (5) business days of receiving the calendar review message and the generation of the right to request review notices, the worker must read the active order and determine if the child(ren) included in the order is emancipated pursuant to Section 14-10-115, Colorado Revised Statutes. If the child(ren) is emancipated and is not the last or only child on the order, the worker shall mail a right to request review notice to each party or his/her attorney of record.

D. The obligee or his/her attorney of record and the obligor or his/her attorney of record shall receive notification of his/her right to request a review via the right to request notice which is automatically generated within 15 business days of when incarceration information is populated as verified indicating incarceration for more than 180 days on the obligor's personal record. The right to request notice generated by the Automated Child Support Enforcement System document generation program will automatically be documented in chronology.

6.261.3 CASES SUBJECT TO REVIEW AND ADJUSTMENT

A. Either party in cases with an active order may request a review of the order. The request shall include the financial information from the requesting party necessary to conduct a calculation pursuant to the Colorado Child Support guidelines. The requesting party shall provide his or her financial information on the form required by the Division of Child Support ~~Enforcement~~Services.

If the requestor fails to provide the necessary financial information with their request, the review process shall not be initiated.

B. The delegate Child Support ~~Enforcement~~ Services Unit may initiate a review of a current child support order upon its own request.

C. In cases containing an active assignment of rights, the Child Support ~~Enforcement~~ Services Unit shall review the order at least once every thirty six (36) months to determine if an adjustment of the order is appropriate.

In the case of an automatic review with an active assignment of rights, both parties are considered non-requestors and have twenty days from the date of the review notice to provide the necessary financial information.

D. Only the enforcing county delegate Child Support ~~Enforcement~~ Services Unit shall assess a request for review of a child support order and deny it or grant it and initiate a review.

E. If the current county receives the written request for review, the request must be forwarded to the enforcing county within five calendar days of receipt of the request.

F. Within fifteen (15) business days of receipt of a written request for review, the worker shall determine whether Colorado or another jurisdiction has authority (Continuing, Exclusive Jurisdiction (CEJ)) to conduct the review and modify the child support order. If Colorado has CEJ, the worker will make the assessment as to whether the request for review will be granted or denied pursuant to the standards set forth in paragraph H, below.

G. If another jurisdiction has CEJ:

1. The Child Support ~~Enforcement~~ Services worker shall determine whether or not a full UIFSA action is needed. If this is needed, the worker shall initiate the reciprocal and generate the general testimony and the uniform support petition. If not, the worker shall generate the last two pages of the Interstate Income and Expense Affidavit. The appropriate forms shall be sent to the requester within five (5) business days of the determination.

2. The forms generated from the automated child support system document generation will automatically be documented in chronology.

3. The requester shall return the last two pages of the Income and Expense Affidavit to the enforcing county within twenty (20) calendar days.

4. If the requester fails to return the requested documentation within twenty (20) calendar days, the process stops.

5. Within twenty (20) calendar days of receipt of the information from the requester, the Child Support ~~Enforcement~~ Services worker shall send it to the other state that is to conduct the review.

H. If Colorado has CEJ, and:

1. It has been thirty-six (36) months or more since the last review or adjustment of the support order, the child support ~~enforcement~~ services worker shall begin the review process following the procedures set forth in Section 6.261.4, unless:

   a. It is a request for review of a spousal maintenance order;

   b. It is a request for the emancipation of a child who has not emancipated in accordance with Section 14-10-115, C.R.S.;

   c. There is a pending administrative process action or court action for modification;

   d. It is a request for a change in the allocation of parental responsibility or parenting time;

   e. The IV-D case is closed; if so, the requester will be advised in writing that s/he may apply for services;

   f. The delegate county Child Support ~~Enforcement~~ Services Unit is enforcing only arrearages; or,

   g. The last or only child is within one year of the legal age of emancipation and the modification process may not be able to be completed before the child reaches the legal age of emancipation; the requesting party will be informed of the right to request a modification through court.

2. It has been fewer than thirty-six (36) months since the last review or adjustment of the support order, the child support ~~enforcement~~ services worker shall begin the review process following the procedures set forth in Section 6.261.4, unless:

   a. The requester has not provided a reason for such review or the reason for review arises from the circumstances of the requesting party and the requesting party fails to provide supporting documentation or otherwise fails to demonstrate that there has been a substantial and continuing change in circumstances as set forth in Section 14-10-122, C.R.S., with their request;

   b. It is a request for review of a spousal maintenance order;

   c. It is a request for the emancipation of a child who has not emancipated in accordance with Section 14-10-115, C.R.S.;

   d. It is a request for a change in the allocation of parental responsibility or parenting time;

   e. There is a pending administrative process action or court action for modification;

   f. The IV-D case is closed, if so the requester will be advised in writing that s/he may apply for services;

   g. The delegate county Child Support ~~Enforcement~~ Services Unit is enforcing only arrearages; or,

   h. The last or only child is within one year of the legal age of emancipation and the modification process may not be able to be completed before the child reaches

the legal age of emancipation; the requesting party will be informed of the right to request a modification through court.

I. If a request for review of a child support order is denied pursuant to paragraph H, the worker shall inform the requesting party in writing within five (5) business days. The worker shall also document the date of the request and the reason for the denial in the Automated Child Support Enforcement System. If the request is granted the worker shall initiate the review process within five (5) business days pursuant to Section 6.261.4.

J. If a county delegate Child Support ~~Enforcement~~ Services Unit who is enforcing a current monthly support obligation receives a request for review of a child support order, which does not contain medical support provisions or which contains a request to change the party ordered to provide medical support, the request shall be granted and the review conducted regardless of the date of the last review or adjustment.

6.261.4 CONDUCTING THE REVIEW

A. The Child Support ~~Enforcement~~ Services worker shall send the following documents to the requesting party or his/her attorney of record, except in foster care cases where the requesting party is the county department, at least thirty (30) calendar days prior to commencement of the review:

1. The Review Notice; and,

2. At county option, the county may choose to send the Administrative Subpoena to obtain additional income/financial information.

The forms generated from the automated child support system document generation will automatically be documented in chronology.

B. The Child Support ~~Enforcement~~ Services worker shall send the following documents to the non-requesting party or his/her attorney of record, except in foster care cases where the non-requesting party is the county department, thirty (30) calendar days prior to commencement of the review. In interjurisdictional cases, a copy shall also be sent to the other agency involved in the case:

1. The Review Notice; and,

2. The Income and Expense Affidavit.

The forms generated from the automated child support system document generation will automatically be documented in chronology.

C. The Child Support ~~Enforcement~~ Services worker shall conduct the review on or before the thirtieth calendar day following the date the Review Notice is sent to the parties using income information from each party's Income and Expense Affidavit and/or the Department of Labor and Employment records and/or other reliable financial/wage information. The review may be conducted in person at the Child Support ~~Enforcement~~ Services office, via United States mail, or via an electronic communication method.

D. The delegate Child Support ~~Enforcement~~ Services Unit may grant a continuance of the review for good cause. The continuance shall be for a reasonable period of time and shall not exceed thirty (30) calendar days.

E. When conducting the review, the Child Support ~~Enforcement~~ Services worker shall apply the child support guidelines to determine any inconsistencies between the existing child support award amount and the amount resulting from application of the child support guidelines.

F. If the non-requesting party or his/her attorney of record fails to provide financial or wage information, the Child Support ~~Enforcement~~ Services worker shall use income information which is available to the Child Support ~~Enforcement~~ Services Unit through Colorado Department of Labor and Employment records and/or other verified sources such as the State Parent Locator Service, the Expanded Federal Parent Locator Service, and the State Employment Security Administration.

G. ~~If income information is not available for either party, the Child Support Enforcement worker shall:~~

~~1. File a Motion to Compel with the court requesting the court to order the party to provide the information, or~~

~~2. Impute income based on potential earnings or the current minimum wage, which may be calculated for up to a forty hour work week.~~

If the Child Support Services Unit determines that a parent is voluntarily unemployed or underemployed or in the absence of reliable information, the Child Support Services Unit shall then determine, and document for the record, the parent's potential income. In determining potential income, the Child Support Services Unit shall consider the specific circumstances of the parent to the extent known, including consideration of the following when said information is available: the parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the parent, prevailing earnings level in the local community, and other relevant background factors in the case. All steps taken to obtain financial information must be documented.

H. In conducting the review, the Child Support ~~Enforcement~~ Services worker shall examine the existing order to determine if a medical support provision needs to be added.

6.261.5 TERMINATION OF REVIEW

If a non-public assistance obligee requests termination of the review, s/he must also request closure of the IV-D case in accordance with the applicable case closure criteria as defined in Section 6.260.51, C.

6.261.6 (Reserved for Future Use)

6.261.7 REVIEW RESULTS, NO ADJUSTMENT REQUIRED

Judicial and Administrative Process Orders: After completion of the review, the child support ~~enforcement~~ services worker may determine that there is no adjustment required in the ordered child support amount because the guideline calculation does not indicate at least a ten percent change in the ordered child support amount and/or the provision for medical support is already a part of the order.

Within five (5) business days of completing the review, the Child Support ~~Enforcement~~ Services worker shall provide to each party or his/her attorney of record, including the foster care agency and other child support agencies:

A. The Post Review Notice.

B. The Guideline Calculation Worksheets.

C. The forms generated by the automated child support system document generation will automatically be documented in chronology.

6.261.8 REVIEW RESULTS, ADJUSTMENT REQUIRED

A. Judicial Orders: After completion of the review, the Child Support ~~Enforcement~~ Services worker may determine an adjustment is necessary because the guideline calculation indicates at least a ten percent change in the ordered child support amount and/or a change in or addition of medical support provision is needed.

1. Within five (5) business days of completing the review and determining that an adjustment is required, the Child Support ~~Enforcement~~ Services worker shall provide to the obligor and obligee or his/her attorney of record and to the other agency involved in interjurisdictional cases:

   a. The Post Review notice;

   b. The guideline calculation worksheets;

   c. All supporting financial documentation used to calculate the monthly support obligation; and,

   d. The order/stipulation.

2. Either party may file a challenge to the review results based on the post review notice or the proposed order:

   a. The challenge must be received no later than the fifteenth day following the Post Review Notice date.

   b. The challenge must be in writing.

   c. The challenge must be based on alleged mathematical or factual error in the calculation of the monthly support obligation.

   d. The delegate Child Support ~~Enforcement~~ Services Unit may grant an extension of up to fifteen (15) calendar days to challenge the review results based upon a showing of good cause.

   e. The delegate Child Support ~~Enforcement~~ Services Unit shall have fifteen (15) calendar days from the date of receipt of the challenge to respond to the challenge.

   f. If a challenge results in a change in the monthly support obligation, the delegate Child Support ~~Enforcement~~ Services Unit shall provide an amended notice of review and a new order/stipulation to the parties.

   g. Both parties are then given fifteen (15) calendar days from the date of the amended notice of review to challenge the results of any subsequent review.

3. Within five (5) business days of determining that a review indicates that a change to the monthly support obligation is appropriate, and the review is not challenged or all

challenges have been addressed, the delegate Child Support ~~Enforcement~~ Services Unit shall file with the court:

a. A Motion to Modify; and,

b. The order/stipulation.

4. Upon receipt of the order/stipulation from the court, the Child Support ~~Enforcement~~ Services worker shall send copies to the parties or their attorneys of record and to the other agency involved in interjurisdictional cases. The Child Support ~~Enforcement~~ Services worker shall document the automated child support system chronology with this activity.

5. Within five (5) business days of determining that a challenge cannot be resolved, the Child Support ~~Enforcement~~ Services worker shall file with the court:

a. A Motion to Modify;

b. The order/stipulation;

c. The Guideline Calculation Worksheets; and,

d. Income and Expense Affidavits of the parties.

6. Within eighteen (18) days of determining that a challenge cannot be resolved, the Child Support ~~Enforcement~~ Services worker shall check for the court's signature on the order; if the court has not signed the order, set a hearing pursuant to local court rules.

7. After a hearing has been set, the Child Support ~~Enforcement~~ Services worker shall send copies of the notice of hearing to the parties or their attorneys of record and to the other agency involved in interjurisdictional cases and document the automated child support system's chronology with this activity.

8. If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~ Services Unit shall, unless another agency is enforcing an interjurisdictional case or the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(II)(A), C.R.S.:

a. Send a notice to withhold income for support within fifteen (15) calendar days of the date the modified order is entered;

b. Send a notice to withhold income for support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires;

c. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the modified order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

B. Administrative Process Orders: After completion of the review the Child Support ~~Enforcement~~ Services worker may determine an adjustment is necessary because the guideline calculation

indicates at least a ten percent change in the ordered child support amount and/or a change to or an addition of a medical support provision is needed.

1. Within five business days of completing the review and determining that an adjustment is required, the Child Support ~~Enforcement~~ Services worker shall provide to the obligor and obligee or his/her attorney of record and to the other agency involved in interjurisdictional cases:

    a. The Administrative Process Notice of Financial Responsibility for Modification form, which schedules a negotiation conference fifteen (15) days from the review date,

    b. The Guideline Calculation Worksheets,

    c. All supporting financial documentation used to calculate the monthly support obligation; and,

    d. The Administrative Process Modified Order of Financial Responsibility.

2. Either party may file a challenge to the review results based on the Administrative Process Notice of Financial Responsibility for Modification or the Administrative Process Modified Order of Financial Responsibility:

    a. The challenge must be received no later than the fifteenth day following the Notice of Financial Responsibility for Modification, and will be addressed at the scheduled negotiation conference to be held on the fifteenth day following the review date.

    b. The challenge must be based on alleged mathematical or factual error in the calculation of the monthly support obligation.

    c. The delegate Child Support ~~Enforcement~~ Services Unit may grant an extension of up to fifteen (15) calendar days to challenge the review results based upon a showing of good cause.

    d. The delegate Child Support ~~Enforcement~~ Services Unit shall have fifteen (15) calendar days from the date of receipts of the challenge to respond to the challenge.

    e. If a challenge results in a change in the monthly support obligation, the delegate Child Support ~~Enforcement~~ Services Unit shall provide an amended notice of review to the parties and to the other agency involved in interjurisdictional cases.

    f. Both parties are then given fifteen (15) calendar days from the date of the amended notice of review to challenge the results of any subsequent review.

3. If the obligor or his/her attorney of record signs the Administrative Process Modified Order of Financial Responsibility at the negotiation conference or returns it in the mail prior to the negotiation conference date, the employee of the delegate Child Support ~~Enforcement~~ Services Unit designated in writing by the County Director, signs the Administrative Process Modified Order of Financial Responsibility. The Child Support ~~Enforcement~~ Services worker shall, within five (5) business days, file with the court:

    a. The Administrative Process Notice of Financial Responsibility for Modification;

b. Income and Expense Affidavits of the parties;

c. The Guideline Calculation Worksheets; and,

d. The Administrative Process Modified Order of Financial Responsibility.

4. The Administrative Process Modified Order of Financial Responsibility shall also be provided to the parties and to the other agency involved in interjurisdictional cases on the same date it is filed with the court. It shall include an advisement to the parties informing them that they have fifteen (15) calendar days to file a written objection with the court.

5. If an objection has not been received by the court within fifteen (15) calendar days after the Administrative Process Modified Order of Financial Responsibility is filed with the court, the order becomes final.

6. If the obligor or his/her attorney of record does not sign and return the Administrative Process Modified Order of Financial Responsibility, but:

a. The obligor or his/her attorney of record appears at the negotiation conference and does not agree, the Child Support ~~Enforcement~~ Services worker shall file with the court within five (5) business days:

1) The Administrative Process Notice of Financial Responsibility for Modification;

2) The Guideline Calculation Worksheet;

3) The delegate Child Support ~~Enforcement~~ Services Unit's request for court hearing; and,

4) Income and Expense Affidavits of the parties.

After a hearing is set, the Child Support ~~Enforcement~~ Services worker shall file a Notice of Hearing with the court and send copies of the Notice of Hearing to the parties or their attorneys of record and to the other agency involved in interjurisdictional cases.

b. The obligor or his/her attorney of record does not appear at the negotiation conference, the Child Support ~~Enforcement~~ Services worker, within five (5) business days shall file with the court:

1) The Administrative Process Notice of Financial Responsibility for Modification;

2) Income and Expense Affidavits of the parties;

3) The Guideline Calculation Worksheets;

4) The Affidavit of Non-Appearance for modification; and,

5) The Administrative Process Default Order of Financial Responsibility (modified).

c. Upon receipt of a copy of the default order with signed approval by the judge or magistrate, the Child Support ~~Enforcement~~ Services worker shall send copies to the parties or their attorneys of record and to the other agency involved in interjurisdictional cases.

d. The Child Support ~~Enforcement~~ Services worker shall document this activity on the automated child support system.

7. If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~ Services Unit shall, unless another agency is enforcing an interjurisdictional case or the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(II)(A), C.R.S.:

a. Send a notice to withhold income for support within fifteen (15) calendar days of the date the modified order is entered;

b. Send a notice to withhold income for support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires,

c. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the modified order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

6.270 CHILD SUPPORT ~~ENFORCEMENT~~ SERVICES PROGRAM PLAN

Each county department shall forward its CSS~~E~~ County Program Plan for the next calendar year to the State Department by December 31 of each year. The plan shall be submitted to the State Department on prescribed State form. If the plan is disapproved, the county department will negotiate mutually acceptable goals with the State Department. If agreement cannot be reached, counties may request reconsideration by the Executive Director or a designee of the Colorado Department of Human Services. The county department will be bound by the decision of the Executive Director or designee. Satisfactory completion of this process is required to ensure the county department receives continued federal financial participation.

6.270.3

Each county's program plan must set county goals in order to meet annual statewide goals set by the State Division of Child Support ~~Enforcement~~Services.

A. If a county fails to:

1. Submit an annual county program plan; revised annual county program plan as required by the state office; or

2. Submit a plan which establishes goals consistent with statewide goals,

B. Then the State Division will take appropriate corrective action to ensure that a satisfactory county program plan is submitted and approved.

6.280 REPORTING

County departments shall provide the State Department with reports and fiscal information as deemed necessary by the State Department.

6.300 (None)

6.400 INTAKE

County Child Support ~~Enforcement~~ Services Units shall establish procedures to ensure that all activities regarding intake are undertaken and completed within the time frames, along with appropriate and specified functions pursuant to Section 6.260.22. The time frames begin when the application or referral is received and end when the case is ready for the next appropriate activity, e.g., locate, paternity establishment, establishment of a support order, or enforcement. All activities must be documented on the automated child support system.

6.400.1 INTAKE FUNCTIONS

The following functions are the responsibility of the Child Support ~~Enforcement~~ Services Unit with regard to intake of child support ~~enforcement~~ services cases:

A. The Child Support ~~Enforcement~~ Services Unit shall assure that for each noncustodial or alleged parent of children for whom Child Support ~~Enforcement~~ Services ~~services~~ are sought for non-public assistance cases, a Form CSSE~~-~~6 shall be completed by the applicant; however, an application is not required in a responding intergovernmental case. The Child Support ~~Enforcement~~ Services Unit shall provide an application to the applicant pursuant to Section 6.201.2.

B. The Child Support ~~Enforcement~~ Services Unit shall assure that for all cases for which IV-A and/or foster care is being provided that the custodial party cooperate, unless a finding of good cause exemption from referral to the Child Support ~~Enforcement~~ Services Unit has been granted by the county director or designee, in:

1. Location of noncustodial or alleged parents;

2. Determination of parentage;

3. Establishment and modification of support orders, both financial and medical; and,

4. Enforcement of support orders.

C. Upon receipt of a good cause determination from the county director or designee, the Child Support ~~Enforcement~~ Services Unit shall close the Child Support ~~Enforcement~~ Services case.

D. The Child Support ~~Enforcement~~ Services Unit shall assure that written explanations about Child Support ~~Enforcement~~ Services~~services~~ and custodial party rights and responsibilities are provided to public assistance recipients receiving Child Support ~~Enforcement services~~Services pursuant to Section 6.201.1.

E. Within twenty (20) calendar days of receipt of an application or referral, the Child Support ~~Enforcement~~ Services Unit must open a case and take appropriate action pursuant to Section 6.260.22.

F. The Child Support ~~Enforcement~~ Services Unit shall assure that Form CSS~~E~~-7 be forwarded to the IV-A unit or that other written notice be sent to the foster care unit within five (5) working days of failure to cooperate by the custodial party of a child receiving IV-A or by the placing parent of a child in foster care placement, unless good cause exemption from referral to the Child Support ~~Enforcement~~ Services Unit has been granted by the county director or designee.

G. The Child Support ~~Enforcement~~ Services Unit shall assure that for each noncustodial or alleged parent, a unique case number is established to identify the case.

H. The Child Support ~~Enforcement~~ Services Unit shall assure that all cases are categorized as set forth in these rules.

I. The Child Support ~~Enforcement~~ Services Unit shall assure that case records and financial records be established for each child support ~~enforcement~~ services case according to these rules and procedures prescribed by the State Department.

6.500 LOCATE

Attempts to determine the physical whereabouts of noncustodial parents, placing parents, or the noncustodial or placing parents' employer(s), other sources of income or assets, as appropriate, for paternity establishment, establishment or modification of a child support order or enforcement of an order are a required service of the Child Support ~~Enforcement~~ Services program. Locate activity is provided for all cases.

6.501 LOCATE PROCEDURES

County Child Support ~~Enforcement~~ Services Units shall establish procedures to ensure that all appropriate locate activities are undertaken and completed within the time frames specified. The time frames begin when it is determined that location of the noncustodial or placing parent is necessary and end when the noncustodial or placing parent is located and the case is ready for the next appropriate activity, e.g. establishment of paternity, establishment or modification of a support order or foster care fee order, or enforcement. All locate activities must be documented by source (Division of Motor Vehicles, Department of Labor and Employment, no hit, etc.) on the automated child support system.

6.502 LOCATE FUNCTIONS

6.502.1

Within seventy-five calendar days of determining that location is necessary, the Child Support ~~Enforcement~~ Services Unit must access all appropriate locate sources including transmitting appropriate cases to the Expanded Federal Parent Locator Service and ensuring that information is sufficient to take the next appropriate action in a case. In intergovernmental cases, it is the responsibility of the initiating agency, rather than the responding state, to access the Expanded Federal Parent Locator Service when appropriate, and provide new locate information to the responding agency. However, if the initiating agency is a foreign country, the responding agency should access the expanded Federal Parent Locator Service.

6.502.2

The Child Support ~~Enforcement~~ Services Unit must assess each locate case to determine appropriate locate sources. Available locate sources include:

A. State locate sources such as the Department of Labor and Employment and the Division of Motor Vehicle, Workers' Compensation and state directory of new hires;

B. Current or past employers;

C. Local telephone company, United States Postal Service, financial references, unions, fraternal organizations, parole and probation records and police records;

D. Expanded Federal Parent Locator Service and other state parent locators;

E. Local offices administering public assistance, general assistance, medical assistance, ~~food stamps~~food ~~and~~assistance, and social services;

F. Custodial party, friends, and relatives of noncustodial parents;

G. Credit reporting agencies.

1. A full credit report may be obtained only if a child support order exists, except as provided in Section 6.709.3.

2. If a child support order does not exist, an inquiry using the Social Security Number will provide residential and employment information, if available.

6.502.3

A Child Support ~~Enforcement~~ Services Unit may obtain information from public utilities through the utilization of an administrative subpoena. The Child Support ~~Enforcement~~ Services Unit must submit a request for administrative subpoena to the State parent locator by documenting in the chronology of the case the following:

A. All locate resources have been accessed.

B. No location information has been obtained.

6.503 LOCATION IN INTERGOVERNMENTAL CASES

The initiating agency must forward a State Parent Locate Service (SPLS) request through manual or electronic means to the IV-D agency of any other jurisdiction within twenty (20) calendar days of receiving information that the noncustodial or alleged parent may be in another jurisdiction. However, if the initiating agency is a foreign country, the responding agency should access the expanded Federal Parent Locator Service.

Upon receipt of information regarding the noncustodial or alleged parent, all appropriate follow up must be completed by the Child Support ~~Enforcement~~ Services Unit to verify the location information received.

6.504 REPEATED LOCATION ATTEMPTS

Location attempts, except for Federal Parent Locater Service (FPLS), shall be repeated quarterly or immediately upon receipt of new information when adequate identifying and other information exists which may aid in location, whichever occurs sooner.

A. Quarterly attempts may be limited to automated sources, but must include accessing the Department of Labor and Employment files.

B. When repeated location attempts are necessary because of new information, all appropriate locate sources must be accessed within seventy-five (75) calendar days.

6.600 ESTABLISHMENT OF PATERNITY

6.600.1 STATUTE OF LIMITATIONS

In a IV-D case involving a child for whom parentage has not been legally established, the Child Support ~~Enforcement~~ Services Unit shall attempt to establish the paternity of such child at any time prior to the child's eighteenth birthday:

A. Unless a good cause exemption on a mandatory referral to the Child Support ~~Enforcement~~ Services Unit has been determined by the county director or designated staff.

B. If the statute of limitations in effect at the time of the child's birth was less than eighteen years, the county Child Support ~~Enforcement~~ Services Unit may bring an action on behalf of the child at any time prior to the child's twenty-first birthday.

C. An action brought solely to establish paternity must be done through the courts, not administratively.

6.601 PATERNITY ESTABLISHMENT TIME FRAMES

County Child Support ~~Enforcement~~ Services Units shall establish procedures to ensure that all appropriate paternity establishment activities are undertaken and completed within the timeframes specified. The timeframes begin when the alleged or presumed father is located and end when paternity and a support obligation are established or the alleged or presumed father is excluded. All paternity establishment activities must be documented on the automated child support system.

A. Within ninety (90) calendar days of locating the alleged father, the Child Support ~~Enforcement~~ Services Unit must:

1. Document unsuccessful attempts to serve process, or,

2. Complete service of process, establish paternity, and establish an order for support.

B. Repeated unsuccessful service of process attempts are not a valid reason for not meeting the timeframes. If service of process is unsuccessful because of a poor address, the case shall be referred back to the locate function.

6.601.1 GOOD CAUSE

If good cause exemption has not been established and the custodial party or placing parent fails to cooperate with the Child Support ~~Enforcement~~ Services Unit, the Child Support ~~Enforcement~~ Services Unit shall complete a Notice of Non-Cooperation of Caretaker and forward the notice to the county IV-A unit, or the Division of Child Welfare.

6.602 PRESUMPTION OF PATERNITY

The Child Support ~~Enforcement~~ Services Unit shall determine whether the alleged father's name is on the child's birth certificate prior to initiating a paternity establishment action.

A. The Child Support ~~Enforcement~~ Services Unit shall not pursue the establishment of paternity but shall pursue the establishment of a support only order if a father's name is listed on the child's

birth certificate, and no party contests paternity for that child and there is no credible evidence that another alleged or presumed father exists.

B. The Child Support ~~Enforcement~~ Services Unit shall pursue the establishment of paternity and support if there is no father's name listed on the birth certificate,

1. And the custodial party or the non-custodial parent is contesting paternity; or,

2. There is credible evidence that another alleged or presumed father exists; and,

3. Paternity or child support has not been established by a Colorado judicial or administrative order or pursuant to the laws of another state.

6.603 VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY

County Child Support ~~Enforcement~~ Services Units shall provide all parents who are applying for services with or are referred to the Child Support ~~Enforcement~~ Services Unit with the opportunity to voluntarily acknowledge paternity at the Child Support ~~Enforcement~~ Services office. The Child Support ~~Enforcement~~ Services Unit shall provide to parents the voluntary acknowledgment form prescribed and furnished by the state registrar and oral and written state prescribed standardized notices stating the alternatives to, the legal consequences of, and the rights and responsibilities that arise from signing the acknowledgment. Either the Child Support ~~Enforcement~~ Services Unit or a party of the case shall forward the completed acknowledgement of paternity form to the Department of Public Health and Environment, the Division of Health Statistics and Vital Records, according to the instructions provided on the form.

6.603.1 RESCISSION OF A VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY

A. A signed voluntary paternity acknowledgment is considered a legal finding of paternity, subject to the right of either party who signed the acknowledgment to rescind the acknowledgment within the earlier of:

1. Sixty (60) calendar days from the date signed; or,

2. The date of a prior administrative or judicial proceeding relating to the child in which the person who signed the paternity acknowledgment is a party.

B. When a party in a IV-D case notifies the Child Support ~~Enforcement~~ Services Unit of his/her desire to rescind his/her signature on a voluntary acknowledgement of paternity or to contest paternity based on a voluntary acknowledgement of paternity and the voluntary acknowledgement of paternity was filed with the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records, and paternity has not been established by or pursuant to the laws of another state, the Child Support ~~Enforcement~~ Services Unit shall, through administrative process, if appropriate, pursue the establishment of paternity and support and order genetic testing.

1. If the results of the genetic testing establish a threshold of probability of paternity of ninety-seven percent (97%) or higher and the party continues to contest paternity, the Child Support ~~Enforcement~~ Services Unit shall proceed with administrative process procedures to establish a temporary support order and request a court hearing to obtain a court finding and order.

2. If the results of the genetic testing establish a threshold of probability of paternity of ninety-seven percent (97%) or higher and the party does not continue to contest paternity, the Child Support ~~Enforcement~~ Services Unit shall proceed with administrative

process procedures to establish an appropriate administrative process paternity and support order.

3. If the results of the genetic testing do not establish a threshold of probability of paternity of at least ninety-seven percent (97%) and the non-custodial parent will not sign a stipulated order, the Child Support ~~Enforcement~~ Services Unit may dismiss the action or take such other appropriate action as allowed by law, including filing a request for court hearing.

4. If the court finds that the parent who signed the voluntary acknowledgment of paternity is not the legal father of the child and orders that such parent's name be removed from that child's birth certificate, the Child Support ~~Enforcement~~ Services Unit shall notify the Department of Public Health and Environment, Division of Health Statistics and Vital Records, and request that they remove the party's name from the child's birth certificate. The notification shall be either a certified copy of the court order or a modified report of paternity determination, as prescribed by the Division of Health Statistics and Vital Records.

6.603.2 CONTESTING PATERNITY ESTABLISHED BY A VOLUNTARY ACKNOWLEDGEMENT OF PATERNITY

A. When a party in a IV-D case notifies the county Child Support ~~Enforcement~~ Services Unit of the desire to rescind his/her signature on or contests paternity established by a voluntary acknowledgement of paternity and there has been a prior administrative process or judicial proceeding involving the party concerning the support of the child, the party shall be advised to contact the court for resolution.

B. When a party in a IV-D case notifies the county Child Support ~~Enforcement~~ Services Unit of the desire to rescind his/her signature on or contests paternity established by a voluntary acknowledgement of paternity and there has been no prior administrative process or judicial proceeding involving the party concerning the paternity or support of the child, and the current proceeding is being conducted through an administrative process action and it has been sixty or more calendar days since the acknowledgment was signed and the father's name is on the child(ren)'s birth certificate, and paternity has not been established by or pursuant to the laws of another state, the Child Support ~~Enforcement~~ Services Unit shall:

1. Enter an administrative process order for genetic testing, then

2. Establish an administrative process temporary order of financial responsibility and request a court hearing to obtain a permanent court finding and order if the genetic testing results show a ninety seven percent (97%) or greater probability of parentage and the party continues to contest paternity, or

3. If the genetic testing results show a less than ninety-seven percent (97%) probability of parentage, the county Child Support ~~Enforcement~~ Services Unit may dismiss the action or take such other appropriate action as allowed by law.

C. If the party withdraws his/her contest of paternity at any time, even after genetic testing has been done and the father's name is on the child's birth certificate, the delegate Child Support ~~Enforcement~~ Services Unit shall enter the appropriate administrative process order if the genetic testing results do show a ninety-seven percent (97%) or greater probability of paternity.

6.604 CONTESTING PATERNITY BASED ON OTHER PRESUMPTIONS OF PATERNITY

Whether or not a father's name is listed on a child's birth certificate, if one or more presumptions of paternity of a child exist pursuant to Section 19-4-105, C.R.S., including the execution of a voluntary acknowledgment of paternity for one or more possible fathers, the delegate Child Support ~~Enforcement~~ Services Unit shall pursue the establishment of paternity and support for that child and shall use administrative process, if appropriate. If administrative process is not appropriate and/or there is credible evidence that more than one possible father exits, the action shall be pursued judicially and all alleged and/or presumed fathers shall be joined as parties in the case, if possible, pursuant to Section 19-4-110, C.R.S.

However, if child support or paternity has already been established against a father by an administrative or judicial order or paternity has been established pursuant to the laws of another state, a support only order shall be pursued against such father.

6.604.1 CONTESTING PATERNITY – NO IV-D CASE

Parties who do not have a IV-D case and request the Child Support ~~Enforcement~~ Services Unit to assist them in rescinding a voluntary acknowledgment of paternity, and it has been less than sixty (60) days since the voluntary acknowledgment of paternity was signed, and there has been no prior administrative process or judicial proceeding involving the party concerning the support of the child, shall be advised that he or she may apply for full child support services, or he or she may contact the court for assistance. If it has been more than sixty (60) days since the voluntary acknowledgment of paternity was signed, or there has been a prior administrative process or judicial proceeding involving the party concerning the support of the child, or he or she wants to disestablish paternity, he or she shall be referred to the court.

6.605 GENETIC TESTING

A. County Child Support ~~Enforcement~~ Services Units shall require that the child and all other parties in a contested paternity case submit to genetic testing, upon the request of any party, except in cases:

1. Where good cause has been determined; or,

2. Where paternity has been determined by or pursuant to the laws of another state; or,

3. Where paternity has been established by a Colorado administrative process or judicial order.

B. The parties are required to use the genetic testing laboratory designated by the Child Support ~~Enforcement~~ Services Unit.

C. Counties, or the state Division of Child Support ~~Enforcement~~ Services on behalf of counties, shall competitively procure, according to county or state procedures, services from genetic testing laboratories which have been accredited. The state Division of Child Support ~~Enforcement~~ Services shall provide a list of genetic testing laboratories which have been accredited to the county Child Support ~~Enforcement~~ Services Units. Genetic testing laboratories procured by the counties must perform, at reasonable cost, legally and medically acceptable genetic tests to identify the father or exclude the alleged father. Proof of competitive procurement may be requested by the Colorado Department of Human Services at any time.

D. County Child Support ~~Enforcement~~ Services Units shall pay the costs of the genetic testing for all parties for instate cases, including long-arm paternity establishment. For interstate cases, the responding state is responsible for the genetic testing costs, as stated in Section 6.605.2.

6.605.1 OBJECTION TO GENETIC TESTING

Any objection to the genetic testing results shall be made in writing at least fifteen (15) days before the hearing where the results may be introduced, or fifteen (15) days after the Motion for Summary Judgment is served. If, however, the results were not received at least fifteen days before the hearing, the objection to the genetic testing results shall be made at least twenty-four (24) hours prior to the hearing. If no objection is made, the test results shall be entered as evidence of paternity in a paternity action without the need for proof of authenticity or accuracy.

Upon receipt of an objection to the genetic testing results, the delegate Child Support ~~Enforcement~~ Services Unit will take the following action:

A. If the case is an Administrative Process case, establish a temporary order if appropriate, and file a Child Support ~~Enforcement~~ Services Unit Request for Court Hearing as required in Section 6.713.

B. If the case has been filed through the Judicial process, request the court to set a hearing to resolve the objection and decide the issue of paternity and child support.

C. The Notice of Hearing must be sent to the parties by the delegate Child Support ~~Enforcement~~ Services Unit.

6.605.2 GENETIC TESTING COSTS

In all cases, when paternity is adjudicated, the county Child Support ~~Enforcement~~ Services Units shall attempt to enter a judgment for the costs of genetic testing against the alleged father for full payment or prorated payment with a specified monthly amount due to liquidate those costs. In intergovernmental cases, the responding jurisdiction is responsible for the cost of genetic testing.

6.606 REPORTING THE DETERMINATION OF PATERNITY TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, DIVISION OF HEALTH STATISTICS AND VITAL RECORDS

A. After a child's paternity has been established, either judicially or administratively, the Child Support ~~Enforcement~~ Services Unit shall complete and file the State prescribed forms with the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records, to ensure that the parent's name is added to the child's birth record. These documents shall be filed with the Division of Health Statistics and Vital Records within ten (10) days of the judicial or administrative order establishing paternity.

B. The Child Support ~~Enforcement~~ Services Unit shall document in the Automated Child Support Enforcement System the date on which the State prescribed forms are sent to the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records.

C. If the child was born in Colorado, within forty five (45) days after the State prescribed forms are sent to the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records, the Child Support ~~Enforcement~~Services Unit shall attempt to determine whether or not the parent's name has been added to the child's birth record. If the Child Support ~~Enforcement~~Services Unit determines that the parent's name has not been added to the child's birth certificate, they shall attempt to determine why the name has not been added and take all reasonable steps to correct the situation including requesting assistance from the State Division of Child Support ~~Enforcement~~Services where appropriate.

D. If the Child Support ~~Enforcement~~Services Unit has contact with the Colorado Department of Public Health and Environment, Division of Health Statistics and Vital Records, about corrections

needed to the State prescribed forms, the worker shall take all steps reasonably necessary and within his/her ability to resolve the issue so that the parent's name can be added to the child's birth record. This may include requesting assistance from the State Division of Child Support ~~Enforcement~~Services where appropriate.

E. The Child Support ~~Enforcement~~Services Unit shall document in the automated child support system the date on which the parent's name has been verified to be on the child's birth record.

6.700 ESTABLISHMENT OF SUPPORT OBLIGATIONS

The following functions are the responsibility of the Child Support ~~Enforcement~~Services Unit with regard to the establishment of child support obligations for all Child Support ~~Enforcement~~Services cases.

6.700.1 EXPEDITED PROCESS

A. County Child Support ~~Enforcement~~Services Units shall establish procedures to ensure that all appropriate functions and activities to establish support obligations are undertaken and completed within the timeframes specified. The timeframes begin when the noncustodial parent is located and end when a temporary or permanent order is established or service of process is unsuccessful. All support activities must be documented on the automated child support system.

B. Within ninety calendar days of locating the alleged father or noncustodial parent, the Child Support ~~Enforcement~~Services Unit must check to ensure that the child(ren) has not reached the age of emancipation; and,

1. Document unsuccessful attempts to serve process, or

2. Complete service of process and establish an order for support (and paternity, if not already established).

C. Actions subject to expedited process must be completed from the time of successful service of process to the time of disposition within the required timeframes.

D. Repeated unsuccessful service of process attempts are not a valid reason for not meeting the timeframes. If service of process is unsuccessful because of a poor address, the case shall be referred back to the locate function.

6.701 ESTABLISHING SUPPORT OBLIGATIONS

A. All child support obligations must be established using the Colorado child support guidelines as found in Section 14-10-115, C.R.S., to determine the amount to be ordered. Child Support ~~Enforcement~~Services staff shall not deviate from the guidelines. Child Support ~~Enforcement~~Services Units shall refer to Section 6.707 for rules on how to determine income to use in the guideline calculation.

B. In the instance of adoption assistance services, when establishing an order against the adoptive parents, the amount of the monthly support order cannot exceed the amount of the monthly adoption assistance payment. If the calculated guideline amount for the monthly support order exceeds the amount of the monthly adoption assistance payment, the Child Support ~~Enforcement~~Services Unit must treat this as a deviation and request a court hearing pursuant to Section 6.713 to request the court to accept the adoption assistance payment amount as the order.

C. In all cases, the Child Support ~~Enforcement~~Services Unit shall attempt to establish child support obligations and medical support from any person who is legally liable for support of a child.

1. In a foster care referral case, the county Child Support ~~Enforcement~~Services Unit shall attempt to establish a foster care fee obligation.

2. In public assistance, foster care, and low-income child care assistance referral cases, the Child Support ~~Enforcement~~Services Unit shall not pursue the establishment of a child support obligation, child support debt, retroactive support or medical support if good cause exemption has been determined by the county director or designee.

D. Establishing the legal obligation to provide child support includes activities related to establishing the amount of retroactive support due, determining the ability of both parents to provide support, and determining the amount of the support obligation.

6.701.1 HEALTH INSURANCE

For all cases in which current child support is being sought, including zero dollar orders, the Child Support ~~Enforcement~~Services Unit shall include a provision for either party to provide health insurance for his/her children.

6.702 ESTABLISHING DEBT OR RETROACTIVE SUPPORT

The Child Support ~~Enforcement~~Services Unit has the discretion to establish an obligation for child support debt, foster care fee debt, and/or retroactive support due based on the county's procedure.

6.702.1 DEBT

Action taken to establish debt must be pursued in accordance with Section 14-14-104, C.R.S. Debt may be established on public assistance and foster care referral cases.

6.702.2 RETROACTIVE SUPPORT

A. An order for a reasonable amount of retroactive support due may be included in any action, except a paternity-only or debt-only action if requested by a custodial party, if there is a time period which occurred prior to the receipt of public assistance benefits for which such support can be established.

B. The custodial party shall be required to complete an "Affidavit of Retroactive Support" and return it to the Child Support ~~Enforcement~~Services Unit before the initiation of any judicial or administrative action to establish retroactive support. A Child Support ~~Enforcement~~Services Unit shall not establish an order for retroactive support unless an "Affidavit for Retroactive Support" has been received from the custodial party. The county Child Support ~~Enforcement~~Services Unit shall use the State prescribed "Affidavit of Retroactive Support".

C. If the custodial party is waiving the right to retroactive support, this shall be reflected in the support order. If the Child Support ~~Enforcement~~Services Unit does not establish retroactive support on behalf of custodial parties, the order shall contain a statement to this effect and also an advisement to the non-custodial parent that the custodial party may pursue the establishment of retroactive support separately.

D. Retroactive support will not be established for:

1. Any months for which the custodial party received public assistance.

2. Any months for which the children did not reside with the custodial party, including months in which the child(ren) were in out of home placement.

3. Any months when the custodial party, non-custodial parent, and the children lived in the same household.

4. If the retroactive support is being established in a divorce or legal separation action, the amount of retroactive support will be based upon the number of months after the date of physical separation of the parents, the filing date of the action, or the date of service upon the respondent, whichever date is latest.

6.702.3 CALCULATING RETROACTIVE SUPPORT AND CHILD SUPPORT DEBT

A. If action is taken to establish debt in a public assistance case, including Title IV-A, Title IV-E foster care, and non-IV-E foster care referral cases, because no order for a monthly support obligation existed at the time public assistance was paid, the Child Support ~~Enforcement~~Services Unit shall use the current monthly support order amount determined by using the Colorado Child Support Guidelines times the number of months that the custodial party received public assistance or the total amount of public assistance paid, whichever amount is lower as the initial basis for the amount of child support debt owed by the noncustodial parent.

1. In a IV-E foster care case, the amount of the foster care fee debt is limited by the total of the unreimbursed maintenance payments for that child(ren).

2. In a non-IV-E foster care case, the amount of the foster care fee debt is limited by the total cost of placement for that child(ren).

B. If action is taken to establish retroactive support, the Child Support ~~Enforcement~~Services Unit shall use the current monthly support order amount determined by using the Colorado child support guidelines times the number of months that the children lived in the custodial party's home without the presence of the noncustodial parent as the initial basis for the amount of retroactive support owed by the noncustodial parent.

C. The Child Support ~~Enforcement~~Services Unit may take the following factors into consideration in determining whether the initial amount of child support debt, foster care fee debt, or retroactive support calculated pursuant to paragraphs A and B, above, is appropriate and reasonable:

1. An increase in the parent's income since the date of child's birth that may result in the current monthly child support order being higher than it would have been at the time of the child's birth.

2. The length of time that a custodial party waited before requesting the services for the establishment of retroactive support, including whether the noncustodial parent knew or should have known about the existence of the children.

3. Special circumstances that may have inhibited the custodial party from requesting assistance from Child Support ~~Enforcement~~Services at an earlier date.

4. Direct cash or in-kind support provided by the noncustodial parent to custodial party for the children for periods prior to the entry of the support order.

5. Any circumstances beyond the control of the noncustodial parent which might have lengthened the time periods for which child support debt or retroactive support are being established including, but not limited to, non-cooperation by the custodial party.

D. If either the custodial or noncustodial parent does not agree to the proposed amount of retroactive support, a temporary order, according to Section 6.712, must be established and the

case referred for a court hearing. The temporary order may not include any amount for child support debt or retroactive support.

7.703 DISMISSAL

If the court or administrative authority dismisses a party or a case for a support order without prejudice, the Child Support ~~Enforcement~~Services Unit shall, at the time of dismissal, examine the reasons for dismissal and determine when it would be appropriate to seek an order in the future, and seek a support order at that time. This shall be documented on automated child support system chronology and a review date set.

6.704 ADMINISTRATIVE PROCEDURES TO ESTABLISH CHILD SUPPORT AND PATERNITY

Pursuant to Article 13.5 of Title 26, C.R.S., the delegate Child Support ~~Enforcement~~Services Unit is authorized to establish certain paternity and child support obligations through administrative procedures.

6.704.1 CASES SUBJECT TO ADMINISTRATIVE PROCESS

A. Administrative procedures to establish a monthly support obligation, foster care fee order, child support debt, foster care debt, or retroactive support, or to modify an order established by administrative process shall be used by the delegate Child Support ~~Enforcement~~Services Unit in all cases to establish these obligations as appropriate, unless:

1. A court order exists that was issued in this or any other state, tribe, or reciprocating country, which establishes a monthly child support obligation; or,

2. An administrative order exists that was issued in this or any other state, tribe, or reciprocating country, which establishes a monthly child support obligation for the child(ren) of the case but excluding appropriate administrative process add a child actions; or,

3. The case requires paternity establishment and the case involves multiple presumed and/or alleged father(s); or,

4. One or both of the parents is under age eighteen (18); or,

5. In intergovernmental cases, the case requires only paternity establishment and no support is being established; or,

6. A hearing has been scheduled by the court or a request for hearing has been filed with the court by any party on the issue of child support; or,

7. An objection has been filed with the court regarding an order of modification; or,

8. The court has exercised jurisdiction over a child support-related matter; or,

9. The applicant for child support services is the non-custodial parent.

B. Administrative process shall be utilized in cases in which a divorce decree is silent on the issue of child support and service in the divorce was by publication. In these cases, the administrative process action (APA) will be filed under a new court number.

C. In cases in which there is a pending court action in which child support is at issue, the Child Support ~~Enforcement~~Services Unit shall proceed to utilize administrative process as set forth in

these rules. Copies of all documents shall be filed by the Child Support ~~Enforcement~~Services Unit in the existing court case, utilizing the case number of the existing court case.

6.704.2 ESTABLISHING AN ORDER FOR WORK ACTIVITIES

A delegate Child Support ~~Enforcement~~Services Unit may establish an administrative order for a noncustodial parent who is unemployed, not incapacitated, and has an obligation of support to a child receiving assistance. The order would require the noncustodial parent to enter into one or more of the following work activities: private or public employment, job search activities, community service, vocational training, or any other employment related activities available to that particular individual.

6.704.3 ENFORCING COUNTY APPLICATION TO ADMINISTRATIVE PROCESS

Only the enforcing county delegate Child Support ~~Enforcement~~Services Unit may initiate an administrative process action (APA). The enforcing county must close an open APA on ACSES before the enforcing county designation can be changed.

6.705 NOTICE OF FINANCIAL RESPONSIBILITY, NOTICE OF FINANCIAL RESPONSIBILITY-PATERNITY ACTION OR AMENDED NOTICE OF FINANCIAL RESPONSIBILITY

A. A Notice of Financial Responsibility or amended Notice of Financial Responsibility for add a child cases, as prescribed by the State Department, shall be issued in all cases subject to administrative procedure within forty-five (45) days of locating the noncustodial parent by the enforcing county delegate Child Support ~~Enforcement~~Services Unit.

B. “Issued” shall be defined to mean the date the Notice of Financial Responsibility or amended Notice of Financial Responsibility is delivered to: the United States mail for service by certified mail, or the delegate Child Support ~~Enforcement~~Services Unit employee authorized to serve the noncustodial parent, or the delegate Child Support ~~Enforcement~~Services Unit's contractual process server, or the U.S. mail for service by first class mail only in an action to modify an existing administrative order.

C. The Notice of Financial Responsibility or amended Notice of Financial Responsibility shall be signed by the county director or an employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

D. The delegate Child Support ~~Enforcement~~Services Unit issuing a Notice of Financial Responsibility or amended Notice of Financial Responsibility shall:

1. Check on the automated child support system, R/A Financial History, and the Colorado Benefits Management System (CBMS) to determine all amounts of public assistance expended for the children's benefit by all Colorado counties and include the total amount on the Certification of Official Record.

2. Check the automated child support system to determine the total unreimbursed maintenance payments for Title IV-E foster care cases and with the foster care unit to determine the total unreimbursed costs of foster care placement for non-IV-E foster care cases and include the total amount on the Foster Care Arrearage/Unreimbursed Maintenance Payment Calculation or similar form used by the county Child Support ~~Enforcement~~Services Unit.

3. Schedule a negotiation conference date on the Notice of Financial Responsibility or amended Notice of Financial Responsibility thirty (30) calendar days from the date the Notice or amended Notice is issued, and

4. Data enter the issuance date and negotiation conference date on the automated child support system within five (5) working days of issuing the Notice of Financial Responsibility.

In any instance in which the thirtieth (30th) day would fall on a Saturday, Sunday or holiday, the Child Support ~~Enforcement~~Services Unit shall set the negotiation conference on the next working day immediately following.

6.705.1 SUBPOENA TO PRODUCE

A. A Subpoena to Produce, as prescribed by the State Department, shall be served on the noncustodial parent with every Notice of Financial Responsibility or amended Notice of Financial Responsibility.

B. The subpoena to produce shall be signed by the county director or an employee of the delegate Child Support ~~Enforcement~~Services Unit so designated in writing by the county director.

6.705.2 INCOME AND EXPENSE AFFIDAVIT

The delegate Child Support ~~Enforcement~~Services Unit shall include an income and expense affidavit as prescribed by the State Department with every Notice or amended Notice of Financial Responsibility issued.

6.705.3 SERVICE OF THE NOTICE OF FINANCIAL RESPONSIBILITY

A. The delegate Child Support ~~Enforcement~~Services Unit shall serve the Notice or amended Notice of Financial Responsibility on the noncustodial parent at least eleven calendar days prior to the date stated in the Notice or amended Notice for the negotiation conference.

B. The following forms shall be included in the packet served on the obligor.

1. Notice or amended Notice of Financial Responsibility,

2. Subpoena to Produce, and

3. Income and Expense Affidavit.

C. Either a Return of Service or a Waiver of Service must be obtained in all cases. Within five (5) working days of receipt of a Return of Service or a Waiver of Service, the delegate Child Support ~~Enforcement~~Services Unit shall data enter the date of service or the waiver on the automated child support system and send notice of the negotiation conference to all parties or his/her attorney of record and the other state, if appropriate.

D. If service was by certified mail restricted delivery, the return receipt shall be attached to the return of service. If service was effected by the county director or delegate Child Support ~~Enforcement~~Services Unit employee designated in writing by the county director, he/she shall complete the return of service within five (5) working days of effecting service of process.

6.706 NEGOTIATION CONFERENCE

The county director shall be responsible for determining and authorizing in writing which Child Support ~~Enforcement~~Services Unit employees may conduct negotiation conferences based upon the employee's classification and experience, and shall be responsible for assuring that only those employees with adequate skills, knowledge and training conduct negotiation conferences. Child Support ~~Enforcement~~Services Unit employees authorized by their county director to conduct administrative

process must also be certified by the State Division of Child Support ~~Enforcement~~Services and comply with all State Division of Child Support ~~Enforcement~~Services certification training and testing requirements before conducting administrative process.

6.706.1 STANDARD CONTINUANCES

A. Upon request of the noncustodial parent, the negotiation conference shall be continued once, not to exceed ten (10) calendar days from the originally scheduled date.

B. If a continuance is requested by the noncustodial parent, the delegate Child Support ~~Enforcement~~Services Unit shall issue a Notice of Continuance of Negotiation Conference to the noncustodial parent, the custodial party, or their attorneys of record and the other state if appropriate. The notice shall contain the rescheduled date and shall be provided by first class mail or hand delivery.

C. If a continuance is requested by the noncustodial parent, the delegate Child Support ~~Enforcement~~Services Unit shall data enter the type and reason for the continuance and the date for the rescheduled negotiation conference on the automated child support system.

6.706.2 CONTINUANCES FOR GOOD CAUSE

A. More than one continuance and for any number of days may be granted only for good cause as defined in Section 6.708.

B. Continuances for good cause may be granted only by the county director or delegate Child Support ~~Enforcement~~Services employee designated in writing by the county director.

C. If a continuance for good cause is granted, the delegate Child Support ~~Enforcement~~Services Unit shall issue a Notice of Continuance of Negotiation Conference to the noncustodial parent, the custodial party, or their attorney of record and the other state if appropriate. The notice shall contain the rescheduled date and will be provided by first class mail or hand delivery.

D. If a continuance for good cause is granted, the delegate Child Support ~~Enforcement~~Services Unit shall data enter the type and reason for the continuance and the date for the rescheduled negotiation conference on the automated child support system.

E. A finding of good cause may be made for the following reasons:

1. The case involves a paternity determination and the noncustodial parent has stipulated to submit to genetic tests and the results are needed to proceed; or,

2. A valid contest of paternity is made and paternity has not been established pursuant to the laws of another state; or,

3. Additional time is needed to verify income or other information necessary to calculate a child support order pursuant to the Colorado Child Support Guidelines, Section 14 10 115, C.R.S. as amended; or,

4. An allegation of fraud and referral for investigation; or,

5. The noncustodial parent or his/her attorney, is unable to appear at the negotiation conference due to a sudden severe illness, an accident, or other particular occurrence which, by its emergency nature and drastic effect, prevents the noncustodial parent or his/her attorney's appearance at the negotiation conference, the burden of proof to show cause of this type shall be upon the noncustodial parent; or,

6. No Child Support ~~Enforcement~~Services Unit employee authorized to conduct negotiation conferences is able to attend the negotiation conference due to a sudden severe illness, an accident, or other particular occurrence which, by is emergency nature and drastic effect, prevents an authorized Child Support ~~Enforcement~~Services Unit employee from attending the negotiation conference.

6.707 CALCULATING THE MONTHLY CHILD SUPPORT OBLIGATION

A. In any order for financial responsibility, the delegate Child Support ~~Enforcement~~Services Unit shall calculate the monthly child support obligation pursuant to the Colorado Child Support Guidelines, Section 14-10-115, C.R.S. The delegate Child Support ~~Enforcement~~Services Unit shall not deviate from the amount calculated pursuant to Section 14-10-115, C.R.S.

B. In the instance of adoption assistance services, when establishing an order against the adoptive parents, the amount of the monthly support order cannot exceed the amount of the monthly adoption assistance payment. If the calculated guideline amount for the monthly support order exceeds the amount of the monthly adoption assistance payment, the Child Support ~~Enforcement~~Services Unit must treat this as a deviation and request a court hearing pursuant to Section 6.713 to request the court to accept the adoption assistance payment amount as the order.

6.707.1 DETERMINING INCOME

A. The delegate Child Support ~~Enforcement~~Services Unit shall calculate the monthly support obligation using reliable information concerning the parents' actual and/or potential income, as appropriate, which may include, but is not limited to, the following:

1. Wage statements; or,

2. Wage information obtained from the Department of Labor and Employment; or,

3. Tax records; or,

4. Verified statement by the obligee, as prescribed by the State Department; or,

5. Income and Expense Affidavit, as prescribed by the State Department.

B. The delegate Child Support ~~Enforcement~~Services Unit may obtain credit reports for purposes of establishing a child support order. Prior to obtaining a credit report for the noncustodial parent the Child Support ~~Enforcement~~Services Unit must verify that paternity has been established or acknowledged. If paternity is not an issue, the Child Support ~~Enforcement~~Services Unit must:

1. Send a ten-day notice to the noncustodial parent or attorney of record by certified mail or registered mail that a full credit report will be obtained, or

2. Obtain a waiver from the noncustodial parent or attorney of record to obtain a full credit report.

C. ~~In the absence of any reliable information concerning a parent's income, the monthly support obligation shall be computed based on the current minimum wage rate for the parent's state of residence, which may be calculated for up to a forty hour work week.~~ If the Child Support Services Unit determines that a parent is voluntarily unemployed or underemployed or in the absence of reliable information, the Child Support Services Unit shall then determine, and document for the record, the parent's potential income. In determining potential income, the Child Support Services Unit shall consider the specific circumstances of the parent to the extent known,

including consideration of the following when said information is available: the parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the parent, prevailing earnings level in the local community, and other relevant background factors in the case. All steps taken to obtain financial information must be documented.

6.707.2 NEGOTIATE DEBT AMOUNT

The delegate ~~CSE~~CSS Unit shall not negotiate the amount of child support or foster care debt unless:

A. No other county or state has unreimbursed public assistance or unreimbursed maintenance payments or unreimbursed costs of foster care placement (for non-IV-E cases); or,

B. All other counties and states with UPA or UMP or unreimbursed costs of foster care placement (for non-IV-E cases) have agreed to the negotiated amount in writing; and,

C. Automated child support system chronology is updated by the enforcing county delegate Child Support ~~Enforcement~~Services Unit to document the agreed upon negotiation.

6.708 ISSUANCE OF ORDER OF FINANCIAL RESPONSIBILITY

A. If a stipulation is agreed upon at the negotiation conference, the delegate Child Support ~~Enforcement~~Services Unit shall prepare and issue an Order of Financial Responsibility, as prescribed by the State Department.

B. The order shall be signed by the noncustodial parent and by the county director or employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

C. The order shall specify that the noncustodial parent send all payments to the Family Support Registry.

D. The order shall be prepared and signed at the conclusion of the negotiation conference. The order shall advise the noncustodial parent that the unpaid child support balance is entered as judgment.

E. The original order and one copy shall be filed with the clerk of the district court in the county which issued the notice of financial responsibility or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support within five (5) business days of the negotiation conference.

F. The following documents shall be filed with the order:

1. Notice or amended Notice of Financial Responsibility;

2. Return of Service or Waiver of Service: if service was by certified mail, the return receipt must be attached to the Return of Service;

3. Guidelines worksheets;

4. Income and Expense Affidavit for noncustodial parent and custodial party;

5. Subpoena to Produce;

6. Retroactive support affidavit, if the action is for support of the child(ren) prior to entry of the support order; and,

7. Adoption Assistance Agreement, if applicable.

G. Upon receipt of a copy of the order with a docket number assigned by the court, the delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days:

1. Update automated child support system with court order and initiate a ledger; and,

2. Send a copy of the order to the noncustodial parent, or his/her attorney of record, and to the custodial party of the child by first class mail.

3. For intergovernmental cases, send a copy to the initiating agency.

7.708.1 NOTICE TO WITHHOLD INCOME

If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~Services Unit shall, unless the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(II)(A), C.R.S.:

A. Send a notice to withhold income for support within fifteen (15) calendar days of the date the order is entered;

B. Send a notice to withhold income for support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires;

C. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

6.709 ISSUANCE OF ORDER ESTABLISHING PATERNITY AND FINANCIAL RESPONSIBILITY

A. The delegate Child Support ~~Enforcement~~Services Unit shall issue an order establishing paternity and financial responsibility after a negotiation conference if:

1. Neither the custodial party nor the noncustodial parent is contesting the issue of paternity, and

2. A Father's Paternity Advisement and Admission and a Mother's Parentage Advisement and Admission, as prescribed by the State Department, is provided to and signed by the noncustodial parent and the mother.

B. The order shall be signed by the noncustodial parent and by the county director or the employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

C. The order shall be prepared and signed at the conclusion of the negotiation conference. The order shall advise the obligor that the unpaid child support balance is entered as judgment.

6.709.1 CONTESTING PATERNITY

A. If the noncustodial parent asserts a valid objection that he or she is not the parent of the dependent child or contests paternity, the delegate Child Support ~~Enforcement~~Services Unit shall issue an Order for Genetic Testing. The negotiation conference may be continued in accordance with the provision of Section 6.706.2.

B. A finding of good cause to reschedule genetic testing may be made for the following reasons:

1. The noncustodial parent is unable to appear at the appointed time or place for genetic testing due to a sudden severe illness, an accident, or other particular occurrence which, by its emergency nature and drastic effect, prevents the noncustodial parent's appearance at the time or place for genetic testing. The burden of proof to show good cause of this type shall be upon the noncustodial parent.

2. Any other reason beyond the noncustodial parent's control (i.e., if the person authorized to collect the genetic testing sample is unable to appear or fails to appear at the time and place for genetic testing).

C. Rescheduling of the time and place for genetic testing may be granted only by the county director or delegate Child Support ~~Enforcement~~Services employee designated in writing by the county director.

D. If rescheduling for good cause is granted, the delegate Child Support ~~Enforcement~~Services Unit shall issue an Order for Genetic Testing to the noncustodial parent with the new date for the genetic testing which shall be served on the noncustodial parent by first class mail or by hand delivery.

E. If the mother and child(ren) fail to appear for or submit to genetic testing, the case shall be set for hearing pursuant to Section 6.713. Upon receipt of the test results, if a stipulation is not reached, the case shall be set for hearing pursuant to Section 6.713.

6.709.2 REQUEST FOR COURT HEARING WHEN PATERNITY IS AT ISSUE

If no stipulation is agreed upon at the negotiation conference because the noncustodial parent contests the issue of paternity, the delegate Child Support ~~Enforcement~~Services Unit shall file the Notice of Financial Responsibility and proof of service with the clerk of the court, and shall request the court set a hearing in accordance with Section 6.713.

6.709.3 FILING THE ORDER

The original order and one copy shall be filed with the clerk of the district court in the county which issued the notice of financial responsibility or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support within five (5) working days of the negotiation conference.

A. The following documents shall be filed with the order:

1. Notice or amended Notice of Financial Responsibility (Paternity Action);

2. Return of Service or Waiver of Service: if service was by certified mail, the return receipt must be attached to the Return of Service.

3. Father's Paternity Advisement and Admission;

4. Mother's Parentage Advisement and Admission;

5. Guideline Worksheets;

6. Income and Expense Affidavits;

7. Subpoena to Produce;

8. Retroactive support affidavit, if the action is for support of the child(ren) prior to the entry of the order establishing paternity; and,

9. Adoption Assistance Agreement, if applicable.

B. Upon receipt of a copy of the order with a docket number assigned by the court, the delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days:

1. Update automated child support system with paternity, court order and initiate a ledger, and

2. Send a copy of the order to the noncustodial parent, the custodial party, or his/her attorney, and the initiating agency, if appropriate, by first class mail.

C. If the obligor's employer's address is known, the delegate child support ~~enforcement~~Services unit shall, unless the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(ii)(a), C.R.S.:

1. Send a notice to withhold income for support within fifteen (15) calendar days of the date the order is entered;

2. Send a notice to withhold income for support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires.

D. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

E. The order shall specify that the noncustodial parent send all payments to the Family Support Registry.

6.710 ISSUANCE OF DEFAULT ORDER OF FINANCIAL RESPONSIBILITY

A. After service pursuant to Section 6.705.3, if the noncustodial parent fails to appear for the negotiation conference as stated in the Notice or amended Notice of Financial Responsibility, and fails to reschedule the negotiation conference prior to the date and time stated in the Notice or amended Notice of Financial Responsibility, or fails to appear for a rescheduled negotiation conference, the delegate Child Support ~~Enforcement~~Services Unit shall:

1. Within five (5) working days of the date of the negotiation conference; or,

2. Within fifteen (15) calendar days of the negotiation conference if the delegate Child Support ~~Enforcement~~Services Unit has mailed the non-custodial parent a stipulated order and it has not been signed and returned by the non-custodial parent or a rescheduled negotiation conference has not been conducted within the fifteen (15) days.

   File an original Order of Default, as prescribed by the State Department, and one copy with the clerk of the district court in the county in which the Notice of Financial Responsibility was issued, or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support.

B. A Default Order of Financial Responsibility will not be issued when the noncustodial parent is incarcerated and fails to appear for the negotiation conference or the rescheduled negotiation conference. In these circumstances, the delegate Child Support ~~Enforcement~~Services Unit's worker shall close the administrative process action for the reason that a hearing has been requested. The delegate Child Support ~~Enforcement~~Services Unit's worker shall follow the process for requesting a court hearing pursuant to Section 6.713.

6.710.1 FILING THE ORDER OF DEFAULT

A. The following documents shall be filed with the Order of Default:

1. Return of Service or Waiver of Service and, if service was by certified mail, the return receipt must be attached to the Return of Service.

2. Affidavit of Non-Appearance as prescribed by the State Department; and,

3. Notice or amended Notice of Financial Responsibility; and,

4. Verified Statement of Obligee, as prescribed by the State Department, used to set the monthly support obligation, or other documentation supporting the guideline calculation of the monthly support obligation such as wage information obtained from the Department of Labor and Employment; and,

5. Affidavit and Certification of Official Record or Foster Care Arrearage/Unreimbursed Maintenance Payment Calculation as prescribed by the State Department, or documentation supporting the calculation of child support debt such as public assistance payment records, foster care payment records, or arrears calculation information, if appropriate; and,

6. Guidelines worksheets; and,

7. Subpoena to Produce; and,

8. Income and Expense Affidavit for each parent, if available; and,

9. Retroactive Support Affidavit, if any; and,

10. Adoption Assistance Agreement, if applicable.

B. The default order shall be signed by the county director or employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

C. The delegate Child Support ~~Enforcement~~Services Unit shall not take any action to enforce the default order until a copy signed by the court approving the default order is received.

D. If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~Services Unit shall, unless the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(ii)(A), C.R.S.:

1. Send a Notice to Withhold Income for Support within fifteen (15) calendar days of the date the order is entered;

2. Send a Notice to Withhold Income for Support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires;

3. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

E. The order shall specify that the noncustodial parent send all payments through the Family Support Registry.

F. The effective date of the default order shall be the date signed by the court approving the default order.

G. If the default order is returned to the Child Support ~~Enforcement~~Services Unit by the court as not approved, the delegate Child Support ~~Enforcement~~Services Unit shall take appropriate action to cure the defect stated by the court as grounds for disapproval.

6.710.2 RECEIPT OF THE ORDER OF DEFAULT

Upon receipt of a copy of the default order approved by the court, the delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days:

A. Update automated child support system with court order and initiate a ledger, and

B. Send a copy of the order to the noncustodial parent, the custodial party, or his/her attorney, and to the initiating agency, if appropriate, by first class mail.

6.711 ISSUANCE OF DEFAULT ORDER ESTABLISHING PATERNITY AND FINANCIAL RESPONSIBILITY

A. A default order may be issued in cases where paternity is at issue if, after service pursuant to Section 6.705.2:

1. The alleged father fails to appear for the initial negotiation conference as scheduled in the Notice of Financial Responsibility and fails to reschedule a negotiation conference prior to the date and time stated in the Notice of Financial Responsibility or fails to appear for a rescheduled negotiation conference;

2. The alleged father fails to take or appear for a genetic test and a finding of good cause as described in Section 6.709.1 has not been made; or,

3. The genetic test results show a ninety-seven percent (97%) or greater probability that the alleged father is the father of the child(ren), and he fails to appear at the negotiation conference and fails to reschedule the negotiation conference.

B. The delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days of the date of the negotiation conference, or the date of the scheduled genetic test, or within fifteen (15) calendar days of the negotiation conference if the delegate Child Support ~~Enforcement~~Services Unit has mailed the noncustodial parent a stipulated order and it has not been signed and returned by the noncustodial parent or a rescheduled negotiation conference has not been conducted within the fifteen (15) days, file an original Order of Default, as prescribed by the State Department, and one copy with the clerk of the District Court in the county in which the Notice or amended Notice of Financial Responsibility-Paternity Action was issued, or in the District Court where an action relating to paternity and child support is pending.

C. A Default Order Establishing Paternity and Financial Responsibility will not be issued when the noncustodial parent is incarcerated and fails to appear for the negotiation conference or the rescheduled negotiation conference. In these circumstances, the delegate Child Support ~~Enforcement~~Services Unit's worker shall close the administrative process action for the reason that a hearing has been requested. The delegate Child Support ~~Enforcement~~Services Unit's worker shall follow the process for requesting a court hearing pursuant to Section 6.713.

6.711.1 FILING THE ORDER OF DEFAULT

A. The following documents shall be filed with the Order of Default:

1. Return of Service or Waiver of Service: if service was by certified mail, the return receipt must be attached to the Return of Service;

2. Affidavit of Non-Appearance as prescribed by the State Department;

3. Notice or amended Notice of Financial Responsibility (Paternity Action);

4. Verified Affidavit of Obligee as prescribed by the State Department, regarding paternity and genetic tests, if any;

5. Other documentation supporting the guideline calculation of the monthly support obligation such as wage information obtained from the Department of Labor and Employment;

6. Affidavit and Certification of Official Record or foster care arrearage/unreimbursed maintenance payment calculation, as prescribed by the State Department, or documentation supporting the calculation of child support debt such as public assistance payment records, foster care payment records, or arrears calculation information, if appropriate;

7. Guidelines worksheets;

8. Subpoena to Produce;

9. Income and Expense Affidavit for each parent if available;

10. Retroactive Support Affidavit, if any; and,

11. Adoption Assistance Agreement, if applicable.

B. The default order shall be signed by the county director or employee of the delegate Child Support ~~Enforcement~~Services Unit designated in writing by the county director.

C. The delegate Child Support ~~Enforcement~~Services Unit shall not take any action to enforce the default order until a copy signed by the court approving the default order is received.

D. If the obligor's employer's address is known, the delegate Child Support ~~Enforcement~~Services Unit shall, unless the case meets one of the good cause criteria specified in Section 14-14-111.5(3)(a)(ii)(A), C.R.S.:

1. Send a Notice to Withhold Income for Support within fifteen (15) calendar days of the date the order is entered;

2. Send a Notice to Withhold Income for Support to the obligor's employer within two (2) business days from the report of the obligor's employment through the state directory of new hires;

3. Send a National Medical Support Notice to initiate health insurance coverage within fifteen (15) calendar days of the date the order is entered or within two (2) business days from the report of the obligor's employment through the state directory of new hires, if the obligor is the party ordered to provide health insurance and the employer has health insurance available at reasonable cost, as defined in Section 6.240.2, A, 2.

E. The court shall specify that the noncustodial parent send all payments through the Family Support Registry.

F. The effective date of the default order shall be the date signed by the court approving the default order.

G. If the default order is returned to the Child Support ~~Enforcement~~Services Unit by the court as not approved, the delegate Child Support ~~Enforcement~~Services Unit shall take appropriate action to cure the defect stated by the court as grounds for disapproval.

H. Upon receipt of a copy of the default order approved by the court, the delegate Child Support ~~Enforcement~~Services Unit shall within five (5) working days:

1. Update automated child support system with court order, paternity information and initiate a ledger, and

2. Send a copy of the order to the noncustodial parent or his attorney of record to the custodial party and the initiating agency, if appropriate, by first class mail.

6.712 ISSUANCE OF A TEMPORARY ORDER IF NO STIPULATION IS REACHED

If no stipulation is agreed upon at the negotiation conference and paternity is not an issue, or if the obligor contests paternity and the genetic test results are ninety-seven percent (97%) or higher probability of paternity or parentage has previously been determined by another state, the delegate Child Support ~~Enforcement~~Services Unit shall issue temporary orders establishing the monthly support obligation only. The Notice or amended Notice of Financial Responsibility and proof of service shall then be filed with the clerk of the court. The Child Support ~~Enforcement~~Services Unit shall file a request for hearing in accordance with Section 6.713.

6.713 REQUEST FOR COURT HEARING

A request for a court hearing is made when:

A. No stipulation is agreed upon at a negotiation conference and a temporary order is completed; or,

B. A case is referred to court without entry of an administrative order because a deviation is required in the case of adoption assistance services; or,

C. An order needs to be established but for other reasons cannot be established at the negotiation conference.

In these instances, a hearing shall be held and appropriate permanent orders shall be entered without the necessity of a complaint being issued or served on the parties. The delegate Child Support ~~Enforcement~~Services Unit shall request the court to set a hearing in the matter by:

A. Filing a Child Support ~~Enforcement~~Services Unit Request for Court Hearing, as prescribed by the State Department, with the clerk of the district court in the county in which the Notice of Financial Responsibility was issued or in the district court where an action relating to child support is pending or an order exists but is silent on the issue of child support.

B. Attaching to the Child Support ~~Enforcement~~Services Unit Request for Court Hearing the following:

1. Notice of Hearing, as prescribed by the State Department;

2. Notice of Financial Responsibility;

3. Return of Service or Waiver of Service: if service was by certified mail, the return receipt must be attached to the Return of Service;

4. Income and Expense Affidavits of each parent, if available;

5. Temporary Order of Financial Responsibility;

6. Adoption Assistance Agreement, if applicable.

D. The delegate Child Support ~~Enforcement~~Services Unit shall file a request for hearing within ninety (90) days of service of the Notice of Financial Responsibility or Notice of Financial Responsibility-Paternity Action on the noncustodial parent.

E. The Notice of Hearing must be sent to the noncustodial parent or the noncustodial parent's attorney and the custodial party and other agency, if appropriate, by the delegate Child Support ~~Enforcement~~Services Unit if delegated and authorized by the court in writing.

F. The delegate Child Support ~~Enforcement~~Services Unit is responsible for notifying the court of the last day for a hearing to be held in order to decide the issue of child support within ninety days after receipt of notice, commencing on the date the service of the Notice or amended Notice of Financial Responsibility is accomplished. This is the date on the return receipt if service is by certified mail or the date on the return of service, if through personal services.

6.714 MODIFICATION OF ADMINISTRATIVE ORDERS

Colorado administrative orders of financial responsibility and administrative default orders shall be modified by administrative process, if appropriate, by the delegate Child Support ~~Enforcement~~Services Unit.

6.800 COLLECTION

6.801 PROCESSING COLLECTIONS

6.801.1 Family Support Registry

A. All support collections shall be receipted timely by the Family Support Registry and the county department of social services as prescribed by the state.

B. All child support collections receipted in the Family Support Registry or the county department of social services shall be processed on the automated child support system.

6.801.2 Colorado Date of Receipt

Collections shall be entered on the automated child support system screens using the Colorado Date of Receipt.

6.801.3 County Processes

The county department shall assure that procedures for processing the flow of support payments be established and maintained, including the following functions:

A. Establish, maintain, and employ procedures which assure that persons responsible for handling cash receipts of support payments are not responsible for accounting functions of processing and monitoring such payments;

B. Ensure that only collections received by the Child Support ~~Enforcement~~Services Unit or the Family Support Registry are recorded as IV-D payments on the Automated Child Support Enforcement System (ACSES) ledger or the Automated Child Support Enforcement System 360 series of screens and reported to the state office as child support ~~enforcement~~Services collections;

C. Establish, maintain, and employ procedures which assure that all support payments received are accounted for in the financial records; and,

D. Establish, maintain, and employ procedures which provide for the allocation, distribution, and disbursement of child and spousal support payments and/or specific medical dollar order amounts.

6.801.4 Information on Automated Systems

Amounts allocated, distributed, and disbursed according to the information available on the automated child support system, the Colorado Benefits Management System, and Trails regarding the public assistance or placement status of a child(ren) during an eligible month shall remain as such even if the eligibility or placement status of the child changes in the current or a later month.

6.802 ALLOCATION

A. The court-ordered Monthly Support Obligation (MSO) shall be posted each month on all IV-D ledgers where a current obligation is due for the current accounting month. The monthly support obligation shall be retroactively posted for each month that it was due for which the ~~CSE~~CSS Unit was responsible for enforcing the MSO that month, but it was previously not posted.

B. If there is a Monthly Medical Obligation (MMO) due, the entire monthly support obligation, monthly medical obligation, and arrears balances shall be posted on a manual ledger for all IV-D cases where a current medical obligation is due for the current accounting month.

C. Allocations shall be made at a child level.

D. All collections shall be allocated within two (2) business days after being receipted in the Family Support Registry or the Child Support ~~Enforcement~~Services Unit.

E. All manual overrides of allocation on the automated child support system shall be documented in the automated child support system case chronology.

F. Allocation to multiple arrears obligations on the same ledger shall prorate to class of balances as listed below under Section 6.802.2, “Collections on Cases with Support Orders”.

G. Allocation to multiple arrears obligations on the same ledger shall satisfy the most recent obligation first based on the beginning accrual date of the obligation.

6.802.1 Voluntary Collections on Cases With No Support Orders

If collections are received on a case that has no support order established yet, the county will first initiate a voluntary ledger. The collections shall then be allocated to the ledger in the following order:

A. The collection will first satisfy any noncustodial parent erroneous disbursement ledger balance.

B. If there is any remaining amount, the user shall first post the Monthly Support Obligation to zero and then shall allocate the payment to the Monthly Support Obligation.

6.802.2 Collections on Cases With Support Orders

All collections, except those from a federal income tax intercept or designated as a judgment payment, shall be allocated to the ledger as follows:

A. First, to the Monthly Support Obligation (MSO) where the Monthly Support Obligation has been posted for the current accounting month, prorated among each class of Monthly Support Obligation posted on the ledger.

B. Second, to A Monthly Medical Obligation (MMO) when there is a specific dollar amount ordered.

C. Third, to non-assigned arrears balances. Arrears payments are allocated in the following order to the various types of balances due. Within those types of balances due, an arrears payment will allocate to: 1) non-IV-A, either never assistance or post assistance, ordered specific dollar amounts for medical, non-IV-E foster care, or non-IV-D, and 2) IV-A unassigned pre-assistance, and shall be prorated across ledger balances.

1. In-state current delinquency.

2. In-state non-judgment obligations.

3. In-state judgment obligations.

4. Out-of-state current delinquency.

5. Out-of-state non-judgment obligations.

6. Out-of-state judgment obligations.

D. Fourth, to obligor erroneous disbursement ledger balances.

E. Fifth, to costs due, in the following order:

1. Judgment costs due the county.

2. In-state costs due the Child Support ~~Enforcement~~Services Unit that incurred the cost.

3. Out-of-state costs due another state.

4. Costs due to the custodial party.

F. Sixth, to Title IV-A or Title IV-E assigned arrears balances. Arrears payments are allocated in the following order to the various types of balances due, and shall be prorated across ledger balances:

1. In-state current delinquency.

2. In-state non-judgment obligations.

3. In-state judgment obligations.

4. Out-of-state current delinquency.

5. Out-of-state non-judgment obligations.

6. Out-of-state judgment obligations.

If there is a balance for IV-A assigned pre-assistance arrears for an accounting period prior to October 1, 2009, these arrears will be paid before permanently assigned arrears.

G. Seventh, to prepay if an ongoing monthly support obligation exists. Counties must research the ledger to ensure that the payments should be considered prepay payments.

H. Eighth, to obligor over collect, if no obligation or arrears balance exists on the ledger. Counties must research the ledger to ensure that the payments should be considered over collect payments prior to disbursing to the obligor.

6.802.3 IRS Collections

Collections made via an IRS refund shall be allocated to the ledger as follows:

A. First, to any pre-assistance arrears owed to the state.

B. Second, to title IV-A, Title IV-E, or medical assigned arrears balances. Arrears payments are allocated in the following order to the various types of balances due and shall be prorated across ledger balances:

1. In-state current delinquency.

2. In-state non-judgment obligations.

3. In-state judgment obligations.

4. Out-of-state current delinquency.

5. Out-of-state non-judgment obligations.

6. Out-of-state judgment obligations.

C. Third, to non-assigned arrears balances, including non-IV-A post, non-IV-A never, or non-IV-E. Arrears payments are allocated in the following order to the various types of balances due and shall be prorated across ledger balances:

1. In-state current delinquency.

2. In-state non-judgment obligations.

3. In-state judgment obligations.

4. Out-of-state current delinquency.

5. Out-of-state non-judgment obligations.

6. Out-of-state judgment obligations.

D. Fourth, to obligor over collect, and shall be refunded to the noncustodial parent. If the intercepted collection was based on a joint tax return, the over collect refund will be issued in both joint filers' names.

6.802.4 Judgment Collections

Collections made specifically for a judgment arrears balance shall be allocated to the ledger as follows:

A. First, to the Monthly Support Obligation (MSO) where the Monthly Support Obligation has been posted for the current accounting month, prorated among each class of Monthly Support Obligation posted on the ledger.

B. Second, to a Monthly Medical Obligation (MMO) when there is a specified dollar amount ordered.

C. Third, to non-assigned judgment balances, pro rated across ledger balances.

D. Fourth, to judgment costs due the department.

E. Fifth, to Title IV-A, Title IV-E, or medical assigned judgment balances, prorated across balances. Any assigned pre-assistance balance for an accounting period prior to October 1, 2009, shall be paid before a permanently assigned balance.

F. Sixth, to noncustodial parent over collect, if no obligation or arrears balance exists on the ledger. Counties must research the ledger to ensure that the payments should be considered over collect payments prior to disbursing to the obligor.

6.803 DISTRIBUTION OF SUPPORT COLLECTIONS

6.803.1 Distribution from a Title IV-A Allocation

The Pass Through of current child support collections is dependent upon legislative funding availability. When Pass Through is funded, the Deficit Reduction Act (DRA) distribution rules shall apply. When Pass Through is not funded, standard distribution rules shall apply.

DRA Distribution of collections from a Title IV-A allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO) shall be applied in the following order:

1. First towards any unfunded disbursement balance according to the agreement with the obligee, up to 10% of the payment received or $10.00, whichever is greater, from current support; to the family if there is no unfunded disbursement balance.

B. Amounts applied to a IV-A arrears balance shall first apply towards any obligee unfunded disbursement balance and then toward any unreimbursed public assistance and/or unreimbursed specific medical dollar order amounts.

1. Unreimbursed public assistance will be satisfied first in the enforcing county for all periods of public assistance, then Last In First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.

2. In the event no other county has such monetary interest in the case, excess over unreimbursed public assistance will be paid to the obligee.

STANDARD Distribution of collections from a Title IV-A allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO):

1. Shall apply towards any obligee unfunded disbursement balance.

2. Shall be used to reimburse the total unreimbursed public assistance (UPA) provided to the family.

3. Shall be sent to the family as excess over unreimbursed public assistance if there is no unreimbursed public assistance (UPA) balance.

B. Amounts applied to a IV-A arrears balance shall first apply towards any obligee unfunded disbursement balance, and are then used to reimburse unreimbursed public assistance and/or unreimbursed specific medical dollar order amounts.

1. Unreimbursed public assistance will be satisfied first in the enforcing county for all periods of public assistance, and then Last in First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.

2. In the event no other county has such monetary interest in the case, excess over unreimbursed public assistance will be paid to the obligee.

6.803.2 Distribution From a Title IV-E Allocation

Distribution of collections from a Title IV-E allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO):

1. Shall be used to reimburse the foster care maintenance payment for the month in which the maintenance payment was made.

2. Shall be forwarded to the county business office to be applied according to the state's reporting and accounting procedures, if the amounts applied to the monthly support obligation exceed the foster care maintenance payment.

3. Amounts of the foster care maintenance payment that exceed the monthly support collection are added to the balance of unreimbursed maintenance payments (UMP).

B. Amounts applied to Title IV-E assigned arrears balances:

1. Shall be used to reimburse unreimbursed maintenance payments.

2. Shall be used to reimburse unreimbursed public assistance, if any exists on the case and there is no unreimbursed maintenance payments balance. Any remaining collections are paid to other counties that have a monetary interest in the case.

   Unreimbursed public assistance and/or unreimbursed maintenance payments will be satisfied first in the enforcing county for all periods of public assistance, then Last in First Out (LIFO) for all other counties for all periods of public assistance for each county until all IV-A OR IV-E assigned arrears are collected. Payments to other counties will be made by means of an inter-county transfer of funds as prescribed by the state.

3. In the event no other county has such monetary interest in the case:

   a. Any remaining collections are forwarded to the county business office if the child is actively in placement at the time the payment was allocated; or,

   b. Forwarded to the obligee if the child is not actively in placement at the time the payment was allocated.

6.803.3 Distribution From a Non-IV-A Allocation

Distribution of collections from a non-IV-A allocation shall be as follows:

A. Amounts applied to the monthly support obligation (MSO) or any arrears balance:

1. Shall first apply towards any unfunded disbursement balance according to the agreement with the obligee.

2. Shall then be applied to any non-PA service fee still owed by the obligee, whether or not such fee has already been reported to the federal government.

3. Shall be paid to the family.

4. Amounts that represent payment on the required support obligation for future months shall be applied to those future months and shall be paid to the family.

B. Non IV-A applicants shall be charged a twenty-five dollar ($25) certification fee only if an actual federal tax intercept occurs. The certification fee shall be deducted yearly from the first Federal Income Tax refund intercept that occurs, regardless of the number of obligors. If the total yearly amount of all tax refunds for a case is less than twenty-five dollars ($25), that amount will satisfy the certification fee.

6.803.4 Distribution From a Non-IV-E Allocation

Distribution of collections from a non-IV-E allocation shall be as follows:

All payments allocated to the current monthly amount due or to any arrears balances shall be forwarded to the county business office.

6.804 DISBURSEMENT OF SUPPORT COLLECTIONS

Any disbursement to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child(ren).

6.804.1 Disbursement from a Title IV-A Allocation

Disbursement of collections from a title IV-A allocation shall be as follows:

A. Disbursements of Pass Through or Excess Pass Through amounts shall be paid to the family within two (2) business days from the Colorado date of receipt if sufficient information identifying the payee is provided.

B. Disbursements to excess over UPA shall be paid to the family within two (2) business days of the end of the month in which the collection was received if sufficient information identifying the payee is provided.

C. If the collection was received from a federal income tax return, the excess over unreimbursed public assistance payment must be sent to the family within thirty (30) calendar days of the Colorado date of receipt unless based on a joint tax return (see Section 6.804.6).

6.804.2 Disbursement From a Title IV-E Allocation

Disbursement of collections from a Title IV-E allocation shall be as follows:

A. Disbursements to the IV-E agency shall be forwarded to the business office within fifteen (15) business days of the end of the month in which the collection was received.

B. Disbursements to excess over UMP which are due to the obligee and not child welfare shall be paid to the obligee within two (2) business days of the end of the month in which the collection was received if sufficient information identifying the payee is provided.

C. If the collection was received from a federal income tax return, the collection must be forwarded to the IV-E agency or to the family as appropriate, within thirty (30) calendar days of the Colorado initial date of receipt unless based on a joint tax return (see Section 6.804.6).

6.804.3 Disbursement from a Non-IV-A Allocation

Disbursement of collections from a non-IV-A allocation shall be as follows:

A. If any moneys are owed for the non-PA service fee, those moneys will be held from any disbursement being sent to the obligee, whether from the current monthly support obligation or from an arrears or judgment disbursement.

B. All disbursements for the monthly support amount and arrears amounts shall be paid to the family within two (2) business days from the Colorado initial date of receipt if sufficient information identifying the payee is provided unless the collection was received from a federal IRS tax return (see Section 6.804.6).

6.804.4 DISBURSEMENT FROM A NON-IV-E ALLOCATION

Disbursement of collections from a non-IV-E allocation shall be as follows:

A. Disbursements to child welfare shall be paid within fifteen (15) business days of the end of the month in which the collection was received.

B. If the collection was received from a federal income tax return, the collection must be forwarded to child welfare within thirty (30) calendar days of the Colorado initial date of receipt unless based on a joint tax return (see Section 6.804.6).

6.804.5 Disbursement in Intergovernmental Cases

Disbursement of collections on intergovernmental cases shall be as follows:

A. In responding intergovernmental cases, for which collections are made on behalf of another child support ~~enforcement~~Services agency, the payment must be forwarded to the location specified by the initiating child support ~~enforcement~~Services agency. Collections must be forwarded to the initiating child support ~~enforcement~~Services agency within two (2) business days of the Colorado date of receipt if sufficient information identifying the payee is provided and within thirty (30) calendar days of the date the payment is received from tax offset collections.

B. In transmitting collections, the responding child support ~~enforcement~~Services agency must provide the initiating child support ~~enforcement~~Services agency with sufficient information to identify the case, the initial date of receipt, and the responding agency's FIPS code.

6.804.6 Disbursements From Federal Income Tax Return Allocations

Disbursements of collections from federal income tax return allocations must be sent to the family within thirty (30) calendar days of the Colorado initial date of receipt, except if a disbursement is from a joint federal income tax refund, the county Child Support ~~Enforcement~~Services Unit may delay disbursement to the family until:

A. The Child Support ~~Enforcement~~Services Unit is notified that the unobligated spouse's proper share of the refund has been paid; or,

B. For a period not to exceed six months from notification of offset, whichever date is earlier.

C. A disbursement to obligor over-collect must be sent within a reasonable time period.

6.804.7 Erroneous Intercept Collection

When an intercept collection is identified as an erroneous certification intercept collection such as the amount was not owed at the time of certification or the wrong person was intercepted, the Child Support ~~Enforcement~~Services Unit shall refund the collection within two (2) working days from the time the erroneously intercepted person provides notice of intercept. This payment shall be disbursed even if the erroneous intercept collection has not been received by the county Child Support ~~Enforcement~~Services Unit.

6.804.8 Erroneous Collection From an Enforcement Remedy

When a collection from any enforcement remedy is identified as an erroneous withholding, the Child Support ~~Enforcement~~Services Unit shall refund the withheld monies within two (2) working days from the date the obligor provides notice of erroneous withholding. This payment shall be disbursed to the obligor even if the erroneous withholding was not retained by the Child Support ~~Enforcement~~Services Unit.

6.805 ADMINISTRATIVE REVIEW OF CONTESTED ARREARS

6.805.1 COUNTY LEVEL REVIEW

A. The county department shall establish procedures for reviewing arrearage amounts that are to be reported to a consumer credit reporting agency or have been certified for the administrative offset program, administrative lien and levy, tax offset, lottery intercept, workers' compensation attachment, state vendor offset program, gambling intercept, license suspension, or administrative lien and attachment of insurance claim payments, awards, and settlements.

B. Upon written request for an administrative review, within the time frame specified on the advance notice for reporting arrears to a consumer credit reporting agency, the pre offset notice for tax purposes, the notice of intercept of lottery winnings, the Administrative Lien and Attachment for workers' compensation benefits, the notice for license suspension, the notice of administrative lien and levy, the notice for state vendor offset program, the notice of intercept of gambling winnings, the notice for federal administrative offset program, or the notice of administrative lien and attachment of insurance claim payments, awards, and settlements, the county Child Support ~~Enforcement~~Services Unit shall:

1. Schedule and advise the obligor, and the obligee in a non public assistance case, of the date, time and place of the review and initiate administrative review information on the administrative review tracking system screen in the automated child support system.

2. Request from the obligor copies of any modifications of the support order.

3. Request from the obligor records of payments made by the obligor.

4. Advise the obligor this review is a review of the records only and not a judicial determination.

5. Request proof from the obligor if he/she has contested being the obligor.

6. Advise the obligor that a decision will be rendered within thirty (30) days of the request for a review.

C. The county department shall notify the obligor that an administrative review will only be held if the request for an administrative review concerns an issue of mistaken identity of the obligor or the amount of arrearages specified on the advance notice for reporting to a consumer credit reporting agency, the pre-offset notice for tax offset, the notice for lottery intercept, administrative lien and attachment for workers' compensation benefits, the notice of license suspension, the notice for federal administrative offset program, the notice for state vendor offset program, the notice of intercept of gambling winnings, the notice for administrative lien and levy, or the notice of administrative lien and attachment of insurance claim payments, awards, and settlements.

D. On the date established, the county department shall review the child support case record and the documents submitted by the obligor and determine the arrears.

E. Within ten (10) calendar days of the decision rendered, the county department shall update the automated child support system, take any additional action appropriate to reflect the decision, notify the obligor, and the obligee in a non-public assistance case, of the decision rendered. The written decision shall include the timeframes reviewed, balance due for that timeframe, court

orders reviewed including the child support terms of those orders, payment records reviewed, and amounts credited based on those records.

F. The county department shall notify the obligor of his/her right to request a further review by the State Department. The obligor must be advised that the request must be made in writing and be received by the state office within thirty (30) calendar days of the mailing of the county decision to the obligor.

6.805.2 STATE LEVEL REVIEW

Upon written request from the obligor to the State Department for review of arrearage amounts, that are to be reported to a consumer credit reporting agency, or have been certified for tax offset, for lottery intercept, for workers' compensation benefits attachment, license suspension, federal administrative offset program, state vendor offset program, gambling intercept, administrative lien and levy, and administrative lien and attachment of insurance claim payments, awards, and settlements, the State Department shall

A. Determine if a county level administrative review occurred.

1. If not and the obligor is within the time frame specified on the notice, forward the request to the appropriate county and ensure that the county conducts an administrative review within thirty (30) calendar days of receiving the request from the State Department.

2. If not and the obligor is outside of the time frame specified on the notice, the obligor has lost the right to contest the arrears through the administrative review process.

3. If yes, set a date, time, and place for the review, which shall be within thirty (30) calendar days from the date the written request for review was received by the State Department.

B. Provide a written notice to the obligor, and the obligee in a non-public assistance case, of the date, time, and place of the review. This notice shall contain a statement which advises the parties:

1. The only issues to be reviewed are a mistake in the identity of the obligor or a disagreement of the amount of arrears.

2. The review is a review of the records only and not a judicial determination.

3. The obligor must provide all records of his or her support payments.

4. That a decision will be rendered within thirty (30) days of the review.

C. Request that the county provide:

1. The records that established the arrearages; and,

2. A copy of its decision if not previously provided by the noncustodial parent.

D. On the date established for the review, the State Department shall review the records and determine the arrears. If more time is required to review the records or render a decision, the State Department may extend the time for rendering a decision by an additional thirty (30) days.

E. Within ten (10) calendar days of the decision rendered, the State Department shall notify, in writing, the obligor, the obligee in a non-public assistance case, and the county Child Support ~~Enforcement~~Services Unit of the decision rendered. Any party shall have the right to appeal the

decision. The written decision shall include the timeframes reviewed, balance due for those timeframes, court orders reviewed including the child support terms of those orders, payment records reviewed, and amount credited based on those records.

F. Update the Automated Child Support Enforcement system to reflect the administrative review.

G. A decision will be rendered within thirty (30) calendar days of the receipt of the written request for review unless the parties fail to provide the required information.

6.805.21 Reflect Decision Rendered

The county department, upon receiving the decisions rendered by the State Department after a state level review, shall, within ten (10) calendar days, adjust the Automated Child Support Enforcement System records to reflect the decision rendered and take any additional action appropriate.

6.805.3 Intergovernmental Review

Procedure for Reviewing arrearage amounts that have been certified and submitted for a federal income tax refund offset on an intergovernmental case.

A. Within ten (10) calendar days of the receipt of a written request for an administrative review where Colorado is the submitting state and the requester has requested that the order-issuing state conduct the review or Colorado, as the submitting state, cannot resolve the matter, the county ~~CSE~~CSS Unit shall notify the order-issuing state and send all necessary information which was considered in the decision of an arrearage amount. Colorado, as the submitting state, shall be bound by the decision of the order-issuing state.

B. Within ten (10) calendar days of the receipt of a written request for an administrative review where Colorado is the order-issuing state and the requester has requested that the order-issuing state conduct the review or the submitting state cannot resolve the matter, the county Child Support ~~Enforcement~~Services Unit shall:

1. Schedule and advise the obligor, and the obligee in a non public assistance case, and the other state, of the date, time, and place of the administrative review.

2. Advise the obligor, and the obligee in a non public assistance case and the other state that a decision will be rendered within forty five (45) calendar days of the receipt of the submitting state's request and information.

3. On the date established, the order-issuing state shall review the child support case record, and the documents submitted by the requester and forwarded by the submitting state, and determine the arrears.

4. Within ten (10) calendar days of the decision rendered, the order-issuing state shall notify in writing, the obligor, the obligee, and the submitting state of the decision rendered. The written decision shall include the timeframes reviewed, balance due for those timeframes, court orders reviewed including the child support terms of those orders, payment records reviewed, and amounts credited based on those records.

5. The county department shall notify the obligor of his/her right to request a further review by the State Department. The obligor must be advised that the request must be made in writing and be received by the state office within thirty (30) calendar days of the mailing of the county decision to the obligor.

6. The county department, upon receiving the decisions rendered by the other state shall, within ten (10) calendar days, adjust the Automated Child Support Enforcement System records to reflect the decision rendered and take any additional appropriate action.

6.805.4 Administrative Review of Contested Distribution of Amounts Collected

6.805.41 County Responsibility

A. Following verbal or written contact from an obligee regarding questions or disagreement about distribution of amounts collected, the ~~CSE~~CSS unit shall review the distribution and respond verbally or in writing. The obligee must be advised that if there is still disagreement, he/she must submit a written request for an administrative review by the Child Support ~~Enforcement~~Services Unit.

B. Within ten (10) calendar days of the receipt of a written request for an administrative review, the Child Support ~~Enforcement~~Services unit shall:

1. Schedule and advise the obligee of the date, time and place of the review;

2. Request from the obligee copies of any modification of the support order that have not been previously provided to the Child Support ~~Enforcement~~Services Unit;

3. Request from the obligee records of any payments made directly to the family from the obligor;

4. Advise the obligee that a written decision will be rendered within thirty (30) days of the date of the review;

5. Request from the obligee any other information to support his/her contention that the collections were distributed in error.

C. If the request for an administrative review concerns an issue other than the distribution of current support and/or arrearage payments, the Child Support ~~Enforcement~~Services unit shall notify the obligee that a review will not be held.

D. On the date established for the administrative review, the Child Support ~~Enforcement~~Services unit shall review the child support case record and any information submitted by the obligee and determine if the distribution of the amounts collected was correct.

E. The Child Support ~~Enforcement~~Services unit shall promptly notify the obligee in writing of the decision rendered and will provide a copy of the decision to the State Department within five (5) days of the date the decision is rendered.

F. The Child Support ~~Enforcement~~Services Unit shall notify the obligee in writing of his/her right to request a further review by the State Department. The obligee will be advised that the written request must be received by the state office within thirty (30) calendar days of the mailing of the county decision to the obligee.

G. The Child Support ~~Enforcement~~Services Unit, upon receiving the decision rendered by the State Department after a state level review shall, within ten (10) calendar days, adjust the automated child support enforcement system records to reflect the decision rendered and take any additional action as appropriate.

6.805.42 State Responsibilities

Upon written request for further administrative review, the State Department shall:

A. Provide notice to the obligee, which shall contain:

1. A statement that the only issue to be reviewed is the distribution of current support and/or arrearage payments collected;

2. A statement that the review is a review of the records only and not a judicial determination and that the review will be limited to the documentation in the ~~CSE~~CSS file and any written material the obligee wishes to present.

B. Request from the ~~CSE~~CSS Unit or obtain from the automated child support system, the records used for the distribution;

C. Request from the ~~CSE~~CSS Unit a copy of its decision;

D. Request from the county records of support payment paid directly to the family which were provided by the obligee during the administrative review;

E. Advise the obligee that a written decision will be made within thirty calendar days of the receipt of the request;

F. Advise the obligee of his/her right to appeal the state determination to State District Court on Judicial Review within thirty calendar days of the mailing of the decision.

6.805.43 Notify of Decision Rendered

The State Department shall, within thirty days of the date of the state level review, promptly notify in writing the obligee and the county ~~CSE~~CSS Unit of the decision rendered.

6.805.5 Appeal of Joint Account Collection From FIDM

When a FIDM notice of lien and levy is made on a joint or shared ownership account, as defined at Section 15-15-201(5), C.R.S., the non-debtor account holder may appeal the seizure of his or her share of the funds (see Section 6.906.5), first through the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, and then, if still disputed, judicially. If the appeal is approved, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall release all or part of the lien and levy within two (2) working days from the date the appeal decision is made by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, or within two working days of the receipt of the judicial order approving the appeal. In the event that the financial institution has already remitted payment to the Family Support Registry at the time of the appeal ruling, the payment shall be refunded to the non-debtor account holder pursuant to the appeal ruling.

6.806 INTEREST

Collection of interest is optional for county Child Support ~~Enforcement~~Services Units. If a county chooses to collect interest, the following rules shall apply.

A. Interest on support collections that are deposited in a financial institution in interest bearing accounts shall be used to reduce administrative costs as prescribed by the State Department.

B. Interest collected through support arrears/debt shall be considered a support collection and shall be used to reduce the UPA/UMP balances or, for non IV-A cases, paid to the family.

1. In order to collect interest on a Colorado order, the interest rate will be calculated as prescribed by the State Department on the balance past due at the current interest rate in effect as set forth in Sections 5-12-101 and 14-14-106, C.R.S.

2. Interest on arrears balances will be calculated for a specific amount of arrearages/debt covering a specific period of time. The amount of interest will be listed separately from the amount listed for child support arrears/debt and shall be added to the IV-D ledger on the automated child support enforcement system using the appropriate interest adjustment reason codes. The two figures will be added together to show the total amount of judgment or non-judgment balances.

3. A county may charge interest on a Colorado child support order according to statute. If a county intends to calculate interest, it must:

   a. Send a written notice to the obligor or his/her attorney of record, if one exists, that interest will be assessed on the order.

   b. Only assess interest beginning with the date of the notice referenced in paragraph a, of this section.

   c. Complete an updated interest calculation every six (6) months for all cases where notice, in paragraph "a" of this section, was provided and shall provide written notification of the amount of interest assessed to the obligor or his/her attorney of record, if one exists.

   d. Notify the responding agency in an initiating reciprocal action, at least annually, and upon request in an individual case, of interest charges, if any, owed on overdue support.

4. The county Child Support ~~Enforcement~~Services Unit may waive the collection of interest if it wishes to use interest as a negotiating tool to reach a payment settlement on both public assistance and non public assistance cases.

5. Counties must collect interest on responding interjurisdictional cases if they are enforcing another jurisdiction's order and the initiating jurisdiction requests collection of interest.

6.807 DISBURSEMENTS ON HOLD

A. If a disbursement returns as undeliverable mail, if there is no existing address on the automated child support system, or if a disbursement has been reported as lost or stolen, the user shall put all disbursements for that ledger on hold until the issue is resolved.

B. Child Support ~~Enforcement~~Services Units shall ensure that procedures are established in the county to work the scheduled disbursements daily.

C. The county Child Support ~~Enforcement~~Services Unit shall utilize all appropriate local, state, and federal sources to determine the location of the payee.

D. If the obligee cannot be located within ninety (90) calendar days of the original warrant issue date, the Child Support ~~Enforcement~~Services worker shall allocate the payment(s) first to any obligor erroneous disbursement balance and second to any assigned arrears balance.

E. If there are no obligor erroneous disbursement or assigned arrears balances, the Child Support ~~Enforcement~~Services worker shall allocate the payment to obligor over collect and disburse to the obligor.

F. If the obligor cannot be located within one hundred eighty (180) calendar days of the original warrant issue date, the Child Support ~~Enforcement~~Services worker shall, by the one hundred eighty-first (181st) calendar day, mark the collection to transfer to the abandoned collections account on the disbursement record on the automated child support enforcement system.

The automated child support enforcement system will automatically reimburse any obligee unfunded disbursement balance on the ledger before the payment is transferred to the abandoned collections account.

G. If the payee requests payment of the disbursement once it has been transferred to the abandoned collections account, the transfer will be reversed through a problem log to the state office, and the disbursement will be scheduled.

6.808 UNFUNDED DISBURSEMENTS

A. The county Child Support ~~Enforcement~~Services Unit shall make every reasonable effort to recover unfunded disbursements.

B. If the payment was allocated to the wrong account, the county Child Support ~~Enforcement~~Services Unit shall allocate and disburse the payment to the correct account within five (5) working days of discovering the error, even if the county has not received a recovery from the payee who received the original disbursement.

6.808.1 Notification

A. The county Child Support ~~Enforcement~~Services Unit must ensure that the obligee or the initiating jurisdiction has received notification of the unfunded disbursement prior to automatic recovery of the unfunded disbursement amount. This notification may occur through the application for Colorado Works, Child Support ~~Enforcement services~~Services, or through the automated child support system noticing process.

B. The county Child Support ~~Enforcement~~Services Unit must have an agreement with the obligee in order to recover the unfunded disbursement. If the obligee does not agree to the unfunded disbursement recovery, county Child Support ~~Enforcement~~Services Units may pursue recovery through civil means or may write off the unfunded disbursement amount.

C. The notice of the unfunded disbursement amount will inform the obligee or the initiating jurisdiction of her/his responsibility to repay the balance and will state that failure to respond to the notice constitutes an agreement of her/his part.

6.808.2 Recovery

A. The primary contact county shall be responsible for any negotiations with the obligee and for ensuring that the statewide unfunded disbursement balance is paid. The automated child support enforcement system will determine the primary county.

B. Any county ~~CSE~~CSS Unit can accept a cash payment from the obligee to recover the unfunded disbursement amount.

C. The automated process will recover one hundred percent (100%) of any Title IV-A distribution. County ~~CSE~~CSS staff can negotiate a percent or amount of recovery with the obligee on a non-IV-A distribution but the automated child support system will automatically recover at least ten percent (10%) of the payment or ten dollars ($10), whichever is greater.

6.808.3 Balance Statement

The county Child Support ~~Enforcement~~Services Unit must send an unfunded disbursement balance statement to the obligee if one is requested. Balance statements requested on intergovernmental cases will be sent to the other agency.

6.808.4 Balance Write-Off

The Automated Child Support Enforcement System will automatically write off unfunded disbursement balances for obligees who have no open cases anywhere in Colorado and with no financial history activity throughout the State for seven years.

6.809 CHILD SUPPORT INCENTIVE PAYMENTS

Child support incentives distributed to counties shall be the total amount of the federal incentives paid to the state plus no less than one-half of the state share of retained collections. Child support incentives shall be paid to counties quarterly. The federal and state share incentives shall be calculated separately but using the same formula.

6.809.1 Incentive Formula

The following formula to calculate incentives is used at the federal level to calculate incentives to distribute to states and shall be used in Colorado to calculate incentives to distribute to counties.

A.	Two (2) X (collections for current and former IV-A and IV-E cases) + collections for non-PA and non-IV-E cases	=	"Collections Base"
B.	Total "collections base" X the weight for each performance measure	=	County "collections base amount" for each performance measure
C.	Convert each actual performance ratio using the conversion table	=	"Performance incentive factor" for each performance measure
E.	Each county's "unadjusted incentive amount" ÷ state total of "unadjusted incentive amounts"	=	Each county's percent of the state "unadjusted incentive amount"
F.	Each county's percent of the "unadjusted incentive amount" X the statewide incentive to be distributed for each performance measure	=	"County incentive" for each performance measure
G.	Sum of the "county incentive" for each performance measure	=	Total "county quarterly federal incentive payment" or "county quarterly state share incentive payment"
H.	Sum of county quarterly federal and state share incentives	=	Total "county quarterly incentive payment"

6.809.2 Performance Measures

All incentives will be distributed to counties based on five (5) performance measures. Each performance measure will be calculated at the end of the quarter for each county.

A. Paternity establishment percentage (PEP) is:

The total number of children born out of wedlock in the IV-D caseload with paternity established as of the end of the present month divided by the total number of children born out of wedlock in the IV-D caseload as of the end of the corresponding month of the previous year.

B. The percent of caseload with support orders is:

The total number of cases with an order for support as of the end of the present month divided by the total number of cases in the caseload as of the end of the present month.

C. The percent of current support paid is:

The total dollar amount of child support payments made to current monthly support obligations from the beginning of the year to the present time divided by the total dollar amount of current monthly support obligations due from the beginning of the year to the present time.

D. The percent of arrears cases with a payment is:

The total number of cases with a payment made to an arrears obligation or current delinquency balance during the previous 12 months divided by the total number of cases with an arrears obligation or current delinquency owed as of the end of the present month.

E. The cost effectiveness ratio is:

The total county combined collections divided by the total county administrative costs.

The paternity establishment percentage, the percent of caseload with orders, and the percent of current support paid shall have a weight of one hundred percent (100%). The percent of arrears cases with a payment and the cost effectiveness ratio shall have a weight of seventy-five percent (75%).

6.809.3 "Statewide Incentive Amount" for Each Performance Measure

The total amount of incentives to be distributed shall be the quarterly estimated incentive amount received from the federal government plus the state share incentive.

6.809.4 Conversion Tables

Each performance measure has a bottom threshold; no incentives will be paid for performance ratios below the bottom threshold. The bottom threshold is fifty percent (50%) for the paternity establishment percentage and the percent of caseload with orders. The bottom threshold of the table is forty percent (40%) for the percent of current support paid and the percent of arrears cases with a payment.

Each performance ratio, except for the cost effectiveness ratio, converts, by means of the following table, to a performance incentive factor.

If the performance ratio is at least	But is less than	The performance incentive factor equals:	If the performance ratio is at least	But is less than	The performance incentive factor equals:
80%		100%	59%	60%	69%
79%	80%	98%	58%	59%	68%
78%	79%	96%	57%	58%	67%
77%	78%	94%	56%	57%	66%
76%	77%	92%	55%	56%	65%
75%	76%	90%	54%	55%	64%
74%	75%	88%	53%	54%	63%
73%	74%	86%	52%	53%	62%
72%	73%	84%	51%	52%	61%
71%	72%	82%	50%	51%	60%
70%	71%	80%	49%	50%	59%
69%	70%	79%	48%	49%	58%
68%	69%	78%	47%	48%	57%
67%	68%	77%	46%	47%	56%
66%	67%	76%	45%	46%	55%
65%	66%	75%	44%	45%	54%
64%	65%	74%	43%	44%	53%
63%	64%	73%	42%	43%	52%
62%	63%	72%	41%	42%	51%
61%	62%	71%	40%	41%	50%
60%	61%	70%			

The cost effectiveness ratio converts, by means of the following table, to a performance incentive factor. No incentives will be paid for a cost effectiveness ratio under two dollars ($2.00).

If the CER is at least	But is less than	The performance incentive factor equals:
$5.00	--	100%
$4.50	$4.99	90%
$4.00	$4.49	80%
$3.50	$3.99	70%
$3.00	$3.49	60%
$2.50	$2.99	50%
$2.00	$2.49	40%

6.809.5 Adjustment

An annual adjustment will be done at the end of the federal fiscal year, replacing the estimated state incentive with the actual statewide incentive payment received from the federal office of Child Support Enforcement. The adjustment is done in the quarter following the date the state office receives the adjustment letter from the federal office. The adjusted amounts are incorporated into the current quarter's incentive payments. If there are counties that have a negative incentive amount in the adjusted quarter, they will be billed for this amount by the state Division of Accounting.

6.809.6 Reinvestment

A. Federal regulations require that all federal incentives received be reinvested into the child support program to ensure continued improvement, adequate resources, and maintenance of a high performance level for the child support ~~enforcement~~services program.

B. When a county's federal incentives for a calendar year exceed the county thirty-four percent (34%) share of county administrative expenditures, the county shall demonstrate to the state Child Support ~~Enforcement~~Services Unit how the excess federal incentives are reinvested in the child support program. Counties shall report this information to the state Child Support ~~Enforcement~~Services Unit within two calendar years of receipt of the federal incentives, or if counties are unable or unwilling to reinvest the federal incentives in the child support program, they shall return that amount to the state office.

C. Counties must gain state approval of any plan to reinvest federal incentives that exceed their thirty-four percent (34%) share of county administrative expenditures by presenting to the state Child Support ~~Enforcement~~Services Unit a written proposal of their plan. The reinvestment can be made directly into the Child Support ~~Enforcement~~Services program or can be made to a program not approved for IV-D federal participation of expenditures, as long as the county can demonstrate to the state office how the proposed program will benefit the Child Support ~~Enforcement~~Services program. The cost effectiveness ratio converts, by means of the following table, to a performance incentive factor. No incentives will be paid for a cost effectiveness ratio under two dollars ($2.00).

6.900 ENFORCEMENT

6.901 ENFORCEMENT PROCEDURES

The county Child Support ~~Enforcement~~Services Units shall establish procedures to ensure that the full range of enforcement activities are undertaken and completed within the timeframes specified. The timeframes begin when the obligor is located or on the date the obligor fails to make a payment or when other support related non-compliance occurs. The timeframes end when enforcement action is taken. All enforcement activities must be documented in the automated child support system.

6.902 ENFORCEMENT FUNCTIONS

6.902.1

The following functions are the responsibility of the Child Support ~~Enforcement~~Services Unit with regard to the enforcement of child support obligations for all CSS~~E~~ cases.

6.902.11 County Procedures

Within thirty calendar days of identifying a delinquency or other non-compliance with the order, or location of the obligor, whichever occurs later, the Child Support ~~Enforcement~~Services Unit must take appropriate enforcement action. The Child Support ~~Enforcement~~Services Unit must assess each enforcement case to determine appropriate enforcement actions pursuant to Section 6.903.11.

A. When an obligor fails to make full payment in the month the payment is due, appropriate enforcement action shall be taken.

B. Income Assignment

1. For support orders entered on or after January first, nineteen ninety (1990), the Notice to Withhold Income for Support must be sent within two business days after receipt of an income source.

2. For support orders entered before January first, nineteen ninety (1990), if income assignment is not included in the court order, the Notice of Pending Income Assignment, the Advance Notice to Activate an Income Assignment and the Objection to Activate an Income Assignment must be sent within two business days after receipt of an income source. If the obligor does not file an objection to the activation of the income assignment, the Notice to Withhold Income for Support must be sent within two business days of the end of the fourteen (14) day objection period.

3. A copy of the Notice to Withhold Income for Support shall be provided to the obligor by the employer.

4. Exception to automated income assignments. If an automated income assignment can not be issued due to an exception, the automated child support system will electronically generate a message to the enforcing county and the county child support ~~enforcement~~services worker shall complete the following within two working days of the date of the receipt of the message:

   a. Research the case to determine whether the exception is valid and correct the exception data if possible;

   b. Document the findings and the actions taken to correct the exception in the automated child support system;

   c. Issue the income assignment to the employer, if appropriate.

C. Service of Process

1. If service of process is necessary, service must be completed and enforcement action taken within 60 calendar days of identifying a delinquency or of locating the obligor, whichever occurs later.

2. Repeated unsuccessful service of process attempts are not a valid reason for not meeting the timeframes. If service of process is unsuccessful because of a poor address, the case shall be referred back to the locate function.

6.902.12 Public Assistance Cases

In public assistance and foster care cases, the Child Support ~~Enforcement~~Services Unit shall enforce court-ordered child support obligations from any person who is legally liable for such support until such obligations are satisfied, including assigned arrearages, unless good cause exemption from referral to the Child Support ~~Enforcement~~Services Unit has been determined to exist by the county director or designee. Spousal maintenance must also be enforced if established in the same court action and if the former spouse has physical custody of the children.

6.902.13 Non-Public Assistance Cases

In non-public assistance cases, the Child Support ~~Enforcement~~Services Unit shall enforce court-ordered child support obligations from any person who is legally liable for such support until such obligations are satisfied or services are no longer requested. Spousal maintenance must also be enforced if established in the same court action and if the former spouse has physical custody of the children. When the current

support order and/or the child support arrears are no longer being enforced, the Child Support ~~Enforcement~~Services Unit shall cease enforcement of spousal maintenance.

6.902.14 Arrears Calculation

For all cases, the Child Support ~~Enforcement~~Services Unit is required to calculate arrearages from the date the child support order is entered, including those cases where the date of the order is prior to the date of referral or application.

6.902.15 National Medical Support Notice

The Child Support ~~Enforcement~~Services Unit shall enforce a medical support order when health insurance for the child(ren) is no longer being provided, by issuance of the National Medical Support Notice to the obligor's employer, when such an employer is known, or unless the court or administrative order contains alternative health care coverage.

6.902.16 Notice of Emancipation of a Child

The enforcing Child Support ~~Enforcement~~Services Unit must respond to the automated child support system's electronic message indicating the automatic generation of the right to request review notice for each party or his/her attorney of record. The electronic message alerts the worker when a child(ren) has reached the age of emancipation. Within five working days of receiving the electronic message and the generation of the right to request review notices, the worker must read the active order and determine if the child(ren) included in the order is emancipated pursuant to Section 14-10-115, Colorado Revised Statutes. If the child(ren) is emancipated and is not the youngest child on the order, the worker shall mail a right to request review notice to each party or his/her attorney of record.

6.902.17 Credit Reporting (CRA)

6.902.171 Selection

Obligors shall be selected for referral on all of their court orders when the following two conditions exist in the same accounting period on at least one court order: 1) current balance exceeds five hundred dollars ($500) and 2) there is an amount that is at least sixty calendar days past due. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will generate a report which displays the orders that have been selected for credit reporting. The Child Support ~~Enforcement~~Services Units shall take the following actions within thirty calendar days of the generation date of the credit reporting agency notification list:

A. Ensure that the monthly support obligation, monthly amount due, monthly payment due and current balance are correct; and,

B. Ensure that the arrears in the inactive ledgers are not a duplication of those in the active ledgers; and,

C. Ensure that the Social Security Number is correct; and,

D. Clear any financial holds; and,

E. Electronically send a request for suppression of the court order to the “SEU CRA” mailbox if selection has been made on an incorrect person.

F. Document in the automated child support system all changes or other actions taken.

6.902.172 Notice

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, generates the pre-referral notice, thirty calendar days after the case is selected for credit bureau reporting. The obligor has thirty calendar days from the date of the pre-referral notice to pay the past-due obligation, pay a lump sum toward the current balance or submit a written request for an administrative review. If a written request for administrative review is received, the county child support enforcement worker shall follow Section 6.805.

Once sixty (60) calendar days have lapsed, the child support data will be submitted to the credit reporting agencies.

6.902.173 Disputes

If, during the monthly referral to the credit reporting agencies, the obligor contacts the county child support enforcement worker to dispute the information contained in his/her credit report, the county child support enforcement worker shall:

A. Enter the dispute code in the automated child support system within one working day of contact.

B. Research the case to determine if the information is correct or incorrect. If incorrect, the necessary changes must be made to the child support case. The changes will be reflected in the next monthly update to the credit reporting agencies.

C. Document in the automated child support system all changes or other actions taken.

The county Child Support ~~Enforcement~~Services Units shall respond to requests from the Division of Child Support ~~Enforcement~~Services within two working days for payoff amounts and status information and within six working days for information needed to complete the investigation of a consumer credit dispute. If the Child Support ~~Enforcement~~Services Unit receives a request for information from a lender, credit reporting agency or obligor, it shall follow Section 6.~~210.14~~902.174.

6.902.174 Limited Point of Contact

The Fair Credit Reporting Act, which governs credit reporting agencies, requires a limited point of contact between credit reporting agencies and users of credit information. When a Child Support ~~Enforcement~~Services Unit receives a request for credit status information from a lender, an underwriter, a mortgage company, a credit verifier, an obligor or from a credit reporting agency, the request shall be forwarded to the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, which shall respond to the request for information or to the request for confirmation or clarification of information submitted to credit reporting agencies by the Child Support ~~Enforcement~~Services program. All requests for credit reporting status letters shall be forwarded to the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services.

6.902.175 Arrears or Payoff Requests

If the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, requests arrears or payoff information as referenced in Section 6.902.174, the Child Support ~~Enforcement~~Services Unit shall provide the information within two (2) working days, as required at Section 6.902.173.

6.902.2 SELECTION FOR DRIVER'S LICENSE SUSPENSION PROCESS

The obligor's court orders will be selected for the drivers' license suspension process if the monthly support obligation is not paid in full each month.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between Child Support ~~Enforcement~~Services and the Colorado Department of Revenue, Division of Motor Vehicles.

6.902.21 Reports

A. A report is generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, indicating any cases that have changed status with regards to driver's license suspension. County Child Support Enforcement workers shall take the following actions within thirty calendar days of the generation date of the EM-008, County License Suspension Action Report:

1. Suppress driver's license suspension action, if appropriate. A suppression may be entered at the court order level by the county child support enforcement worker or the technician may request a suppression at the person level, by electronically sending a request to the “SEU DLS” mailbox.

2. Document in the automated child support system all changes or other actions taken.

B. A report is generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, indicating cases that have been suppressed from the driver's license suspension process. County child support enforcement workers shall review the case within thirty calendar days of the generation date of the combined suppression report and take the following actions:

1. If appropriate, remove the court case level suppression or request a release of the suppression at the obligor level, by electronically sending a release request to the “SEU DLS” mailbox.

2. Document in the automated child support system all changes or other actions taken.

6.902.22 Notices

The following notices are generated by the state office based on the specifics of each case.

A. The obligor has thirty calendar days from the notice of noncompliance date to meet the paying criteria, pay the past due obligation, negotiate a payment plan or request, in writing, an administrative review. If a written request for an administrative review is received, the county child support enforcement worker shall follow Section 6.805~~3~~.

B. If a new payment plan is reached with the obligor, the county child support enforcement worker shall enter the new payment plan on the automated child support system pursuant to Section 6.902.3.

C. If the obligor has not paid the past due obligation, negotiated a new payment plan, requested an administrative review or met the paying criteria after the notice of noncompliance is issued, and at least thirty calendar days have lapsed, the automated child support system will electronically send an initial notice of failure to comply to the Colorado Department of Revenue, Division of Motor Vehicles, to suspend the license. A paper copy of the initial notice of failure to comply is sent to the obligor at the same time.

D. If the obligor complies and is sent a notice of compliance after the initial notice of failure to comply and then subsequently fails to meet the paying criteria, the automated child support system will electronically send a subsequent notice of failure to comply to the Colorado Department of Revenue, Division of Motor Vehicles, asking that the license be suspended. A paper copy of the subsequent notice of failure to comply is sent to the obligor at the same time.

E. When a manual notice of compliance is needed to stop a suspension, the county child support ~~enforcement~~services worker shall electronically request a manual notice of compliance from the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~ Services, which will determine if the request is warranted. If the request is approved, within one working day from the date of the decision, Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall fax a manual notice of compliance to the Colorado Department of Revenue, Division of Motor Vehicles.

6.902.23 Rescission

A. Within one working day of the discovery that an erroneous suspension of an obligor's driver's license has occurred due to a county or state Child Support ~~Enforcement~~Services office error only, the county child support ~~enforcement~~services worker shall electronically notify the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, via the "SEU DLS" mailbox. The message shall contain the date of the erroneous suspension, the specific error that caused the erroneous suspension, and any other relevant facts.

B. Within two working days from the receipt of the electronic message, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall review the case to verify whether an error occurred and whether the error is documented in the automated child support system:

1. If the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, determines that the suspension occurred erroneously, the Colorado Department of Revenue, Division of Motor Vehicles, shall be notified that the erroneous suspension must be rescinded.

2. If the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, determines that the suspension was not erroneous, the county child support ~~enforcement~~ services worker shall be electronically notified within two working days of the determination.

6.902.3 PAYMENT PLAN

The payment plan displays the monthly payment due. The monthly payment due consists of the monthly support obligation and Monthly Amount Due (MAD) on the arrears. The total monthly payment due shall not exceed the maximum amount of disposable income that is eligible to be withheld pursuant to Section 13-54-104(3)(b)(I & II), C.R.S.

A. If the obligor has a court ordered MAD on the arrears balance, the county child support worker must enter this amount and the correct code on the court ordered screen in the automated child support system. The code and amount must be removed when the court ordered MAD is no longer valid.

B. If the obligor has a MAD set by the county child support worker, the following must be done when an obligor contacts the county to request a reduction of the MAD:

1. The county child support worker shall inform the obligor that documentation of their current income must be provided to adjust the MAD. The obligor must provide one of the following types of documentation:

   a. Pay check stubs for the last three months;

   b. Business bank statements for the last year;

   c. Federal/State tax return for the last three years;

   d. Documentation of disability; or,

   e. Letter from parole/probation officer of current financial circumstances.

2. The county child support worker shall enter the monthly gross income amount for the obligor, as determined by the documentation provided, into the income data screens on the automated child support system.

3. If the obligor has more than one child support ~~enforcement~~services case, all counties must honor the income data entered on the income data screens by changing the MAD for their case to between the automated child support system calculated fair share MAD and the minimum MAD.

4. Income documentation from the obligor shall be required in order for the county child support worker to update the income data screens. The income data can only be changed upon receipt of updated income documentation as outlined above in Number 1.

5. Income documentation shall be retained in the county case file.

6. When the pay plan amounts change, the county child support worker shall issue an amended order/notice to withhold income for support to reflect the new pay plan amount.

C. If the obligor has a MAD set by the child support system that is not a previously technician set MAD, the county shall review the case and ensure the default MAD amount is appropriate and document findings in chronology.

6.902.4 UNEMPLOYMENT COMPENSATION BENEFITS (UCB)

Automated, electronic income assignments are sent to the Colorado Department of Labor and Employment, Division of Unemployment Benefits (UCB), to attach an obligor's unemployment compensation benefits.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between Child Support ~~Enforcement~~Services and the Colorado Department of Labor and Employment, Division of Unemployment Compensation Benefits.

When a case is unable to attach to a valid unemployment compensation claim, the county child support ~~enforcement~~services worker shall take the following actions as appropriate within two working days of being electronically notified:

A. Name mismatch – research the case to determine whether the correct name is entered and make any necessary corrections.

B. Exclusion – research the case to determine whether the exclusion is valid and make any necessary corrections.

C. All changes or other actions taken to resolve the exclusions shall be documented in the automated child support system by the county child support ~~enforcement~~ services worker.

6.903 ENFORCEMENT ACTIVITIES

6.903.1

The county department shall assure that the full range of enforcement activities are utilized, as applicable, for all ~~CSE~~CSS cases pursuant to ~~CSE~~CSS caseload categorization requirements as contained in these rules and consistent with cost-benefit caseload management.

6.903.11 Enforcement Remedies

The following enforcement remedies shall be utilized as appropriate:

A. One of two processes of assignment from any type of income through a Notice to Withhold Income for Support:

1. Immediate income assignment - the process whereby the income assignment is ordered in the original or modified court or administrative order or where the original or modified support order was issued after a certain date and takes effect immediately without any further notice to the obligor;

2. Other income assignment - the process whereby the order for income assignment is not part of the original order or the original order was issued before a certain date and the obligor is afforded due process through advance notification.

B. Immediate health insurance premium withholding through a National Medical Support Notice (NMSN) - notice of health insurance premium withholding shall be included in the original or modified court or administrative order and take effect immediately without any further notice to the parties. The NMSN shall be issued in accordance with Section 6.240.

C. Judgment for arrearages - the process of filing with the court of record a verified entry of judgment or motion and order for judgment for the amount of arrearages owed by the noncustodial parent.

D. Post Judgment remedies - the execution of legal remedies that are available in state law and procedure that are used to satisfy judgment. Such remedies include, but are not limited to:

1. Garnishment of earnings;

2. Garnishment of assets;

3. Liens upon real property;

4. Liens upon personal property;

5. Forced sale of real or personal property;

6. Liens upon motor vehicles.

E. Intercept Program Participation - the participation in state and federal intercept programs which includes:

- IRS income tax refunds,
- State lottery winnings,
- Unemployment Compensation Benefits,
- State income tax refunds,
- Gambling intercepts;
- Federal administrative offset, and
- State vendor offset.

F. Billings and delinquency notices - the process of billing noncustodial parents or noticing delinquent noncustodial parents as a reminder of support obligations due and past due.

G. Contempt Actions - the process of demonstrating to the court of record at a court hearing that the noncustodial parent has failed to comply with a court order and therefore should be held in contempt of court;

H. Criminal Non-Support Actions - the process of demonstrating to the court of record at a court hearing that the noncustodial parent should be held criminally liable for the failure to support his/her family;

I. Payment Guarantee Action - request to the court to order the obligor to post security, bond, or other form of guarantee to secure payment of the child support order;

J. Contact with the noncustodial parent - the process of obtaining a support collection by contacting the noncustodial parent by telephone or in writing;

K. Internal Revenue Service full collection service - levy by Internal Revenue Service against noncustodial parent's income or assets;

L. Denial, Revocation, or Limitation of Passports - certifying to the United States Secretary of Health and Human Services the names of noncustodial parents that have failed to comply with a court order to pay child support and who owe the amount of federally mandated arrears for the purpose of denying, revoking, or limiting their passports;

M. Fraudulent Transfers - a petition to the court to void transfers of property by an noncustodial parent to another party;

N. Refer case for prosecution under the Federal Child Support Recovery Act;

O. Administrative Lien and Attachment - form used to attach noncustodial parent's Department of Corrections inmate accounts.

6.903.2 PRIORITY OF OBLIGATION ENFORCEMENT

6.903.21

The county Child Support ~~Enforcement~~Services Units shall utilize enforcement activities based upon the type of obligation and the results to be achieved. The order of effectiveness of obligation enforcement is as follows:

A. Enforcement activities that will result in regular collections to satisfy the monthly support obligation for public assistance and non-public assistance cases.

B. Enforcement activities that will result in the collection of arrearages insofar as such enforcement does not interrupt the regular payment of the monthly support obligation by affecting the noncustodial parent's wages.

C. Enforcement activities that will result in the collection of court-ordered costs due to the county department.

6.903.31 Civil Contempt Actions

The county Child Support Services Unit may file civil contempt actions with the local court. The CSS Unit must:

A. Screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order;

B. Provide the court with such information regarding the noncustodial parent's ability to pay or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with purge conditions; and

C. Provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

6.904 ADMINISTRATIVE LIEN AND ATTACHMENT OF INSURANCE CLAIM PAYMENTS, AWARDS, AND SETTLEMENTS

The Colorado Department of Human Services, Division of Child Support Services, shall attach the insurance claim payments, awards, or settlements due to an obligor who is responsible for the payment of past-due child support obligations or past-due maintenance or maintenance when combined with child support obligations.

6.904.1 SELECTION

A. The State Child Support ~~Enforcement~~Services Unit shall attach claim payments, awards, or settlements or obligors who owe more than $500.00, across all court orders, in past-due child support, past-due maintenance or a combination thereof.

B. Pursuant to Section 26-13-122.7, C.R.S., for purposes of this section 6.904, an insurance claim payment, award, or settlement is defined as an individual's receipt of moneys in excess of $1,000.00 after making a claim for payment under an insurance policy for:

1. Personal injury under a policy for liability;

2. Wrongful death; or

3. Workers' compensation.

C. Such insurance claim payment, award, or settlement only includes the portion payable to the obligor or the obligor's representative, and does not include any monies payable as attorney fees

or litigation expenses, documented unpaid medical expenses, or payment for damage or loss to real or personal property.

D. The State Child Support ~~Enforcement~~Services Unit shall recover any fees assessed from the monies collected under the administrative lien. If it chooses not to pursue collection under the administrative lien, the county Child Support ~~Enforcement~~Services Unit is still responsible for fees assessed by the State Department related to the lien, including a data match fee.

6.904.2 NOTICES

The State Child Support ~~Enforcement~~Services Unit shall send a notice of administrative lien and attachment to the insurance company, and send to the obligor a copy of the notice of administrative lien and attachment along with notice of the obligor's right to request an administrative review. The notices shall be sent via first class mail or electronically, if mutually agreed upon. The obligor has thirty (30) calendar days from the date on the notice to request, in writing, an administrative review. When a written request is timely received, the county Child Support ~~Enforcement~~Services worker shall follow section 6.805.

6.904.3 POINT OF CONTACT

The Colorado Department of Human Services, Division of Child Support Services, is the single point of contact between Child Support ~~Enforcement~~Services and the Child Support Lien Network, or similar program, and the insurance companies.

6.905 PROFESSIONAL OCCUPATIONAL LICENSE SUSPENSION PROCESS

Referral will be made to the appropriate licensing board to suspend the professional or occupational license of obligors who:

A. Meet the selection criteria;

B. Have been sent the required notices; and,

C. Have failed to comply with a support order.

6.905.1 SELECTION

Obligors will be selected for the professional occupational license process if they owe more than six months' gross dollar amount of child support and are paying less than fifty percent (50%) of their current, monthly child support obligation.

6.905.2 REPORTS

The reports that are generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, and used by county ~~CSE~~CSS Units to process professional occupational license suspension cases must be worked within thirty (30) days of receipt and all changes or other actions taken must be documented in the automated child support enforcement system.

6.905.3 NOTICES

A. The obligor has thirty calendar days from the notice of noncompliance date to pay the past-due obligation, to negotiate a new payment plan or to request, in writing, an Administrative Review. When a written request is received, the county child support ~~enforcement~~services worker shall follow Section 6.805~~3~~.

B. When a new payment plan is negotiated with the obligor, the county child support ~~enforcement~~services worker shall enter the new payment plan into the automated child support system pursuant to Section 6.902.3.

C. If the obligor has not paid the past-due obligation, negotiated a new payment plan, requested an Administrative Review or met the paying criteria after the notice of noncompliance, an initial notice of failure to comply shall be electronically sent to the licensing board asking the licensing board to suspend the license. A paper copy shall be sent to the obligor.

D. If the obligor is issued a notice of compliance after the initial notice of failure to comply, but has again become delinquent, a subsequent notice of failure to comply shall be electronically sent to the licensing board asking the licensing board to suspend the license. A paper copy shall be sent to the obligor.

E. When a notice of compliance is needed in less than twenty-four hours to stop the license suspension, the county child support ~~enforcement~~services worker shall electronically request a manual notice of compliance from the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, which will fax a notice of compliance to the licensing agency.

F. All changes or other actions taken shall be documented in the automated child support system by the county child support ~~enforcement~~services worker.

6.905.4 POINT OF CONTACT

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between child support ~~enforcement~~services and the Department of Regulatory Agencies representing the licensing boards. County child support ~~enforcement~~services workers shall contact the Division of Child Support ~~Enforcement~~Services for assistance with questions or concerns through the automated child support system. The Division of Child Support ~~Enforcement~~Services shall resolve the questions or concerns with the Department of Regulatory Agencies and communicate the resolution to the county child support ~~enforcement~~services worker through the automated child support system.

6.906 SELECTION FOR FINANCIAL INSTITUTION DATA MATCH (FIDM)

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between Child Support ~~Enforcement~~Services and the financial institutions.

Obligors shall be selected for Financial Institution Data Match on all of their court orders after they have been advised of their due process rights by the issuance of the annual pre-offset notice and the following selection criteria:

A. Arrears balance is $1,000.00 or greater; and,

B. Full monthly support obligation is not paid each month.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall exclude partnership, custodial, and commercial accounts or accounts otherwise precluded by law. Pursuant to Section 26-13-128, C.R.S., and the “Uniform Transfers to Minors Act” and trust accounts of monies held in trust by a third party shall not be attached, encumbered or surrendered.

6.906.1 REVIEW OF SELECTED CASES

Within seven (7) calendar days of the date the electronic notification is generated from the automated child support system, the county child support ~~enforcement~~services worker shall review the accepted match to ensure that the ledger is accurate and to ensure that issuing a lien and levy against the obligor's financial account is appropriate.

All changes or other actions taken shall be documented in the automated child support system by the county child support ~~enforcement~~services worker.

6.906.2 SUPPRESSION

6.906.21 Temporary Suppression

The county Child Support ~~Enforcement~~Services worker may, within the allotted seven (7) calendar days, suppress the accepted court order match on a temporary basis by updating the suppression code on the automated child support system.

6.906.22 Indefinite Suppression

The request for an indefinite suppression shall be submitted to the "SEU FIDM" mailbox electronically by the administrator of the Child Support ~~Enforcement~~Services Unit.

6.906.3 CREATION OF THE LIEN AND LEVY

If the court order match has not been suppressed, the automated child support system will create a lien and levy document on the eighth calendar day after the accepted match. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will submit the lien and levy to the financial institution.

Seven calendar days after the lien and levy document has been sent to the financial institution, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will notify the obligor and any non-debtor account holders of the lien and levy of the account along with the exception/exemption policy and/or the appeal policy.

6.906.4 EXCEPTION OR EXEMPTION CLAIM

A. Within twenty (20) calendar days from the date of the lien, the obligor may request an exception claim per State policy from the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, if there is terminal illness of the obligor or the obligor's biological or adopted child.

B. Within 20 calendar days from the date of the lien, the obligor may request an exemption claim per State statute from the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, if there is:

1. Misidentification; or,

2. A custodial account created pursuant to the "Colorado Uniform Transfers to Minors Act", Article 50 of Title 11, C.R.S., or a trust account of moneys held in trust for a third party; or,

3. An account held with a corporate tax identification number; or,

4. An account used to receive deposits of Supplemental Social Security Income benefits, Social Security survivors benefits, Veterans Administration disability benefits, child support payments, or public assistance benefits; or,

5. An account used to receive "earnings" as defined in Section 13-54-104, C.R.S. The maximum percentage amount of the account balance that can be seized will be determined based upon the documentation provided by the obligor. Documentation requirements are specified on the notice that the obligor receives.

The obligor is responsible for providing the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, documentation in support of the above situations.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall review the claim and document its decision whether to approve or deny the claim. The claim shall be reviewed within three business days of receipt based upon the documentation outlined in the lien and levy exception/exemption policy that is included with the Notice of Lien and Levy. If the claim is approved, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will issue a release of lien and levy to the financial institution. If the claim is denied, the lien and levy will remain in effect. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall notify the obligor and the county child support ~~enforcement~~services worker of the claim decision.

6.906.5 APPEAL PROCESS FOR JOINT ACCOUNTS

The lien placed on any and all types of joint account(s) shall require the financial institution to freeze one hundred percent (100%) of the assets on deposit as of the date of the lien. "Joint accounts" means multiple party accounts as defined in Section 15-15-201(5), C.R.S. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall take the following actions:

A. The non-debtor account holders are noticed that they have twenty (20) calendar days from the date of the lien to request an appeal of the frozen funds on the basis that there is proof of contribution of the funds on deposit up to one hundred percent (100%) as of the date of the lien as governed by Section 15-15-211, C.R.S.

B. The request for appeal and the required documentation shall be reviewed by the Division of Child Support ~~Enforcement~~Services within three working days of receipt.

1. If the appeal is approved, the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, will issue a release of lien and levy to the financial institution releasing the contribution of the non-debtor account holder.

2. If the appeal is denied, the lien and levy will remain in effect as to the amount frozen at the time of the lien.

3. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall notify the non-debtor account holder and the county child support ~~enforcement~~services worker of the appeal decision.

6.906.6 ALLOCATION OF FUNDS

The levied funds are sent to the Family Support Registry and are allocated according to the obligor's court orders that were included on the FIDM lien and levy.

6.907 VENDOR OFFSET

This enforcement remedy allows the State Controller's Office to intercept monies from vendors/contractors who perform work for the State of Colorado and owe child support arrearages.

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the single point of contact between Child Support ~~Enforcement~~Services and the State Controller's Office.

6.907.1 SELECTION AND REFERRAL TO VENDOR OFFSET

Obligors shall be selected for referral on their court order when the monthly support obligation is not paid in full.

The selection criteria is applied to each court order and subsequent court orders for the obligor. When a match is made between the obligor record and the vendor offset table, the county child support ~~enforcement~~services worker will be notified electronically through the automated child support system. The vendor offset table is maintained by the controller's office and lists all vendors used by the State of Colorado.

6.907.2 REVIEW OF SELECTED CASES

When the county child support ~~enforcement~~services worker is notified that the case has been selected for vendor offset, he/she shall review the case to ensure that the ledger balances are correct. If the county child support ~~enforcement~~services worker determines that vendor offset is not appropriate for the case, an electronic message must be sent through the automated child support system to the "SEU VO" mailbox to request suppression. The case will remain suppressed until the county child support ~~enforcement~~services worker electronically requests the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, lift the suppression.

6.907.3 NOTICE

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, generates a Notice of State Vendor Payment Offset when there is a match with the obligor with the vendor table and the match is not suppressed by the county Child Support ~~Enforcement~~Services Unit. The obligor has thirty calendar days from the generation date of the Notice of State Vendor Payment Offset to take one of the following actions to stop the intercept of the vendor payment:

A. Contact the county child support ~~enforcement~~services worker and enter into a payment plan and pay the monthly payment due (MPD). If a payment plan is reached with the obligor, the county child support ~~enforcement~~services worker shall update the payment plan on the automated child support system pursuant to Section 6.902.3 concerning maintenance of the payment plan; or,

B. Pay the total amount due on the court order; or,

C. Submit a written request for an administrative review. If an administrative review is received, the county Child Support ~~Enforcement~~Services worker shall follow Section 6.805~~3~~.

All changes or other actions taken shall be documented in the automated child support system by the county child support ~~enforcement~~Services worker.

6.908 RECREATIONAL LICENSE SUSPENSION

Referral will be made to the Colorado Department of Natural Resources, ~~Division of Wildlife~~Parks and Wildlife, to suspend the recreational license of obligors who:

A. Meet the selection criteria;

B. Have been sent the required notices; and,

C. Have failed to comply with a support order.

6.908.1 SELECTION

Obligors will be selected for the recreational license suspension process if they owe more than six months' gross dollar amount of child support and are paying less than fifty percent of their current monthly child support obligation.

6.908.2 NOTICES

A. The obligor has thirty calendar days from the notice of the noncompliance date to pay the past-due obligation, to enter into a payment plan and begin paying the required amount within the 30 days or to request, in writing, an administrative review. If a written request is received, the county child support ~~enforcement~~services worker shall follow Section 6.805~~3~~.

B. If the obligor enters into a payment plan, the county child support ~~enforcement~~services worker must enter the payment plan on the automated child support system pursuant to Section 6.902.3.

C. All changes or other actions taken shall be documented in the automated child support system by the county child support ~~enforcement~~services worker.

D. The automated child support system will electronically send a failure notice to the Department of Natural Resources, Parks and Wildlife to suspend the license privilege and shall send a paper copy to the obligor in the following circumstances:

1. Obligor has not paid the past-due obligation;

2. Obligor entered into a new payment plan but failed to make a payment within 30 days of the pay plan; or,

3. Obligor failed to request an administrative review.

6.908.3 REPORT

The reports that are generated by the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, and used by county ~~CSE~~CSS units to process recreational license suspension cases must be worked within thirty days of receipt and all changes or other action taken must be documented in the automated child support enforcement system.

6.908.4 POINT OF CONTACT

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the only point of contact with the Department of Natural Resources, ~~Division of Wildlife~~Parks and Wildlife. County child support ~~enforcement~~Services workers shall electronically contact the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, with any questions or concerns through

the automated child support system. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall resolve child support enforcement issues with the Department of Natural Resources, Parks and Wildlife and electronically communicate the resolution to the county child support ~~enforcement~~Services worker through the automated child support system.

6.908.5 MISTAKEN IDENTITY

In cases of mistaken identity, the county child support ~~enforcement~~Services worker shall notify the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, through the automated child support system of the error. The county child support ~~enforcement~~Services worker shall not enter the name of the innocent party into the alias screen in the automated child support system. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall notify the Colorado Department of Natural Resources, ~~Division of Wildlife~~Parks and Wildlife, to resolve the error.

6.908.6 POINT OF CONTACT

The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, is the only point of contact with the Department of Natural Resources, ~~Division of Wildlife~~Parks and Wildlife. County child support ~~enforcement~~Services workers shall electronically contact the Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, with any questions or concerns through the automated child support system. The Colorado Department of Human Services, Division of Child Support ~~Enforcement~~Services, shall resolve child support enforcement issues with the Department of Natural Resources, Parks and Wildlife and electronically communicate the resolution to the county child support ~~enforcement~~Services worker through the automated child support system.

Notice of Proposed Rulemaking

Tracking number

2017-00314

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 2505-3

Rule title

FINANCIAL MANAGEMENT OF THE CHILDREN'S BASIC HEALTH PLAN

Rulemaking Hearing

Date

09/08/2017

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)

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COLORADO
Department of Health Care Policy & Financing
Medical Services Board

NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, September 8, 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 17-06-08-A, Revision to the Child Health Plan Plus Concerning Enrollment Date, 10 CCR 2505-3 Section 430.4

Medical Assistance. The Child Health Plan Plus (CHP+) rule concerning enrollment date in Managed Care Organizations (MCO) is being changed to align with current business practice. Passive enrollment in a MCO occurs upon eligibility determination. Under the current rule, the enrollment begin date in a MCO is the first day of the month following eligibility determination when such determination occurs on or before the 21st of the month. Under current business practice, the enrollment begin date in a MCO is the first day of the month following elibility determination when such determination occurs on or before the 16th of the month. For eligibility determinations made after the 16th of the month, the MCO enrollment begins the first day of the second month following eligibility determination. Moving the last day an enrollee may be assigned to an MCO, for assignments beginning the first day of the month following eligibility determination, from the 21st to the 16th, provides enrollees additional time to review and request changes to their MCO assignment. Moreover, aligning the rule with current business practice provides clarity and consistency.

The authority for this rule is contained in 42 CFR 457.1210; 25.5-1-301 through 25.5-1-303 C.R.S. (2016), 25.5-8-104, 107 and 110, C.R.S (2016).

Notice of Proposed Rulemaking

Tracking number

2017-00313

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

09/08/2017

Time

09:00 AM

Location

303 East 17th Avenue, 11th Floor, Denver, CO 80203

Subjects and issues involved

See attached

Statutory authority

25.5.1-301 through 303 (CRS 2016)

Contact information

Name

Chris Sykes

Title

Medical Services Board Coordinator

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chris.sykes@state.co.us

COLORADO
Department of Health Care Policy & Financing
Medical Services Board

NOTICE OF PROPOSED RULES

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This notice is submitted to you for publication, pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

MSB 17-06-22-B, Revision to the Medical Assistance Rules Concerning the Children Life Limiting Illnesses (CLLI), and Children with Autism (CWA) Waivers, Sections 8.504 and 8.506

Medical Assistance. The proposed rule changes are to correct grammatical and technical errors identified as a part of the 2016 Rule Efficiency Review process. Additionally, the proposed changes align the definitions of the CHCBS and CLLI waivers with the definitions in the Single Entry Point rules at 8.393

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016) and 42 U.S.C. §1396n(c).

MSB 17-06-22-C, Revision to the Medical Assistance Long Term Care Rule Concerning the Guidelines, Section 8.401.1

Medical Assistance. The purpose of this rule change is to incorporate the Department created Age Appropriate Guidelines document into the rules concerning Long Term Care eligibility. The Age Appropriate Guidelines document will provide Case Managers with guidance when completing the ULTC 100.2 assessment on children under the age of 18.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016) and 42 U.S.C. §1396n(c).

MSB 17-07-06-A, Revision to the Medical Assistance Program Pharmaceuticals Rules Concerning Pharmaceutical PAR Letters, Section 8.800

Medical Assistance. The Department has identified an inefficiency in its noticing providers of prior authorization determinations. The rule is being updated to allow the Department to address the inefficiency in its operations and reduce the amount of duplicative coorespondence sent to providers.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2016), Social Security Act Section 1927, 42 U.S.C. Section 1396r-8(d)(5)(A).

MSB 17-06-29-A, Revision to the Medical Assistance Rule Concerning the Colorado Healthcare Affordability and Sustainability Enterprise, Section 8.3000, and makes corresponding revisions to references under Sections 8.300.8 and 8.905

Medical Assistance. Senate Bill 17-267 signed into law by the governor on May 30, 2017 creates the Colorado Healthcare Affordability and Sustainability Enterprise (CHASE) at § 25.5-4-402.4, C.R.S. effective July 1, 2017 to assess a healthcare affordability and sustainability fee to obtain federal financial participation to increase hospital reimbursement for care provided under Medicaid and the Colorado Indigent Care Program (CICP) and to fund health coverage under Medicaid and the Child Health Plan Plus (CHP+). The CHASE Act also repeals the hospital provider fee at 25.5-4-402.3, C.R.S. In accordance with statute, this proposed rule repeals the hospital provider fee rules at 10 CCR 2505-10, Section 8.2000, creates rules for the healthcare affordability and sustainability fee at Section 8.3000, and makes corresponding revisions to references under Sections 8.300.8 and 8.905.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S., 25.5-4-402.4(4)(g), C.R.S. (2016), and 42 CFR 433.68.

Notice of Proposed Rulemaking

Tracking number

2017-00307

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-1

Rule title

OVERVIEW OF CHILD WELFARE SERVICES

Rulemaking Hearing

Date

09/01/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

To be in compliance with legislation passed during the 2017 legislative session, the name of Division of Youth Corrections needs to be changed to Division of Youth Services.

Statutory authority

26-1-107, C.R.S. (2015)
26-1-109, C.R.S. (2015)
26-1-111, C.R.S. (2015)
26-1-111, C.R.S. (2015)

Contact information

Name

Paige Rosemond

Title

Rule Author

Telephone

303.866.2866

Email

paige.rosemond@state.co.us

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-1)**		
CDHS Tracking #:	**17-06-16-01**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

To be in compliance with legislation passed during the 2017 legislative session, the name of "Division of Youth Corrections" needs to be changed to "Division of Youth Services."

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

[X] to comply with state/federal law and/or
[ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] No

If yes, please explain.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-1)**		
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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?

County Departments of Human/Social Services

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?

The changes are strictly technical and change the name for the Division of Youth Corrections to the Division of Youth Services. Therefore, it will not have an impact on County Departments of Human/Social Services.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

The technical name change may have some fiscal impact to the Department to rebrand any marketing materials, but this impact will not be to the Division of Child Welfare.

County Fiscal Impact

There is no fiscal impact to county departments as these changes only impact the State's rebranding process.

Federal Fiscal Impact

There is no fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This name change was a result of legislative efforts to better reflect a continuum of services provided through, what was formally known as, the Division of Youth Corrections.

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. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

Alternatives to this effort were discussed in the stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule: **Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-1)**
CDHS Tracking #: **17-06-16-01**
Office, Division, & Program: OCYF, DCW Phone: 303.866.2866
Rule Author: Paige Rosemond E-Mail: paige.rosemond@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.000.2	Revision	"Reasonable and prudent parent standard" means careful and sensible parental decisions that maintain the health, safety, and best interests of the child or youth while encouraging the emotional and developmental growth of the child or youth that a provider shall use 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 responsibility of the Division of Youth Corrections (DYC) to participate in extracurricular, enrichment, cultural, and social activities based upon the criteria in Section 7.701.200 (12 CCR 2509-8).	"Reasonable and prudent parent standard" means careful and sensible parental decisions that maintain the health, safety, and best interests of the child or youth while encouraging the emotional and developmental growth of the child or youth that a provider shall use 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 responsibility of the Division of Youth ~~Corrections (DYC)~~ SERVICES (DYS) to participate in extracurricular, enrichment, cultural, and social activities based upon the criteria in Section 7.701.200 (12 CCR 2509-8).	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-1)**		
CDHS Tracking #:	**17-06-16-01**		
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Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Representatives Pete Lee and Lois Landgraf and Senators Don Coram and Daniel Kagan, House Judiciary Committee, House Appropriations Committee, Senate State, Veterans, & Military Affairs Committee, and Senate Appropriations Committee.

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:

CDHS Policy Advisory Committee (PAC), Child Welfare Sub PAC, County Departments of Human/Social 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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] 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.

7.000.2 DEFINITIONS [Rev. eff. 1/1/16]

A: The following are definitions of commonly used terms used in these rules:

"Abuse" or "child abuse and/or neglect" is defined in Section 19-1-103(1) and 19-3-102(1), C.R.S.

"Actual knowledge" means direct and clear awareness of something, such as a fact or condition.

"Age or developmentally appropriate" means"

1. Generally considered as suitable for children and youth of the same chronological age or level of maturity, or that are determined to be developmentally appropriate based upon the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and,

2. In the case of a specific child or youth, suitable for the child or youth based on the developmental stages attained, and with respect to the cognitive, emotional, physical, and behavioral capacities of the child or youth.

"Agency response" means the protocol prescribed by the state and county departments that guides practice pertaining to the protection of children in the dual-track response system.

"Application" means an action by a person or an authorized representative who indicates verbally or in writing to the county department a desire to receive human/social services.

"Assessment" means the work conducted by a case worker to engage the family and the community to gather information to identify the safety, risks, needs and strengths of a child, youth, family, and community to determine the actions needed. "Assessment" and "investigation," as used in Sections 19-3-308 - 19-3-308.5, C.R.S., are interchangeable in these rules.

"Authorized caregiver" means an individual or agency who is authorized by a parent, guardian or custodian to provide care to a child and who agrees to provide such care. The authorization may be temporary and need not be in writing unless otherwise required by law.

"Background check" means a set of required records that are obtained and analyzed to determine whether the history of a prospective foster parent, kinship foster parent, or non-certified kin meets legal and safety criteria when considering the placement or continued placement of children and youth in the care of the person(s). The checks include all adults residing in the home. The following individual checks are required pursuant to Sections 19-3-406, 19-3-407, and 26-6-106.3, C.R.S.:

1. CBI and FBI fingerprint-based criminal history record information checks;

2. State Judicial Department court case management system checks;

3. State automated case management system and child abuse and/or neglect registry checks 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 checks and national sex offender public website, publicly 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; and,

    b. Address only of the residence.

“Caregiver” means a child's parent, stepparent, guardian, legal custodian, relative, or any other person who resides in the child's home or who is regularly in the child's home for the purpose of exercising care over the child. It also includes the spousal equivalent or domestic partner of a parent or legal guardian. A “caregiver” shall not include a person who is regularly in the child's home for the purpose of rendering care for the child if such person is paid for rendering care and is not related to the child.

“Certificate” means a legal document granting permission to operate a foster care home or a kinship foster care home.

“Child” means any person from birth to eighteen (18) years of age.

“Child Abuse and Neglect Reporting Hotline System” or “the hotline system” is the telephone system that:

1. Routes calls that are received through the toll-free, statewide child abuse and neglect hotline or county dedicated child abuse and neglect reporting telephone lines to the applicable entity responsible for accepting a report of child abuse and/or neglect, or the applicable entity responsible for responding to an inquiry;

2. Records calls; and,

3. Captures call data including but not limited to call volume, average call wait time, and average call duration.

“Child Care Service” means care of a child under the age of thirteen (13) years for a portion of a day, but less than twenty-four (24) hours. These services may be provided in the child’s own home by a person other than the parent or the primary caregiver in a relative home, an exempt day care home, in a licensed or certified day care home, or licensed group day care facility. Older children who need protection or have a special need may be approved for service by the county department.

“Child in need of services” includes a child who receives services regardless of whether the services are court ordered, county provided or voluntarily arranged by the family, or a child who needs services even if the services are not provided.

“Child’s vulnerability” refers to circumstances that place a child at a greater risk for abuse and/or neglect such as being six years of age or younger or having limited capacity to self-protect or provide self-care due to physical, emotional, and/or cognitive limitations.

“Child Welfare Child Care” means child care assistance used to maintain children in their own homes or in the least restrictive out-of-home care when there are no other child care options available. This care is less than twenty-four (24) hours daily. See section 7.302, “Child Welfare Child Care” (12 CCR 2509-4).

“Child Welfare Services” are the services and payments for services (other than medical services covered by the “Colorado Medical Assistance Act”) available, directly or indirectly, through the state and county departments for the benefit of eligible persons pursuant to rules adopted by the State Department or State Board of Human Services.

“Client” means any person applying for or receiving child welfare services from a county department.

“Colorado Safety Assessment Tool” means the tool in the State automated case management system that guides a case worker through a safety assessment process.

“Concurrent planning” means the simultaneous preparation of plans to:

1) Assist the child's parents or caregivers in completing a treatment plan that, when completed successfully will allow the child to return home safely; and,

2) Place the child in a setting that will become the child's permanent home if the parents or caregivers are unable to successfully complete their treatment plan.

“Continuously available” means the assignment of a person to be near an operable telephone, pager system, cellular telephone, or to have such arrangements made through agreements with the local law enforcement agencies.

“Convicted”, for the purposes of the criminal history record information check, means a plea of guilty accepted by the court, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102, C.R.S., a verdict of guilty by a judge or jury, or a plea of no contest accepted by the court, or having received a disposition as a juvenile or having been adjudicated a juvenile delinquent based on the commission of any act that constitutes sexual assault, as defined in subsection (96.5) of section 19-1-103, C.R.S.

“County Department” means a county department of human or social services or, if applicable, the county agency responsible for providing child welfare services as defined by Section 26-5-101(3), C.R.S.

“De novo” means that when an issue is reviewed, affording no deference to the original decision.

“Dedicated Child Abuse and Neglect Reporting Telephone Line” is a county department telephone number that is used to receive calls related to child abuse and/or neglect. Calls to county departments’ dedicated child abuse and neglect reporting telephone lines will be routed through the statewide hotline system for recording and data collection purposes and routed to the county departments’ hotline workers.

“Delinquent act” means a violation of any statute, ordinance, or order enumerated in Section 19-2-104(1) (a), C.R.S. If a juvenile is alleged to have committed or is found guilty of a delinquent act, the classification and degree of the offense shall be determined by the statute, ordinance, or order that the petition in delinquency alleges was violated.

“Differential Response” is a dual-track response system for referrals that meet the criteria for assignment. The two response options are the High Risk Assessment (HRA) and the Family Assessment Response (FAR).

“Disqualifying factor” for the purpose of completing background checks for non-certified kinship care, kinship foster homes, and foster homes, means information that precludes safe placement of a child and/or youth by a county department of human or social services or a child placement agency into a prospective home. Factors include, but are not limited to:

1. A criminal conviction that is prohibited;

2. Confirmed child abuse and/or neglect in the state automated case management system or another state’s child abuse and neglect registry, and following a review of the information, it is determined that the placement is unsafe;

3. Identification of the person(s) or an adult residing in the home on the Colorado Bureau of Investigation (CBI) sex offender registry or the national sex offender public website operated by the United States Department of Justice (excluding youth in the custody of the county department of human or social services); and,

4. Convictions and dispositions in the court case management system that are similar to CBI findings.

“Domestic partner” means a person who is in a family-type living arrangement with a parent and who would be a stepparent if married to that parent. “Domestic partner” and “spousal equivalent” are interchangeable in these rules.

“Domestic violence” means the commission or threatened commission of violence, including coercion, control, punishment, intimidation or revenge upon a person by a person with whom there is or was an intimate relationship.

“Egregious incident of abuse and/or neglect” means an incident of suspected abuse and/or neglect involving significant violence, torture, use of cruel restraints, or other similar, aggravated circumstance.

“Egregious neglect”, for the purpose of determining severity level, is when the physical or emotional needs of the child are not met and involves significant violence, torture, use of cruel restraints, or other similar, aggravated circumstance.

“Egregious physical abuse”, for the purpose of determining severity level, is physical abuse involving significant violence, torture, use of cruel restraints, or other similar, aggravated circumstance.

“Emancipation from foster care” occurs when a youth reaches eighteen (18) years of age and is no longer under the jurisdiction of the court or is married or enters military service.

“Emancipation Transition Plan” means a personalized youth-driven written document that supports emancipation from foster care and is intended to prevent the youth from becoming homeless.

“Emotional abuse” means an identifiable and substantial impairment of the child's intellectual or psychological functioning or development or a substantial risk of impairment of the child's intellectual or psychological functioning or development as a result of the action or inaction of the alleged person responsible for abuse and/or neglect.

“Environment injurious to the welfare of a child” is when the environment caused injuries to the welfare of the child or reasonably could be foreseen as threatening to the welfare of the child and is in control of the parent, guardian, custodian or authorized caregiver.

“Expunge” is to designate a report or record as not having existed for the purpose of employment and background screening. However, a founded finding of abuse and/or neglect that is later expunged shall not preclude the county department from maintaining records of the report in the case file or in the state automated case management system for purposes of future safety and risk assessments.

“Facility” includes, but is not limited to: family child care homes, foster care homes, and any other facility subject to the Colorado “Child Care Licensing Act” and described in Section 26-6-102, C.R.S.

“Fair Hearing” means any procedure by which an Administrative Law Judge reviews facts in relation to an adverse action taken by a county department pursuant to Section 3.850 of the Department of Human Services’ Income Maintenance rules (9 CCR 2503-8).

“Family” means parents, adults fulfilling a parental role, guardians, children, and others individuals related by ancestry, adoption, or marriage or as defined by the family.

“Family Assessment Response (FAR)” means the differential response track established for low and moderate risk situations where no finding of abuse and/or neglect is made.

“Family search and engagement” means the diligent and timely good faith effort to locate and contact any noncustodial parent, all grandparent(s), other adult relatives, and the parent of a

sibling of a child/youth who has been removed from their legal custodian's home. Family search and engagement shall extend beyond the United States, its territories, or Puerto Rico, as appropriate.

"Fatal neglect," for the purpose of determining severity level, is when the physical or medical needs of the child are not met resulting in death.

"Fatal physical abuse," for the purpose of determining severity level, means excessive or inappropriate force used resulting in a child's death.

"Finding" means the determination about whether an incident of abuse and/or neglect occurred.

"Foster care" means the placement of a child into the legal custody or legal authority of a county department for physical placement of the child in foster family care homes, certified and non-certified kinship family care homes, or licensed facility.

"Foster care home" means a home that is certified by a county department of human or social services, or licensed child placement agency, pursuant to Section 26-6-106.3, C.R.S., for child care in a place of residence of a family or person for the purpose of providing twenty-four (24) hour foster care for a child and/or youth under the age of twenty-one years. A foster care home may include foster care for a child and/or youth who is unrelated to the head of the home or foster care provided through a kinship foster care home, but does not include non-certified kinship care defined in Section 19-1-103(78.7), C.R.S.

> The term includes any foster care home receiving a child and/or youth for regular twenty-four (24) hour care and any home receiving a child and/or youth from any state-operated institution for child care or from any child placement agency. Foster care home also includes those homes licensed by the Colorado Department of Human Services pursuant to Section 26-6-104, C.R.S., that receive neither moneys from the counties, nor children and/or youth placed by the counties.

"Founded" means that the abuse and/or neglect assessment established by a preponderance of the evidence that an incident(s) of abuse and/or neglect occurred. "Founded" can also be utilized in a referral when there is a law enforcement fatality investigation with no surviving child sibling, or a law enforcement investigation of a third party incident of abuse and/or neglect. "Founded" and "confirmed," as used in sections 19-3-308 - 308.5, C.R.S., are interchangeable in these rules.

"Framework" is a method for organizing and analyzing information as it pertains to child safety.

"Good cause" to modify the process would be limited to emergency conditions or circumstances beyond the control of the party seeking the modification such as, but not limited to, impossibility for a party to meet a specified deadline, incapacity of the party or representative, lack of proper notice of the availability of the appeal process, additional time required to obtain documents which were timely requested but not delivered, or other situations which would prevent a reasonable person from meeting a deadline or complying with the process without modification.

"Gray Area" is a heading included in the RED Team framework. This section captures any information, questions or areas needing further exploration. This may include risk factors that require some type of follow up to determine their validity and impact on the child(ren). Information captured in the "Gray Area" section may be routinely reviewed by child welfare staff to determine trends, or potential areas needing further discussion and /or elaboration when gathering information from reporters.

"High Risk Assessment (HRA)" means the differential response track established for high risk situations where the alleged victim child(ren) are identified and a finding of abuse and/or neglect is made.

“Hotline County Connection Center” is an entity contracted by the State Department to route calls to county departments, and at county departments’ request subject to the approval of the State Department’s Executive Director, receive reports and inquiries on their behalf.

“Household” is defined as:

1. One or more adult(s) and child(ren), if any, related by blood, or law, residing together.

2. Where adults, other than spouses, domestic partners, or spousal equivalent reside together, each is considered a separate household. Emancipated minors and children living under the care of individuals not legally responsible for that care are also considered separate households.

3. When determining monthly gross income in establishing a foster care fee, a stepparent, who is not legally responsible for a child, is not considered a member of the household. Stepchildren for whom the custodial parent(s) are not legally responsible are not considered part of the household in establishing a foster care fee.

“Impending danger” means a threat(s) to child safety not occurring at present but likely to occur in the near future and likely to result in moderate to severe harm to a child.

“Inconclusive” means that the abuse and/or neglect assessment established that there was some likelihood that an incident(s) of abuse and/or neglect occurred but assessment could not obtain the evidence necessary to make a founded finding.

“Independent Living Arrangement (I.L.A.)” means a placement in foster care where a youth lives independently in the community under the supervision of the county department. Receiving funds is not a necessary condition for a youth to be in an I.L.A. Youth shall receive casework services on I.L.A. with or without receipt of the I.L.A. stipend.

“Independent Living Assessment” means an evaluation of the youth's daily living skills. This assessment will document the youth's strengths and needs, as well as capacity and motivation to learn the appropriate skills.

“Independent Living Plan (I.L.P.)” means part of the Family Services Plan that includes those services designed to promote or enhance a youth's capacity to make a successful transition from out-of-home care to living independently and maintaining self-sufficiency.

“Inquiry” means a request for information or for specific services.

“Intrafamilial abuse and/or neglect” means any case of abuse and/or neglect, as defined in Sections 19-1-103(1) and 19-3-102(1) and (2), C.R.S., that occurs within a family or non-certified kinship care context by a caregiver; except that “intrafamilial abuse” shall not include abuse and/or neglect by a person who is regularly in the child's home for the purpose of rendering care for the child if such person is paid for rendering care and is not related to the child.

“Institutional abuse” means any case of abuse and/or neglect that occurs in any public or private facility in the state that provides out of the home care for children. Institutional abuse shall not include abuse and/or neglect that occur in any public, private, or parochial school system, including any preschool operated in connection with said system; except that, to the extent the school system provides licensed child care before and/or after school, abuse that occurs while such services are provided shall be institutional abuse.

“Juvenile” means any person between ten (10) and twenty-one (21) years of age.

“Kin” for purposes of a kinship foster care home or non-certified kinship care home, means a relative of the child and/or youth, a person ascribed by the family as having a family-like relationship with the child and/or youth, or a person that has a prior significant relationship with the child and/or youth. These relationships take into account cultural values and continuity of significant relationships with the child and/or youth.

“Kinship foster care home” means a foster care home that is certified by either a county department or a licensed child placement agency pursuant to Section 26-6-106.3, C.R.S., as having met the foster care certification requirements and the foster care of the child and/or youth is provided by kin.

> Kinship foster care providers are eligible for foster care reimbursement. A kinship foster care home provides twenty-four (24) hour foster care for a child and/or youth under twenty-one (21) years of age.

A “known” incident of abuse and/or neglect exists when a child has been observed being subjected to circumstances or conditions that would reasonably result in abuse and/or neglect.

“Local educational agency” means the local public school district, charter institute, Colorado school for the deaf and the blind, and/or board of cooperative education services (BOCES). Individual schools are part of their respective LEAs; for purposes of these regulations, communication with school-level staff is sufficient to satisfy requirements to communicate with the LEA.

“Mandatory reporter” means a person required by Section 19-3-304, C.R.S., to report suspected abuse and/or neglect.

“Minor neglect,” for the purposes of determining severity level, is when the physical or emotional needs of the child are marginally or inconsistently met, but there is little or no impact on the child's functioning.

“Minor physical abuse,” for the purposes of determining severity level, is excessive or inappropriate force used resulting in a superficial injury.

“Missing” means a child who is in the legal custody of the county department of human or social services and has been reported to the county department of human or social services as absent from out-of home placement and the child’s whereabouts are unknown by the county department of human or social services. “Moderate neglect,” for the purpose of determining severity level, is when the physical or emotional needs of the child are inadequately met resulting in some impairment in the child's functioning.

“Moderate physical abuse,” for the purposes of determining severity level, is excessive or inappropriate force used resulting in an injury that may require medical attention.

“Moderate to severe harm” means the consequence of maltreatment at a level consistent with a moderate, severe or fatal level of physical abuse, sexual abuse and/or neglect.

“Near fatal neglect”, for the purpose of determining severity level, is when the physical or emotional needs of the child are not met in an incident in which a physician determines that a child is in serious, critical, or life-threatening condition as the result of sickness or injury caused by suspected abuse and/or neglect.

“Near fatal physical abuse”, for the purpose of determining severity level, involves an incident in which a physician determines that a child is in serious, critical, or life-threatening condition as the result of sickness or injury caused by suspected abuse and/or neglect.

“Near fatality” means a case in which a physician determines that a child is in serious, critical, or life-threatening condition as the result of sickness or injury caused by suspected abuse and/or neglect.

“Non-certified kinship care” means a child and/or youth is being cared for by a relative or kin, who has a significant relationship with the child and/or youth, in circumstances when there is a safety concern by a county department in the home of the parent or legal guardian and the relative or kin has not met the foster care certification requirements for a kinship foster care home or has chosen not to pursue certification.

“Pattern of misdemeanors” for the purposes of the criminal history record information check shall be defined as:

A) Three (3) or more convictions of 3rd degree assault as described in section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3(1), C.R.S. ; OR,

B) Five (5) misdemeanor convictions of any type, with at least two (2) convictions of 3rd degree assault as described in Section 18- 3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3(1), C.R.S.; or,

C) Seven (7) misdemeanor convictions of any type.

“Personal Contact” is a method of contact in which two people exchange information in person or through live communication either via telephone or other emerging communications technology.

“Potential disqualifying factor” for the purpose of completing a background check for non-certified kinship care and kinship foster care homes, means information that may preclude the placement of a child and/or youth by a county department of human or social services or a child placement agency into a prospective home. Factors include, but are not limited to:

1. A criminal conviction that may be prohibited;

2. Confirmed child abuse and/or neglect in the state automated case management system or another state’s child abuse and neglect registry, and following a review of the information, it is determined that any safety concerns can be mitigated;

3. The court orders and affirms the placement of the child or youth with kin; or,

4. Additional documented information that was acquired that raises concern about safety in the home.

“Preponderance of evidence” means credible evidence that a claim is more likely true than not.

“Present danger” means an immediate, significant, and clearly observable threat to child safety that is actively occurring and will likely result in moderate to severe harm to a child.

“Primary caregiver” means the caregiver who assumes the most responsibility for care of the child.

“Provider” means a vendor of goods and/or services under the child welfare services program.

“Purchased services” are those services made available to clients through another public agency, a private agency, or a private individual under contract with the state or county department.

“Reasonable and prudent parent standard” means careful and sensible parental decisions that maintain the health, safety, and best interests of the child or youth while encouraging the emotional and developmental growth of the child or youth that a provider shall use 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 responsibility of the Division of Youth ~~Corrections (DYC)~~ SERVICES (DYS) to participate in extracurricular, enrichment, cultural, and social activities based upon the criteria in Section 7.701.200 (12 CCR 2509-8).

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Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-1)**		
CDHS Tracking #:	**17-06-16-01**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

To be in compliance with legislation passed during the 2017 legislative session, the name of "Division of Youth Corrections" needs to be changed to "Division of Youth Services."

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

[X] to comply with state/federal law and/or
[ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] 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?

County Departments of Human/Social Services

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?

The changes are strictly technical and change the name for the Division of Youth Corrections to the Division of Youth Services. Therefore, it will not have an impact on County Departments of Human/Social Services.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

The technical name change may have some fiscal impact to the Department to rebrand any marketing materials, but this impact will not be to the Division of Child Welfare.

County Fiscal Impact

There is no fiscal impact to county departments as these changes only impact the State's rebranding process.

Federal Fiscal Impact

There is no fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This name change was a result of legislative efforts to better reflect a continuum of services provided through, what was formally known as, the Division of Youth Corrections.

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. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

Alternatives to this effort were discussed in the stakeholder and legislative committee meetings during the legislative process.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.000.2	Revision	"Reasonable and prudent parent standard" means careful and sensible parental decisions that maintain the health, safety, and best interests of the child or youth while encouraging the emotional and developmental growth of the child or youth that a provider shall use 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 responsibility of the Division of Youth Corrections (DYC) to participate in extracurricular, enrichment, cultural, and social activities based upon the criteria in Section 7.701.200 (12 CCR 2509-8).	"Reasonable and prudent parent standard" means careful and sensible parental decisions that maintain the health, safety, and best interests of the child or youth while encouraging the emotional and developmental growth of the child or youth that a provider shall use 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 responsibility of the Division of Youth ~~Corrections (DYC)~~ SERVICES (DYS) to participate in extracurricular, enrichment, cultural, and social activities based upon the criteria in Section 7.701.200 (12 CCR 2509-8).	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-1)**		
CDHS Tracking #:	**17-06-16-01**		
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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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Representatives Pete Lee and Lois Landgraf and Senators Don Coram and Daniel Kagan, House Judiciary Committee, House Appropriations Committee, Senate State, Veterans, & Military Affairs Committee, and Senate Appropriations Committee.

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:

CDHS Policy Advisory Committee (PAC), Child Welfare Sub PAC, County Departments of Human/Social 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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] 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.

7.000.2 DEFINITIONS [Rev. eff. 1/1/16]

A: The following are definitions of commonly used terms used in these rules:

"Abuse" or "child abuse and/or neglect" is defined in Section 19-1-103(1) and 19-3-102(1), C.R.S.

"Actual knowledge" means direct and clear awareness of something, such as a fact or condition.

"Age or developmentally appropriate" means"

1. Generally considered as suitable for children and youth of the same chronological age or level of maturity, or that are determined to be developmentally appropriate based upon the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and,

2. In the case of a specific child or youth, suitable for the child or youth based on the developmental stages attained, and with respect to the cognitive, emotional, physical, and behavioral capacities of the child or youth.

"Agency response" means the protocol prescribed by the state and county departments that guides practice pertaining to the protection of children in the dual-track response system.

"Application" means an action by a person or an authorized representative who indicates verbally or in writing to the county department a desire to receive human/social services.

"Assessment" means the work conducted by a case worker to engage the family and the community to gather information to identify the safety, risks, needs and strengths of a child, youth, family, and community to determine the actions needed. "Assessment" and "investigation," as used in Sections 19-3-308 - 19-3-308.5, C.R.S., are interchangeable in these rules.

"Authorized caregiver" means an individual or agency who is authorized by a parent, guardian or custodian to provide care to a child and who agrees to provide such care. The authorization may be temporary and need not be in writing unless otherwise required by law.

"Background check" means a set of required records that are obtained and analyzed to determine whether the history of a prospective foster parent, kinship foster parent, or non-certified kin meets legal and safety criteria when considering the placement or continued placement of children and youth in the care of the person(s). The checks include all adults residing in the home. The following individual checks are required pursuant to Sections 19-3-406, 19-3-407, and 26-6-106.3, C.R.S.:

1. CBI and FBI fingerprint-based criminal history record information checks;

2. State Judicial Department court case management system checks;

3. State automated case management system and child abuse and/or neglect registry checks 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 checks and national sex offender public website, publicly 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; and,

    b. Address only of the residence.

“Caregiver” means a child's parent, stepparent, guardian, legal custodian, relative, or any other person who resides in the child's home or who is regularly in the child's home for the purpose of exercising care over the child. It also includes the spousal equivalent or domestic partner of a parent or legal guardian. A “caregiver” shall not include a person who is regularly in the child's home for the purpose of rendering care for the child if such person is paid for rendering care and is not related to the child.

“Certificate” means a legal document granting permission to operate a foster care home or a kinship foster care home.

“Child” means any person from birth to eighteen (18) years of age.

“Child Abuse and Neglect Reporting Hotline System” or “the hotline system” is the telephone system that:

1. Routes calls that are received through the toll-free, statewide child abuse and neglect hotline or county dedicated child abuse and neglect reporting telephone lines to the applicable entity responsible for accepting a report of child abuse and/or neglect, or the applicable entity responsible for responding to an inquiry;

2. Records calls; and,

3. Captures call data including but not limited to call volume, average call wait time, and average call duration.

“Child Care Service” means care of a child under the age of thirteen (13) years for a portion of a day, but less than twenty-four (24) hours. These services may be provided in the child’s own home by a person other than the parent or the primary caregiver in a relative home, an exempt day care home, in a licensed or certified day care home, or licensed group day care facility. Older children who need protection or have a special need may be approved for service by the county department.

“Child in need of services” includes a child who receives services regardless of whether the services are court ordered, county provided or voluntarily arranged by the family, or a child who needs services even if the services are not provided.

“Child’s vulnerability” refers to circumstances that place a child at a greater risk for abuse and/or neglect such as being six years of age or younger or having limited capacity to self-protect or provide self-care due to physical, emotional, and/or cognitive limitations.

“Child Welfare Child Care” means child care assistance used to maintain children in their own homes or in the least restrictive out-of-home care when there are no other child care options available. This care is less than twenty-four (24) hours daily. See section 7.302, “Child Welfare Child Care” (12 CCR 2509-4).

“Child Welfare Services” are the services and payments for services (other than medical services covered by the “Colorado Medical Assistance Act”) available, directly or indirectly, through the state and county departments for the benefit of eligible persons pursuant to rules adopted by the State Department or State Board of Human Services.

“Client” means any person applying for or receiving child welfare services from a county department.

“Colorado Safety Assessment Tool” means the tool in the State automated case management system that guides a case worker through a safety assessment process.

“Concurrent planning” means the simultaneous preparation of plans to:

1) Assist the child's parents or caregivers in completing a treatment plan that, when completed successfully will allow the child to return home safely; and,

2) Place the child in a setting that will become the child's permanent home if the parents or caregivers are unable to successfully complete their treatment plan.

“Continuously available” means the assignment of a person to be near an operable telephone, pager system, cellular telephone, or to have such arrangements made through agreements with the local law enforcement agencies.

“Convicted”, for the purposes of the criminal history record information check, means a plea of guilty accepted by the court, including a plea of guilty entered pursuant to a deferred sentence under section 18-1.3-102, C.R.S., a verdict of guilty by a judge or jury, or a plea of no contest accepted by the court, or having received a disposition as a juvenile or having been adjudicated a juvenile delinquent based on the commission of any act that constitutes sexual assault, as defined in subsection (96.5) of section 19-1-103, C.R.S.

“County Department” means a county department of human or social services or, if applicable, the county agency responsible for providing child welfare services as defined by Section 26-5-101(3), C.R.S.

“De novo” means that when an issue is reviewed, affording no deference to the original decision.

“Dedicated Child Abuse and Neglect Reporting Telephone Line” is a county department telephone number that is used to receive calls related to child abuse and/or neglect. Calls to county departments’ dedicated child abuse and neglect reporting telephone lines will be routed through the statewide hotline system for recording and data collection purposes and routed to the county departments’ hotline workers.

“Delinquent act” means a violation of any statute, ordinance, or order enumerated in Section 19-2-104(1) (a), C.R.S. If a juvenile is alleged to have committed or is found guilty of a delinquent act, the classification and degree of the offense shall be determined by the statute, ordinance, or order that the petition in delinquency alleges was violated.

“Differential Response” is a dual-track response system for referrals that meet the criteria for assignment. The two response options are the High Risk Assessment (HRA) and the Family Assessment Response (FAR).

“Disqualifying factor” for the purpose of completing background checks for non-certified kinship care, kinship foster homes, and foster homes, means information that precludes safe placement of a child and/or youth by a county department of human or social services or a child placement agency into a prospective home. Factors include, but are not limited to:

1. A criminal conviction that is prohibited;

2. Confirmed child abuse and/or neglect in the state automated case management system or another state’s child abuse and neglect registry, and following a review of the information, it is determined that the placement is unsafe;

3. Identification of the person(s) or an adult residing in the home on the Colorado Bureau of Investigation (CBI) sex offender registry or the national sex offender public website operated by the United States Department of Justice (excluding youth in the custody of the county department of human or social services); and,

4. Convictions and dispositions in the court case management system that are similar to CBI findings.

“Domestic partner” means a person who is in a family-type living arrangement with a parent and who would be a stepparent if married to that parent. “Domestic partner” and “spousal equivalent” are interchangeable in these rules.

“Domestic violence” means the commission or threatened commission of violence, including coercion, control, punishment, intimidation or revenge upon a person by a person with whom there is or was an intimate relationship.

“Egregious incident of abuse and/or neglect” means an incident of suspected abuse and/or neglect involving significant violence, torture, use of cruel restraints, or other similar, aggravated circumstance.

“Egregious neglect”, for the purpose of determining severity level, is when the physical or emotional needs of the child are not met and involves significant violence, torture, use of cruel restraints, or other similar, aggravated circumstance.

“Egregious physical abuse”, for the purpose of determining severity level, is physical abuse involving significant violence, torture, use of cruel restraints, or other similar, aggravated circumstance.

“Emancipation from foster care” occurs when a youth reaches eighteen (18) years of age and is no longer under the jurisdiction of the court or is married or enters military service.

“Emancipation Transition Plan” means a personalized youth-driven written document that supports emancipation from foster care and is intended to prevent the youth from becoming homeless.

“Emotional abuse” means an identifiable and substantial impairment of the child's intellectual or psychological functioning or development or a substantial risk of impairment of the child's intellectual or psychological functioning or development as a result of the action or inaction of the alleged person responsible for abuse and/or neglect.

“Environment injurious to the welfare of a child” is when the environment caused injuries to the welfare of the child or reasonably could be foreseen as threatening to the welfare of the child and is in control of the parent, guardian, custodian or authorized caregiver.

“Expunge” is to designate a report or record as not having existed for the purpose of employment and background screening. However, a founded finding of abuse and/or neglect that is later expunged shall not preclude the county department from maintaining records of the report in the case file or in the state automated case management system for purposes of future safety and risk assessments.

“Facility” includes, but is not limited to: family child care homes, foster care homes, and any other facility subject to the Colorado “Child Care Licensing Act” and described in Section 26-6-102, C.R.S.

“Fair Hearing” means any procedure by which an Administrative Law Judge reviews facts in relation to an adverse action taken by a county department pursuant to Section 3.850 of the Department of Human Services’ Income Maintenance rules (9 CCR 2503-8).

“Family” means parents, adults fulfilling a parental role, guardians, children, and others individuals related by ancestry, adoption, or marriage or as defined by the family.

“Family Assessment Response (FAR)” means the differential response track established for low and moderate risk situations where no finding of abuse and/or neglect is made.

“Family search and engagement” means the diligent and timely good faith effort to locate and contact any noncustodial parent, all grandparent(s), other adult relatives, and the parent of a

sibling of a child/youth who has been removed from their legal custodian's home. Family search and engagement shall extend beyond the United States, its territories, or Puerto Rico, as appropriate.

"Fatal neglect," for the purpose of determining severity level, is when the physical or medical needs of the child are not met resulting in death.

"Fatal physical abuse," for the purpose of determining severity level, means excessive or inappropriate force used resulting in a child's death.

"Finding" means the determination about whether an incident of abuse and/or neglect occurred.

"Foster care" means the placement of a child into the legal custody or legal authority of a county department for physical placement of the child in foster family care homes, certified and non-certified kinship family care homes, or licensed facility.

"Foster care home" means a home that is certified by a county department of human or social services, or licensed child placement agency, pursuant to Section 26-6-106.3, C.R.S., for child care in a place of residence of a family or person for the purpose of providing twenty-four (24) hour foster care for a child and/or youth under the age of twenty-one years. A foster care home may include foster care for a child and/or youth who is unrelated to the head of the home or foster care provided through a kinship foster care home, but does not include non-certified kinship care defined in Section 19-1-103(78.7), C.R.S.

> The term includes any foster care home receiving a child and/or youth for regular twenty-four (24) hour care and any home receiving a child and/or youth from any state-operated institution for child care or from any child placement agency. Foster care home also includes those homes licensed by the Colorado Department of Human Services pursuant to Section 26-6-104, C.R.S., that receive neither moneys from the counties, nor children and/or youth placed by the counties.

"Founded" means that the abuse and/or neglect assessment established by a preponderance of the evidence that an incident(s) of abuse and/or neglect occurred. "Founded" can also be utilized in a referral when there is a law enforcement fatality investigation with no surviving child sibling, or a law enforcement investigation of a third party incident of abuse and/or neglect. "Founded" and "confirmed," as used in sections 19-3-308 - 308.5, C.R.S., are interchangeable in these rules.

"Framework" is a method for organizing and analyzing information as it pertains to child safety.

"Good cause" to modify the process would be limited to emergency conditions or circumstances beyond the control of the party seeking the modification such as, but not limited to, impossibility for a party to meet a specified deadline, incapacity of the party or representative, lack of proper notice of the availability of the appeal process, additional time required to obtain documents which were timely requested but not delivered, or other situations which would prevent a reasonable person from meeting a deadline or complying with the process without modification.

"Gray Area" is a heading included in the RED Team framework. This section captures any information, questions or areas needing further exploration. This may include risk factors that require some type of follow up to determine their validity and impact on the child(ren). Information captured in the "Gray Area" section may be routinely reviewed by child welfare staff to determine trends, or potential areas needing further discussion and /or elaboration when gathering information from reporters.

"High Risk Assessment (HRA)" means the differential response track established for high risk situations where the alleged victim child(ren) are identified and a finding of abuse and/or neglect is made.

“Hotline County Connection Center” is an entity contracted by the State Department to route calls to county departments, and at county departments’ request subject to the approval of the State Department’s Executive Director, receive reports and inquiries on their behalf.

“Household” is defined as:

1. One or more adult(s) and child(ren), if any, related by blood, or law, residing together.

2. Where adults, other than spouses, domestic partners, or spousal equivalent reside together, each is considered a separate household. Emancipated minors and children living under the care of individuals not legally responsible for that care are also considered separate households.

3. When determining monthly gross income in establishing a foster care fee, a stepparent, who is not legally responsible for a child, is not considered a member of the household. Stepchildren for whom the custodial parent(s) are not legally responsible are not considered part of the household in establishing a foster care fee.

“Impending danger” means a threat(s) to child safety not occurring at present but likely to occur in the near future and likely to result in moderate to severe harm to a child.

“Inconclusive” means that the abuse and/or neglect assessment established that there was some likelihood that an incident(s) of abuse and/or neglect occurred but assessment could not obtain the evidence necessary to make a founded finding.

“Independent Living Arrangement (I.L.A.)” means a placement in foster care where a youth lives independently in the community under the supervision of the county department. Receiving funds is not a necessary condition for a youth to be in an I.L.A. Youth shall receive casework services on I.L.A. with or without receipt of the I.L.A. stipend.

“Independent Living Assessment” means an evaluation of the youth's daily living skills. This assessment will document the youth's strengths and needs, as well as capacity and motivation to learn the appropriate skills.

“Independent Living Plan (I.L.P.)” means part of the Family Services Plan that includes those services designed to promote or enhance a youth's capacity to make a successful transition from out-of-home care to living independently and maintaining self-sufficiency.

“Inquiry” means a request for information or for specific services.

“Intrafamilial abuse and/or neglect” means any case of abuse and/or neglect, as defined in Sections 19-1-103(1) and 19-3-102(1) and (2), C.R.S., that occurs within a family or non-certified kinship care context by a caregiver; except that “intrafamilial abuse” shall not include abuse and/or neglect by a person who is regularly in the child's home for the purpose of rendering care for the child if such person is paid for rendering care and is not related to the child.

“Institutional abuse” means any case of abuse and/or neglect that occurs in any public or private facility in the state that provides out of the home care for children. Institutional abuse shall not include abuse and/or neglect that occur in any public, private, or parochial school system, including any preschool operated in connection with said system; except that, to the extent the school system provides licensed child care before and/or after school, abuse that occurs while such services are provided shall be institutional abuse.

“Juvenile” means any person between ten (10) and twenty-one (21) years of age.

“Kin” for purposes of a kinship foster care home or non-certified kinship care home, means a relative of the child and/or youth, a person ascribed by the family as having a family-like relationship with the child and/or youth, or a person that has a prior significant relationship with the child and/or youth. These relationships take into account cultural values and continuity of significant relationships with the child and/or youth.

“Kinship foster care home” means a foster care home that is certified by either a county department or a licensed child placement agency pursuant to Section 26-6-106.3, C.R.S., as having met the foster care certification requirements and the foster care of the child and/or youth is provided by kin.

> Kinship foster care providers are eligible for foster care reimbursement. A kinship foster care home provides twenty-four (24) hour foster care for a child and/or youth under twenty-one (21) years of age.

A “known” incident of abuse and/or neglect exists when a child has been observed being subjected to circumstances or conditions that would reasonably result in abuse and/or neglect.

“Local educational agency” means the local public school district, charter institute, Colorado school for the deaf and the blind, and/or board of cooperative education services (BOCES). Individual schools are part of their respective LEAs; for purposes of these regulations, communication with school-level staff is sufficient to satisfy requirements to communicate with the LEA.

“Mandatory reporter” means a person required by Section 19-3-304, C.R.S., to report suspected abuse and/or neglect.

“Minor neglect,” for the purposes of determining severity level, is when the physical or emotional needs of the child are marginally or inconsistently met, but there is little or no impact on the child's functioning.

“Minor physical abuse,” for the purposes of determining severity level, is excessive or inappropriate force used resulting in a superficial injury.

“Missing” means a child who is in the legal custody of the county department of human or social services and has been reported to the county department of human or social services as absent from out-of home placement and the child’s whereabouts are unknown by the county department of human or social services. “Moderate neglect,” for the purpose of determining severity level, is when the physical or emotional needs of the child are inadequately met resulting in some impairment in the child's functioning.

“Moderate physical abuse,” for the purposes of determining severity level, is excessive or inappropriate force used resulting in an injury that may require medical attention.

“Moderate to severe harm” means the consequence of maltreatment at a level consistent with a moderate, severe or fatal level of physical abuse, sexual abuse and/or neglect.

“Near fatal neglect”, for the purpose of determining severity level, is when the physical or emotional needs of the child are not met in an incident in which a physician determines that a child is in serious, critical, or life-threatening condition as the result of sickness or injury caused by suspected abuse and/or neglect.

“Near fatal physical abuse”, for the purpose of determining severity level, involves an incident in which a physician determines that a child is in serious, critical, or life-threatening condition as the result of sickness or injury caused by suspected abuse and/or neglect.

“Near fatality” means a case in which a physician determines that a child is in serious, critical, or life-threatening condition as the result of sickness or injury caused by suspected abuse and/or neglect.

“Non-certified kinship care” means a child and/or youth is being cared for by a relative or kin, who has a significant relationship with the child and/or youth, in circumstances when there is a safety concern by a county department in the home of the parent or legal guardian and the relative or kin has not met the foster care certification requirements for a kinship foster care home or has chosen not to pursue certification.

“Pattern of misdemeanors” for the purposes of the criminal history record information check shall be defined as:

A) Three (3) or more convictions of 3rd degree assault as described in section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3(1), C.R.S. ; OR,

B) Five (5) misdemeanor convictions of any type, with at least two (2) convictions of 3rd degree assault as described in Section 18- 3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3(1), C.R.S.; or,

C) Seven (7) misdemeanor convictions of any type.

“Personal Contact” is a method of contact in which two people exchange information in person or through live communication either via telephone or other emerging communications technology.

“Potential disqualifying factor” for the purpose of completing a background check for non-certified kinship care and kinship foster care homes, means information that may preclude the placement of a child and/or youth by a county department of human or social services or a child placement agency into a prospective home. Factors include, but are not limited to:

1. A criminal conviction that may be prohibited;

2. Confirmed child abuse and/or neglect in the state automated case management system or another state’s child abuse and neglect registry, and following a review of the information, it is determined that any safety concerns can be mitigated;

3. The court orders and affirms the placement of the child or youth with kin; or,

4. Additional documented information that was acquired that raises concern about safety in the home.

“Preponderance of evidence” means credible evidence that a claim is more likely true than not.

“Present danger” means an immediate, significant, and clearly observable threat to child safety that is actively occurring and will likely result in moderate to severe harm to a child.

“Primary caregiver” means the caregiver who assumes the most responsibility for care of the child.

“Provider” means a vendor of goods and/or services under the child welfare services program.

“Purchased services” are those services made available to clients through another public agency, a private agency, or a private individual under contract with the state or county department.

“Reasonable and prudent parent standard” means careful and sensible parental decisions that maintain the health, safety, and best interests of the child or youth while encouraging the emotional and developmental growth of the child or youth that a provider shall use 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 responsibility of the Division of Youth ~~Corrections (DYC)~~ SERVICES (DYS) to participate in extracurricular, enrichment, cultural, and social activities based upon the criteria in Section 7.701.200 (12 CCR 2509-8).

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Notice of Proposed Rulemaking

Tracking number

2017-00308

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-3

Rule title

PROGRAM AREAS, CASE CONTACTS, AND ONGOING CASE REQUIREMENTS

Rulemaking Hearing

Date

09/01/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

To be in compliance with legislation passed during the 2017 legislative session, the name of Division of Youth Corrections needs to be changed to Division of Youth Services, and Child Protection Teams rule needs to be repealed.

Statutory authority

26-1-107, C.R.S. (2015)
26-1-109, C.R.S. (2015)
26-1-111, C.R.S. (2015)
26-1-111, C.R.S. (2015)

Contact information

Name

Paige Rosemond

Title

Rule Author

Telephone

3038662866

Email

paige.rosemond@state.co.us

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-3)**		
CDHS Tracking #:	**17-06-16-02**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

To be in compliance with legislation passed during the 2017 legislative session, the name of "Division of Youth Corrections" needs to be changed to "Division of Youth Services," and Child Protection Teams rule needs to be repealed.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

[X] to comply with state/federal law and/or
[ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] No

If yes, please explain.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-3)**		
CDHS Tracking #:	**17-06-16-02**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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?

County Departments of Human/Social Services

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?

County Departments of Human/Social Services will now have the option as to whether or not and how they utilize Child Protection Teams. Therefore, County Departments of Human/Social Services may be positively impacted as resources utilized to coordinate and facilitate this process can be reallocated elsewhere.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

In regards to Child Protection Teams, there is no fiscal impact to the State as they are not a process initiated of facilitated by the State.

County Fiscal Impact

This change could potentially have a positive fiscal impact and resources may not be utilized to facilitate and participate in Child Protection Teams. Therefore, these resources may be utilized elsewhere.

Federal Fiscal Impact

There is not fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The Office of the State Auditors' (OSA) 2014 Child Welfare Performance Audit helped to inform the statutory change to make Child Protection Teams optional as opposed to mandatory.

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?

There were extensive efforts to modify the Child Protection Teams process via prior unsuccessful rule promulgation, prior unsuccessful statutory changes, and through the Department's memorandum series. The repeal of the rule is in alignment with the recommendations of OSA's audit and what was learned through the prior attempts to modify the process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-3)**		
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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.200.15	Revision	An initial assessment by the county department of social services staff shall include: A. The appropriateness of referral; B. Determining if the case is open in the agency; C. Awareness of agency and community resources and their current availability; D. Initial assessment of problem and service needs; E. Determining if another agency can better serve the client; F. Information about risk factors that can be used in making decisions about urgency of service delivery; and, G. Determining whether an emergency exists that meets the emergency assistance criteria in accordance with Section 7.601.83 (12 CCR 2509-7).	An initial assessment by the county department of social services staff shall include: A. The appropriateness of referral; B. Determining if the case is open in the agency; C. Awareness of agency and community resources and their current availability; D. Initial assessment of problem and service needs; E. Determining if another agency can better serve the client; F. Information about risk factors that can be used in making decisions about urgency of service delivery; and, G. Determining whether an emergency exists that meets the emergency assistance criteria in accordance with Section 7.601.~~8~~73 (12 CCR 2509-7).		

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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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Senators Cheri Jahn and Tim Neville, and Representatives Tracy Kraft-Tharp and Dan Nordberg, Senate Health & Human Services Committee, and House Public Health Care & Human Services Committee, 2015 Legislative Committee, Child Protection Task Group, Sub PAC, PAC, CDHS Community Partner Announcement to 4000 stakeholders, Ombusdsman's Office, Rocky Mountain Children's Law Center, multiple webinars

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:

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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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
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Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] No

(12 CCR 2509-3)

7.200.15 Initial Functional Assessment [Eff. 1/1/15]

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[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

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(12 CCR 2509-3)

7.200.15 Initial Functional Assessment [Eff. 1/1/15]

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D. Initial assessment of problem and service needs;

E. Determining if another agency can better serve the client;

F. Information about risk factors that can be used in making decisions about urgency of service delivery; and,

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****

Notice of Proposed Rulemaking

Tracking number

2017-00309

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

09/01/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

To be in compliance with legislation passed during the 2017 legislative session, the name of Division of Youth Corrections needs to be changed to Division of Youth Services. In addition, legislation now allows for a third party vendor approved by the Colorado Bureau of Investigation to complete fingerprinting.

Statutory authority

26-1-107, C.R.S. (2015)
26-1-109, C.R.S. (2015)
26-1-111, C.R.S. (2015)
26-1-111, C.R.S. (2015)

Contact information

Name

Paige Rosemond

Title

Rule Author

Telephone

303-866-2866

Email

paige.rosemond@state.co.us

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-4)**		
CDHS Tracking #:	**17-06-16-04**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

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- [ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] No

If yes, please explain.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-4)**		
CDHS Tracking #:	**17-06-16-04**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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?

County Departments of Human/Social Services

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?

The changes are strictly technical and change the name for the Division of Youth Corrections to the Division of Youth Services. Therefore, it will not have an impact on County Departments of Human/Social Services.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

The technical name change may have some fiscal impact to the Department to rebrand any marketing materials, but this impact will not be to the Division of Child Welfare.

County Fiscal Impact

There is no fiscal impact to county departments as these changes only impact the State's rebranding process.

Federal Fiscal Impact

There is no fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This name change was a result of legislative efforts to better reflect a continuum of services provided through, what was formally known as, the Division of Youth Corrections.

5. Alternatives to this Rule-making

Alternatives to this effort were discussed in the stakeholder and legislative committee meetings during the legislative process.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.303.32	Revision	B. The MOU shall be between interested county departments of human/social services and local representatives of each of the following agencies: 1. The local judicial district(s), including probation services; 2. The health department, whether a county, district, or regional health department; 3. The local school district(s); 4. Each community mental health center; 5. Each Behavioral Health Organization (BHO); 6. The Division of Youth Corrections; 7. A managed service organization for the provision of treatment of services for alcohol and drug abuse; and, 8. A community domestic abuse program, if representation is available.	B. The MOU shall be between interested county departments of human/social services and local representatives of each of the following agencies: 1. The local judicial district(s), including probation services; 2. The health department, whether a county, district, or regional health department; 3. The local school district(s); 4. Each community mental health center; 5. Each Behavioral Health Organization (BHO); 6. The Division of Youth ~~Corrections~~ SERVICES; 7. A managed service organization for the provision of treatment of services for alcohol and drug abuse; and, 8. A community domestic abuse program, if representation is available.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.304.21	Revision	3) Kin who is not disqualified as an emergency placement and who authorizes the child(ren)/youth to be placed in the home shall report to law enforcement or the county department of human or social services, if a fingerprint machine is available to submit fingerprints no later than five calendar days after the child(ren)/youth are placed in the home or no later than fifteen calendar days when documented urgent circumstances exist. The cost of the fingerprints is the responsibility of the relative or other available person.	3) Kin who is not disqualified as an emergency placement and who authorizes the child(ren)/youth to be placed in the home shall report to law enforcement, ~~or~~ the county department of human or social services, OR ANY THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION if a fingerprint machine is available to submit fingerprints no later than five calendar days after the child(ren)/youth are placed in the home or no later than fifteen calendar days when documented urgent circumstances exist. The cost of the fingerprints is the responsibility of the relative or other available person.		

7.305.33	Revision	For youth open in a case and who are in the "Follow-Up Population", the county department or Division of Youth Corrections shall assure that the "follow-up surveys" are completed by the youth within the six (6) month period to which they are assigned. For youth who have discharged from care who are in the "follow-up population", the county department or Division of Youth Corrections shall assist the Division of Child Welfare in locating and engaging youth to complete the survey during the period to which they are assigned.	For youth open in a case and who are in the "Follow-Up Population", the county department or Division of Youth ~~Corrections~~ SERVICES shall assure that the "follow-up surveys" are completed by the youth within the six (6) month period to which they are assigned. For youth who have discharged from care who are in the "follow-up population", the county department or Division of Youth ~~Corrections~~ SERVICES shall assist the Division of Child Welfare in locating and engaging youth to complete the survey during the period to which they are assigned.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.305.41	Revision	F.The county department shall consider the following factors, in the prioritization of Chafee services on an individual basis: 1. Risk or history of human trafficking; 2. Risk or history of homelessness; 3. Whether the youth has emancipated from Child Welfare or exited the Division of Youth Corrections after attaining age eighteen (18), or is expected to do so;	F.The county department shall consider the following factors, in the prioritization of Chafee services on an individual basis: 1. Risk or history of human trafficking; 2. Risk or history of homelessness; 3. Whether the youth has emancipated from Child Welfare or exited the Division of Youth ~~Corrections~~ SERVICES after attaining age eighteen (18), or is expected to do so;	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.305.42	Revision	A. Meet Program Area 4, 5, or 6 target group eligibility requirements, in a non-secure setting, with the Division of Youth Corrections, or meet requirements for ongoing Chafee services in the state where the youth emancipated, was adopted or entered Relative Guardianship, if other than Colorado.	A. Meet Program Area 4, 5, or 6 target group eligibility requirements, in a non-secure setting, with the Division of Youth ~~Corrections~~ SERVICES, or meet requirements for ongoing Chafee services in the state where the youth emancipated, was adopted or entered Relative Guardianship, if other than Colorado.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.311.63	Revision	c. Any change in a non-Title IV-E relative guardianship assistance agreement must be related to the specific needs of the youth or child, the relative guardian's circumstances, and the county department's policy. The county department shall negotiate with the relative guardian that when the youth or child is in out-of-home care or committed to the Division of Youth Corrections for more than thirty (30) days, the assistance payment shall be suspended until the youth or child returns to the relative guardian's home.	c. Any change in a non-Title IV-E relative guardianship assistance agreement must be related to the specific needs of the youth or child, the relative guardian's circumstances, and the county department's policy. The county department shall negotiate with the relative guardian that when the youth or child is in out-of-home care or committed to the Division of Youth ~~Corrections~~ SERVICES for more than thirty (30) days, the assistance payment shall be suspended until the youth or child returns to the relative guardian's home.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.

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7.311.82	Revision	**7.311.82 Procedures for Relative Guardianship Assistance Payment When a Youth or Child is in Out-of-Home Care or Committed to the Division of Youth ~~Corrections~~** A. Medicaid eligibility shall continue for Title IV-E eligible youth or children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State Prescribed form (see County Responsibility, Section 7.402.2). B. When a youth or child with a non-Title IV-E relative guardianship assistance agreement is placed in out-of-home care for more than thirty (30) days, the county department shall discontinue the relative guardianship assistance payment until the youth or child returns to the relative guardian's home. This includes a commitment to the Division of Youth Corrections.	**7.311.82 Procedures for Relative Guardianship Assistance Payment When a Youth or Child is in Out-of-Home Care or Committed to the Division of Youth ~~Corrections~~ SERVICES** A. Medicaid eligibility shall continue for Title IV-E eligible youth or children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State Prescribed form (see County Responsibility, Section 7.402.2). B. When a youth or child with a non-Title IV-E relative guardianship assistance agreement is placed in out-of-home care for more than thirty (30) days, the county department shall discontinue the relative guardianship assistance payment until the youth or child returns to the relative guardian's home. This includes a commitment to the Division of Youth ~~Corrections~~ SERVICES.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-4)**		
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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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Representatives Pete Lee and Lois Landgraf and Senators Don Coram and Daniel Kagan, House Judiciary Committee, House Appropriations Committee, Senate State, Veterans, & Military Affairs Committee, and Senate Appropriations Committee.

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:

CDHS Policy Advisory Committee (PAC), Child Welfare Sub PAC, County Departments of Human/Social 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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] No

7.303.32 Availability [Rev. eff. 8/1/15]

A. Collaborative Management is an optional program for an individual county or groups of counties. Counties may elect to participate by entering into a Memorandum of Understanding (MOU) that is designed to promote a collaborative system to coordinate and manage the provision of services to children, youth, and families who would benefit from an integrated multi-system approach to service and service delivery. Counties must use the MOU template provided by the State and developed in conjunction with the Colorado Judicial Districts.

B. The MOU shall be between interested county departments of human/social services and local representatives of each of the following agencies:

1. The local judicial district(s), including probation services;

2. The health department, whether a county, district, or regional health department;

3. The local school district(s);

4. Each community mental health center;

5. Each Behavioral Health Organization (BHO);

6. The Division of Youth ~~Corrections~~ SERVICES;

7. A managed service organization for the provision of treatment of services for alcohol and drug abuse; and,

8. A community domestic abuse program, if representation is available.

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7.304.21 Kinship Care [Rev. eff. 1/1/17]

A. Definition: Refer to Section 7.000.2 (12 CCR 2509-1) for the definition of “kin” and “non-certified kinship care”.

B. Kinship care shall be utilized in order to:

1. Maintain child(ren)/youth in their families or with persons with whom they have a family like or prior significant relationship in order to provide meaningful, emotional and cultural ties across their life span.

2. Minimize the trauma of out-of-home placement.

3. Support and strengthen families' ability to protect their child(ren)/youth and to provide permanency.

C. Kinship care: Assessment and Decision-Making

1. If during an assessment it is discovered that the child(ren)/youth and their parents are living with kin:

a) The child(ren)/youth are not considered to be in out-of-home care as the child(ren)/youth are living with their parents.

b) The rules for assessment apply (see Section 7.104 et seq.[12 CCR 2509-2]).

2. If during an assessment it is discovered that the child(ren)/youth are not living with their parents, but with kin:

a) The child(ren)/youth are not considered to be in out-of-home care as the child(ren)/youth are living with kin through arrangements made by the family.

b) The rules for assessment apply (see Section 7.104 et seq.[12 CCR 2509-2]).

c) These kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.

3. If during an assessment it is discovered that the child(ren)/youth are in current or impending danger with their caregiver(s) and the family agrees to a temporary living arrangement with kin through the use of a safety plan:

a) The assessment cannot be closed until one of the following:

1) The child(ren)/youth have been returned to the care of their caregiver(s);

2) Documentation is obtained demonstrating that legal authority has been granted to kin (documented in the state automated child welfare information system); or,

3) A child welfare case has been opened.

b) The child(ren)/youth are not considered to be in out-of-home care as the arrangements are made through a safety plan.

c) These kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.

d) If a case is not opened, the rules for assessment apply (see Section 7.104 et seq. [12 CCR 2509-2]).

e) If a case is opened, the permanency goal is identified as return home from kinship care and the child(ren)/youth are considered in kinship care. A removal is not opened and the rules for non-certified kinship care apply when the county department has not assumed legal authority for placement or taken legal custody (see Section 7.304.21, D).

4. If during an assessment it is discovered that the child(ren)/youth are in current or impending danger with their caregiver(s) and the family will not agree to a temporary living arrangement with kin through the use of a safety plan:

A) The assessment cannot be closed until one of the following occurs:

1) The child(ren)/youth have been returned to the care of their caregiver(s);

2) Documentation is obtained demonstrating that legal authority has been granted to kin (documented in the state automated child welfare information system); or,

3) A child welfare case has been opened.

b) Child(ren)/youth are considered to be in out-of-home care and a removal is required.

c) Kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.

d) The rules for kinship care apply when the county department has assumed legal authority for placement or taken legal custody (see Section 7.304.21, E).

D. Kinship care services when the county department has not assumed legal authority for placement or taken legal custody, the county department shall:

1. Enable the family to make voluntary arrangements for temporary custody or guardianship by kin;

2. Provide parents and kin caring for the child(ren)/youth services to ensure the child(ren)/youth's safety, well-being, and smooth transition back to the parent's home. When return to parent's home is not a viable option, services to kin shall be used to help to provide permanency for the child(ren)/youth. The child(ren)/youth may receive such services without court involvement.;

3. Evaluate the non-certified kinship family addressing the areas of: safety, parenting skills, potential for permanency, needs of the kinship family, a support system, strengths and any other areas deemed necessary by the county department.

4. Ensure initiation of a signed original application to provide care for child(ren)/youth or a state approved, county specific kinship application at the time of change in a child(ren)/youth’s living arrangement and document completion in the state automated child welfare information system.

5. Advise the kinship providers of the types of support listed in 7.304.21, E, 3.

6. Complete a background check for each adult (18 years and older) living in the home. These checks shall be completed prior to the child(ren)/youth’s change in living arrangement and documented in the state automated case management system. The background check shall include:

a. Child abuse and/or neglect records in every state where any adult residing in the home has lived in the five years immediately preceding the date of application, except that child abuse and neglect records in other states where an adult has resided shall be initiated no later than seven (7) working days following placement.

b. Fingerprint-based criminal history record information checks from the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation (FBI) shall be conducted prior to placement unless it is an emergency placement (see Section 7.304.21, E, 2, f) in order to determine if any adult who resides in the home has been convicted (see Section 7.000.2 [12 CCR 2509-1]) of:

1) Child abuse, as specified in Section 18-6-401, C.R.S.;

2) A crime of violence, as defined in Section 18-1.3-406(B)(I), C.R.S.;

3) An offense involving unlawful sexual behavior, as defined in Section 16-22-102 (9), C.R.S.;

4) A 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(1), C.R.S.;

5) A felony involving physical assault, battery, or a drug-related offense within five years of the date of application;

6) A pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. (see Section 7.000.2 [12 CCR 2509-1])

7) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in 1-6, above.

c. Review the court case management system of the State Judicial Department and include a copy of the information in the case record; and,

d. Review the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement and include a copy of the information in the case record:

1) Known names and addresses of each adult residing in the home; and,

2) Address only of the non-certified kinship care home.

7. Receive affirmation of the placement either through a court order or county director(s) affirmation to place or allow continued placement of a child(ren)/youth with a non-certified kin or other adult living in the home that would otherwise be disqualified in Section 7.304.21, D, 8 and 9.

8. Decline placement of a child(ren)/youth in the home if the kin or any adult eighteen (18) years of age or older who resides in the home has been convicted of any offense described in Section D, 6, B, 1-7, is a registered sex offender or, is determined unsafe following a review of a finding of child abuse and/or neglect in the state automated case management system.

9. Evaluate the appropriateness of the placement. If a disqualifying factor (refer to Section 7.000.2, 12 CCR 2509-1) is identified following the placement of a child(ren)/youth in a non-certified kinship care home, a plan shall be developed as soon as possible and documented in the state automated case management system to address and remedy the concerns no later than two weeks after the date of placement. The plan shall include the following:

a. The circumstances of the placement;

b. The vulnerability of the child(ren)/youth, including age and development;

c. Safety issues impacting the child(ren)/youth;

d. Supports needed by the non-certified kinship caregiver(s); and,

e. Alternative solutions to removal of the child(ren)/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:

1) Risk and safety;

2) Level of functioning;

3) Strengths;

4) Specific areas of concern to be addressed;

5) Services and supports needed; and,

6) Changes that must occur to mitigate the concerns.

E. Kinship care services when the county department has assumed legal authority for placement or been granted legal custody:

1. Eligible Populations: The child(ren)/youth shall meet the following criteria for placement in kinship care through the child welfare system:

a. Program Area 4, 5, or 6 target groups (refer to Section 7.000.1, 12 CCR 2509-1)and out-of-home placement criteria; and

b. There is legal authority for placement as defined in Section 7.304.51 and the Children's Code through a court order, a Dependency and Neglect or Delinquency action, emergency removal by law enforcement, or a voluntary placement, followed within 90 calendar days by a Petition for Review of Need for Placement (PRNP).

2. Placement with Kinship Care Providers:

a. When out-of-home placement is necessary, the county department shall determine whether there are available and willing kin to provide for the child(ren)/youth.

1) Kinship care providers shall be advised of the types of support available to them through the county department including:

a) Family preservation,

b) Certification for kinship foster care, and

c) The relative guardianship assistance program (see Section 7.311, et seq).

2) In the decision making process, funding and types of support including:

a) Kinship care may be considered a means of family preservation rather than a placement service.

b) The kinship caregiver(s) may become a foster care home. If the kinship caregiver prefers to be a kinship foster care home, the county director or his/her designee may allow a waiver of non-safety certification standards (see Section 7.708.7 (12 CCR 2509-8).

c) Kinship caregivers for title IV-E eligible child(ren)/youth are entitled to the same level of reimbursement as non-related providers. Kinship caregivers may elect to receive no payment.

d) Other funding and support services, including in-kind or concrete services, can be put into place as mutually agreed upon with the provider.

3) Relative kinship care providers and potential relative kinship care providers shall be informed about the types of support noted in 7.304.21, E, 2, a, 1. The information provided, including the date(s), shall be documented in the statewide automated child welfare information system.

b. Parent(s) shall be included as part of the planning process when considering placement with kin unless there are documented reasons for their unavailability to participate.

c. If kin are available and willing, the county department shall assess the suitability of kin in accordance with the foster care certification requirements found at Sections 7.500 (12 CCR 2509-6) and 7.708 (12 CCR 2509-8).

d. If the parent(s) do not agree to a specific kinship placement, the county department shall request court ordered assessment for possible placement with kin, identify other kinship placement possibilities, and/or revisit possible kinship placement at a later time if out-of-home placement continues to be necessary. If the assessment is favorable, and the parent(s) still object to the kinship placement, the county department may request that the court order the kinship placement.

e. When removal from parents or guardians occurs on an emergency basis, child(ren)/youth may be placed with kinship providers who may be provisionally certified as a kinship foster care home in accordance with Section 7.500.311, C and D (12 CCR 2509-6).

f. When an emergency placement is necessary and a prospective relative or other available person is identified, and child(ren)/youth are placed into temporary custody by law enforcement and/or the court places temporary custody with a county department of human or social services the following actions shall occur prior to placement of child(ren)/youth in the home:

1) The county department shall contact local law enforcement to conduct an initial name-based state and federal criminal history record check. The results of the criminal record check shall be provided verbally to the county department. The county department of human or social services or law enforcement shall immediately conduct an initial criminal history record check of the relative or other available person and all adults in the home. If law enforcement is completing the criminal history check, the county department of human or social services shall request a verbal report regarding each person's criminal history from federal and state databases, and include the results in the case record.

2) The child(ren)/youth shall not be placed in the home if the criminal history record information check reflects one or more convictions of the criminal offenses listed in Subsection 7.304.21, D, 2, f, 7 unless ordered by the court.

3) Kin who is not disqualified as an emergency placement and who authorizes the child(ren)/youth to be placed in the home shall report to law enforcement, ~~or~~ the county department of human or social services, OR ANY THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION if a fingerprint machine is available to submit

fingerprints no later than five calendar days after the child(ren)/youth are placed in the home or no later than fifteen calendar days when documented urgent circumstances exist. The cost of the fingerprints is the responsibility of the relative or other available person.

4) The county department shall confirm timely submission of fingerprints from kin:

   a) With law enforcement: The county department shall contact the local law enforcement agency within fifteen (15) days following the placement of the child(ren)/youth to assure the potential provider reported for the purpose of obtaining fingerprints within the specified timeframe. If kin did not comply, then the child(ren)/youth shall be removed immediately from the physical custody of the person by the county department of human or social services or local law enforcement officer, unless otherwise ordered by the court; or,

   b) When the county department of human or social services has a fingerprint machine: if kin did not comply, the child(ren)/youth shall be removed immediately from the physical custody of the person by the county department of human or social services or local law enforcement officer, unless otherwise ordered by the court.

5) A fingerprint-based criminal history record information check will be conducted by CBI using state and national CBI and FBI records. The local law enforcement agency is the authorized agency to receive the results.

6) If the fingerprint-based criminal history record information check indicates the person has a disqualifying criminal history, the county department of human or social services or local law enforcement officer shall immediately remove the child(ren)/youth from the emergency placement and shall not place a child(ren)/youth with the person who has the criminal history without court involvement and an order of the court affirming placement of the child(ren)/youth with the person.

7) A county department of human or social services or local law enforcement shall not make an emergency placement or continue the emergency placement of a child(ren)/youth with a person who has been convicted of one or more of the following offenses:

   a) Child abuse, as specified in Section 18-6-401, C.R.S.;

   b) A crime of violence, as defined in Section 18 1.3 406(B)(I), C.R.S.;

   c) An offense involving unlawful sexual behavior, as defined in Section 16-22-102(9), C.R.S.;

   d) A felony, the underlying actual 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(1), C.R.S.;

   e) A felony involving physical assault or a drug-related offense, committed within the preceding five years;

f) Violation of a protection order, as described in Section 18-6-803.5, C.R.S.;

g) A crime involving homicide; or,

h) An offense in any other state the elements of which are substantially similar to the elements of any one of the offenses described in a-g, above.

8) If a relative or other person was not disqualified as an emergency placement based upon the fingerprint-based criminal history record information check and the child(ren)/youth were placed in the emergency placement, the county department of human or social services shall complete the following checks for the relative or available person and all adults in the home:

a) Review the court case management system of the State Judicial Department and include a copy of the information in the case record;

b) Review the state automated case management system and the child abuse and/or neglect registries in all states the adults living in the home have resided in the five years preceding the date of application and include a copy of the information in the case record; and,

c) Review the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement, and annually, and include a copy of the information in the case record:

i) Known names and addresses of each adult residing in the home; and,

ii) Address only of the kinship home.

9) If information is found as a result of any checks of the relative or other available person that continued placement is unsafe, the county department of human or social services shall remove the child(ren)/youth.

10) If a disqualifying factor (refer to Section 7.002) and/or a concern about the safety of the child(ren)/youth is identified following the placement of the child(ren)/youth, the 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:

a) Review the circumstances of the placement;

b) Evaluate the vulnerability of the child(ren)/youth, including age and development;

c) Safety issues impacting the child(ren)/youth;

d) Supports needed by the non-certified kinship caregiver(s); and,

e) Identify alternative solutions to removal of the child(ren)/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:

i) Risk and safety;

ii) Level of functioning;

iii) Strengths;

iv) Specific areas of concern to be addressed;

v) Services and supports needed; and,

vi) Changes that must occur to mitigate the concerns.

11) Fingerprint-based criminal history record information checks are not required if the relative or other available person in the home completed them within the three months preceding date of placement. The following checks shall be completed and included in the case record, and documented in the state automated case management system:

a) State automated case management system;

b) The CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement and annually:

i) Known names and addresses of each adult residing in the home; and,

ii) Address only of the kinship home.

c) Court case management system of the State Judicial Department; and,

d) Contact law enforcement to determine if any additional criminal history occurred or complete an online CBI name-based check.

g. Substitution of Fingerprints for Foster Care Certification

1) If the county department of human or social services or a child placement agency (when applicable) intends to accept an application for foster care, CBI shall be notified within five calendar days after requesting fingerprint-based criminal history record information checks in order to prompt flagging and automatic notification to the county department of human or social services or child placement agency when there are new criminal charges; and,

2) The substitute fingerprint process meets the requirement for an applicant for foster care certification pursuant to Section 26-6-106.3, C.R.S.

h. The reasonable and prudent parent standard requirements for a kinship provider or kinship foster parent to approve activities for a child(ren)/ or youth in foster care requires the following action: The county department of human or social

services or child placement agency shall train the caregiver how to determine whether an extracurricular, enrichment, cultural, or social activity is consistent with the reasonable and prudent parent standard, when approving an age or developmentally appropriate activity identified in Section 7.701.200 (12 CCR 2509-8).

3. Decision Making:

a. As part of the assessment process, the county department of human or social services shall determine, with the kinship care provider, which funding options and support services will be necessary to support the placement. If the child(ren)/youth is eligible, at a minimum, the following funding sources shall be considered to support the child(ren)/youth in a kinship care placement:

1) Child Support by the absent parent(s). For Child Support, a referral shall be made to child support services;

2) Social Security and/or other death benefits;

3) Supplemental Security Income; see Section 7.001.44 (12 CCR 2509-1);

4) Supplemental Security for Disability Income;

5) Temporary Assistance to Needy Families - for kinship care to be supported by Temporary Assistance to Needy Families, the caretaker must meet the Temporary Assistance to Needy Families definition in Section 3.600 of the Income Maintenance manual (9 CCR 2503-1);

6) Tricare or other medical benefits;

7) Medicaid;

8) Core Services (Section 7.303);

9) Child Welfare Child Care;

10) Colorado Child Care Assistance Program;

11) In-Kind Services or Donations;

12) Foster care maintenance payment; see Section 7.500.31, A (12 CCR 2509-6);

13) IV-E or state relative guardianship assistance program; see Section 7.311 et seq.

14) IV-E or state adoption assistance.

b. This decision making process shall address the needs of the child(ren)/youth, family and kin and focus on how the goals of safety, permanency, and child(ren)/youth well-being can be most effectively achieved for the child(ren)/youth.

c. The kinship care provider shall be advised of all support options available, and shall be advised of the grievance process available to certified and licensed providers.

d. Requests for approval for any exceptions for relatives to the foster care rules outlined in Section 7.708 (12 CCR 2509-8) shall be submitted by the county department of human or social services or child placement agency to the State Child Care Appeal Panel in accordance with procedures established by the Colorado Department of Human Services.

4. Services to kinship care providers shall:

a. Include training, support and services specific to the needs of kinship care providers.

b. Include supervision as described in the child(ren)/youth's Family Services Plan and in Section 7.500.313, A (12 CCR 2509-6).

5. Services to children/youth in all kinship care placements shall: Include the requirements of Section 7.301 (12 CCR 2509-4), assessment and case planning section.

6. Permanency Planning in Kinship Care

a. When a child(ren)/youth has been placed by the county department into temporary kinship care and reasonable efforts to reunite the child(ren)/youth with the parents are not successful, the county department shall consider permanent placement with the kinship care provider or other appropriate kin. The preferred permanent placement shall be adoption, legal guardianship, or permanent custody.

b. The grandparent, aunt, uncle, brother or sister must file a request with the court no later than twenty (20) days after the motion for termination has been filed, if the provider wishes to be considered as the guardian or to take legal custody of the child(ren)/youth. following the order of termination of the parent-child(ren)/youth legal relationship, the court shall give preference to this provider if it has been determined to be in the best interest of the child(ren)/youth and the attachment of the child(ren)/youth to the current caregiver has been considered.

****

7.305.33 Follow-Up Population [Rev. eff. 11/1/15]

The "Follow-Up Population" consists of young people who were in the baseline population at age seventeen (17) who reach age nineteen (19) or age twenty-one (21) during the six-month survey period and who appear in the survey population or sample indicated in the Trails NYTD screen.

For youth open in a case and who are in the "Follow-Up Population", the county department or Division of Youth ~~Corrections~~ SERVICES shall assure that the "follow-up surveys" are completed by the youth within the six (6) month period to which they are assigned.

For youth who have discharged from care who are in the "follow-up population", the county department or Division of Youth ~~Corrections~~ SERVICES shall assist the Division of Child Welfare in locating and engaging youth to complete the survey during the period to which they are assigned.

****

7.305.41 County Responsibilities [Rev. eff. 11/1/15]

A. The designated host county department shall submit a county plan for State approval.

B. The county department shall comply in format, content, and time lines with the instructions for Chafee Foster Care Independence Program plans as published by the State Department in an agency letter which will also contain required instructions for program and financial reporting.

C. The county department shall administer the State approved plan in accordance with provisions of the plan.

D. Funds shall be used exclusively for the purposes specified in the plan.

E. County departments must submit amendments to approved plans when the county is proposing to add or delete a service to the plan. The county department shall submit amendments of the Chafee Foster Care Independence Program plan for approval to the State Department no less than thirty (30) business days before the amendment is to be effective.

F. The county department shall consider the following factors, in the prioritization of Chafee services on an individual basis:

1. Risk or history of human trafficking;

2. Risk or history of homelessness;

3. Whether the youth has emancipated from Child Welfare or exited the Division of Youth ~~Corrections~~ SERVICES after attaining age eighteen (18), or is expected to do so;

4. Previous participation in Chafee services or transfer of services from another county or state;

5. Enrollment and progress in educational programs, internships or apprenticeships;

6. Enrollment and progress in workforce innovation and opportunity act programs or workforce development activities; and,

7. Connection to permanent, supportive adults and personal support systems.

7.305.42 Eligibility [Rev. eff. 11/1/15]

To be eligible for Chafee Foster Care Independence Program (CFCIP) services, the youth must:

A. Meet Program Area 4, 5, or 6 target group eligibility requirements, in a non-secure setting, with the Division of Youth ~~Corrections~~ SERVICES, or meet requirements for ongoing Chafee services in the state where the youth emancipated, was adopted or entered Relative Guardianship, if other than Colorado.

****

7.311.63 Negotiation of Relative Guardianship Assistance Agreements [Rev. eff. 12/1/12]

A. The county department shall:

1. Establish a policy regarding the criteria used for calculating the relative guardianship assistance agreements. The agreements shall be established in accordance with the written policy.

2. Determine specific needs of the youth or child and eligibility for relative guardianship assistance.

3. Utilize financial information regarding the relative guardian's family including assets, liabilities and insurance benefits in negotiating the initial agreement, and any subsequent increases in relative guardianship assistance.

4. Not include a statement in the relative guardianship assistance agreement that Title IV-E relative guardianship assistance payments and/or services are subject to the appropriation of state funds.

5. Make a good faith effort to negotiate a relative guardianship assistance agreement with the relative guardian and base the negotiation on the needs of the youth and child and the circumstances of the relative guardian. If the parties cannot agree, the county department shall establish the amount. If the relative disagrees with the decision, a fair hearing may be requested.

6. Negotiate with the relative guardian the amount that is needed by the relative guardian to meet the needs of the youth or child. This may be less than the amount for which the youth or child qualifies.

7. Establish a maximum rate that may be provided to a relative guardian; the rate cannot exceed the current foster care maintenance rate that was reimbursed for the out-of-home care of the youth, or that would have been reimbursed if the youth or child was currently in out-of-home care. The monthly respite care payment that is provided in the foster care rate is not a benefit under the relative guardianship assistance program.

8. Identify additional services and assistance that the youth or child will be eligible for and the procedures for applying for the services.

9. Use the State Department's prescribed forms to document the negotiated agreement for Title IV-E or non-Title IV-E relative guardianship assistance, and attach supporting documentation.

10. Complete and sign the relative guardianship assistance agreement form specifying:

    a. The dollar amount of the relative guardianship assistance being provided, if applicable.

    b. The duration dates of the agreement:

        1) Until the youth or child in relative guardianship reaches the age of eighteen (18) years, or,

        2) On a case-by-case basis, the duration of the agreement may be sooner than this time. All parties must be in agreement with the earlier termination date.

    c. The services and dates of services that are covered by the relative guardianship assistance agreement.

    d. The relative guardianship assistance agreement must be signed and dated by all parties prior to the effective date of the agreement, which is the date that the court appoints relative guardianship. If the county department fails to completely execute the relative guardianship assistance agreement prior to the date the relative guardianship is appointed, the assistance payment will become non-reimbursable by the state and Title IV-E funds.

11. Review the agreement every three (3) years from the date of the initial agreement.

a. Any change in the relative guardianship assistance agreement shall be related to the original needs, identified at the time the decision was made that relative guardianship assistance was needed.

b. A Title IV-E relative guardianship assistance agreement shall not be changed without the concurrence of all parties. The only exception is if there is a reduction or increase in the foster care maintenance payment rate. In that circumstance the state may adjust the relative guardianship assistance payment without the relative guardian's agreement.

c. Any change in a non-Title IV-E relative guardianship assistance agreement must be related to the specific needs of the youth or child, the relative guardian's circumstances, and the county department's policy.

The county department shall negotiate with the relative guardian that when the youth or child is in out-of-home care or committed to the Division of Youth ~~Corrections~~ SERVICES for more than thirty (30) days, the assistance payment shall be suspended until the youth or child returns to the relative guardian's home.

****

7.311.82 Procedures for Relative Guardianship Assistance Payment When a Youth or Child is in Out-of-Home Care or Committed to the Division of Youth ~~Corrections~~ SERVICES [Rev. eff. 12/1/12]

A. Medicaid eligibility shall continue for Title IV-E eligible youth or children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State Prescribed form (see County Responsibility, Section 7.402.2).

B. When a youth or child with a non-Title IV-E relative guardianship assistance agreement is placed in out-of-home care for more than thirty (30) days, the county department shall discontinue the relative guardianship assistance payment until the youth or child returns to the relative guardian's home. This includes a commitment to the Division of Youth ~~Corrections~~ SERVICES.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-4)**		
CDHS Tracking #:	**17-06-16-04**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

To be in compliance with legislation passed during the 2017 legislative session, the name of "Division of Youth Corrections" needs to be changed to "Division of Youth Services." In addition, legislation now allows for a third party vendor approved by the Colorado Bureau of Investigation to complete fingerprinting.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

- [X] to comply with state/federal law and/or
- [ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] No

If yes, please explain.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-4)**		
CDHS Tracking #:	**17-06-16-04**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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?

County Departments of Human/Social Services

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?

The changes are strictly technical and change the name for the Division of Youth Corrections to the Division of Youth Services. Therefore, it will not have an impact on County Departments of Human/Social Services.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

The technical name change may have some fiscal impact to the Department to rebrand any marketing materials, but this impact will not be to the Division of Child Welfare.

County Fiscal Impact

There is no fiscal impact to county departments as these changes only impact the State's rebranding process.

Federal Fiscal Impact

There is no fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This name change was a result of legislative efforts to better reflect a continuum of services provided through, what was formally known as, the Division of Youth Corrections.

5. Alternatives to this Rule-making

Alternatives to this effort were discussed in the stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule: **Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-4)**
CDHS Tracking #: **17-06-16-04**
Office, Division, & Program: OCYF, DCW Phone: 303.866.2866
Rule Author: Paige Rosemond E-Mail: paige.rosemond@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.303.32	Revision	B. The MOU shall be between interested county departments of human/social services and local representatives of each of the following agencies: 1. The local judicial district(s), including probation services; 2. The health department, whether a county, district, or regional health department; 3. The local school district(s); 4. Each community mental health center; 5. Each Behavioral Health Organization (BHO); 6. The Division of Youth Corrections; 7. A managed service organization for the provision of treatment of services for alcohol and drug abuse; and, 8. A community domestic abuse program, if representation is available.	B. The MOU shall be between interested county departments of human/social services and local representatives of each of the following agencies: 1. The local judicial district(s), including probation services; 2. The health department, whether a county, district, or regional health department; 3. The local school district(s); 4. Each community mental health center; 5. Each Behavioral Health Organization (BHO); 6. The Division of Youth ~~Corrections~~ SERVICES; 7. A managed service organization for the provision of treatment of services for alcohol and drug abuse; and, 8. A community domestic abuse program, if representation is available.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.304.21	Revision	3) Kin who is not disqualified as an emergency placement and who authorizes the child(ren)/youth to be placed in the home shall report to law enforcement or the county department of human or social services, if a fingerprint machine is available to submit fingerprints no later than five calendar days after the child(ren)/youth are placed in the home or no later than fifteen calendar days when documented urgent circumstances exist. The cost of the fingerprints is the responsibility of the relative or other available person.	3) Kin who is not disqualified as an emergency placement and who authorizes the child(ren)/youth to be placed in the home shall report to law enforcement, ~~or~~ the county department of human or social services, OR ANY THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION if a fingerprint machine is available to submit fingerprints no later than five calendar days after the child(ren)/youth are placed in the home or no later than fifteen calendar days when documented urgent circumstances exist. The cost of the fingerprints is the responsibility of the relative or other available person.		

7.305.33	Revision	For youth open in a case and who are in the "Follow-Up Population", the county department or Division of Youth Corrections shall assure that the "follow-up surveys" are completed by the youth within the six (6) month period to which they are assigned. For youth who have discharged from care who are in the "follow-up population", the county department or Division of Youth Corrections shall assist the Division of Child Welfare in locating and engaging youth to complete the survey during the period to which they are assigned.	For youth open in a case and who are in the "Follow-Up Population", the county department or Division of Youth ~~Corrections~~ SERVICES shall assure that the "follow-up surveys" are completed by the youth within the six (6) month period to which they are assigned. For youth who have discharged from care who are in the "follow-up population", the county department or Division of Youth ~~Corrections~~ SERVICES shall assist the Division of Child Welfare in locating and engaging youth to complete the survey during the period to which they are assigned.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.305.41	Revision	F.The county department shall consider the following factors, in the prioritization of Chafee services on an individual basis: 1. Risk or history of human trafficking; 2. Risk or history of homelessness; 3. Whether the youth has emancipated from Child Welfare or exited the Division of Youth Corrections after attaining age eighteen (18), or is expected to do so;	F.The county department shall consider the following factors, in the prioritization of Chafee services on an individual basis: 1. Risk or history of human trafficking; 2. Risk or history of homelessness; 3. Whether the youth has emancipated from Child Welfare or exited the Division of Youth ~~Corrections~~ SERVICES after attaining age eighteen (18), or is expected to do so;	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.305.42	Revision	A. Meet Program Area 4, 5, or 6 target group eligibility requirements, in a non-secure setting, with the Division of Youth Corrections, or meet requirements for ongoing Chafee services in the state where the youth emancipated, was adopted or entered Relative Guardianship, if other than Colorado.	A. Meet Program Area 4, 5, or 6 target group eligibility requirements, in a non-secure setting, with the Division of Youth ~~Corrections~~ SERVICES, or meet requirements for ongoing Chafee services in the state where the youth emancipated, was adopted or entered Relative Guardianship, if other than Colorado.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.311.63	Revision	c. Any change in a non-Title IV-E relative guardianship assistance agreement must be related to the specific needs of the youth or child, the relative guardian's circumstances, and the county department's policy. The county department shall negotiate with the relative guardian that when the youth or child is in out-of-home care or committed to the Division of Youth Corrections for more than thirty (30) days, the assistance payment shall be suspended until the youth or child returns to the relative guardian's home.	c. Any change in a non-Title IV-E relative guardianship assistance agreement must be related to the specific needs of the youth or child, the relative guardian's circumstances, and the county department's policy. The county department shall negotiate with the relative guardian that when the youth or child is in out-of-home care or committed to the Division of Youth ~~Corrections~~ SERVICES for more than thirty (30) days, the assistance payment shall be suspended until the youth or child returns to the relative guardian's home.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-4)**
CDHS Tracking #:	**17-06-16-04**
Office, Division, & Program:	OCYF, DCW
Phone:	303.866.2866
Rule Author:	Paige Rosemond
E-Mail:	paige.rosemond@state.co.us

7.311.82	Revision	**7.311.82 Procedures for Relative Guardianship Assistance Payment When a Youth or Child is in Out-of-Home Care or Committed to the Division of Youth ~~Corrections~~** A. Medicaid eligibility shall continue for Title IV-E eligible youth or children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State Prescribed form (see County Responsibility, Section 7.402.2). B. When a youth or child with a non-Title IV-E relative guardianship assistance agreement is placed in out-of-home care for more than thirty (30) days, the county department shall discontinue the relative guardianship assistance payment until the youth or child returns to the relative guardian's home. This includes a commitment to the Division of Youth Corrections.	**7.311.82 Procedures for Relative Guardianship Assistance Payment When a Youth or Child is in Out-of-Home Care or Committed to the Division of Youth ~~Corrections~~ SERVICES** A. Medicaid eligibility shall continue for Title IV-E eligible youth or children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State Prescribed form (see County Responsibility, Section 7.402.2). B. When a youth or child with a non-Title IV-E relative guardianship assistance agreement is placed in out-of-home care for more than thirty (30) days, the county department shall discontinue the relative guardianship assistance payment until the youth or child returns to the relative guardian's home. This includes a commitment to the Division of Youth ~~Corrections~~ SERVICES.	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-4)**		
CDHS Tracking #:	**17-06-16-04**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Representatives Pete Lee and Lois Landgraf and Senators Don Coram and Daniel Kagan, House Judiciary Committee, House Appropriations Committee, Senate State, Veterans, & Military Affairs Committee, and Senate Appropriations Committee.

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:

CDHS Policy Advisory Committee (PAC), Child Welfare Sub PAC, County Departments of Human/Social 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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] No

7.303.32 Availability [Rev. eff. 8/1/15]

A. Collaborative Management is an optional program for an individual county or groups of counties. Counties may elect to participate by entering into a Memorandum of Understanding (MOU) that is designed to promote a collaborative system to coordinate and manage the provision of services to children, youth, and families who would benefit from an integrated multi-system approach to service and service delivery. Counties must use the MOU template provided by the State and developed in conjunction with the Colorado Judicial Districts.

B. The MOU shall be between interested county departments of human/social services and local representatives of each of the following agencies:

1. The local judicial district(s), including probation services;

2. The health department, whether a county, district, or regional health department;

3. The local school district(s);

4. Each community mental health center;

5. Each Behavioral Health Organization (BHO);

6. The Division of Youth ~~Corrections~~ SERVICES;

7. A managed service organization for the provision of treatment of services for alcohol and drug abuse; and,

8. A community domestic abuse program, if representation is available.

****

7.304.21 Kinship Care [Rev. eff. 1/1/17]

A. Definition: Refer to Section 7.000.2 (12 CCR 2509-1) for the definition of “kin” and “non-certified kinship care”.

B. Kinship care shall be utilized in order to:

1. Maintain child(ren)/youth in their families or with persons with whom they have a family like or prior significant relationship in order to provide meaningful, emotional and cultural ties across their life span.

2. Minimize the trauma of out-of-home placement.

3. Support and strengthen families' ability to protect their child(ren)/youth and to provide permanency.

C. Kinship care: Assessment and Decision-Making

1. If during an assessment it is discovered that the child(ren)/youth and their parents are living with kin:

a) The child(ren)/youth are not considered to be in out-of-home care as the child(ren)/youth are living with their parents.

b) The rules for assessment apply (see Section 7.104 et seq.[12 CCR 2509-2]).

2. If during an assessment it is discovered that the child(ren)/youth are not living with their parents, but with kin:

a) The child(ren)/youth are not considered to be in out-of-home care as the child(ren)/youth are living with kin through arrangements made by the family.

b) The rules for assessment apply (see Section 7.104 et seq.[12 CCR 2509-2]).

c) These kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.

3. If during an assessment it is discovered that the child(ren)/youth are in current or impending danger with their caregiver(s) and the family agrees to a temporary living arrangement with kin through the use of a safety plan:

a) The assessment cannot be closed until one of the following:

1) The child(ren)/youth have been returned to the care of their caregiver(s);

2) Documentation is obtained demonstrating that legal authority has been granted to kin (documented in the state automated child welfare information system); or,

3) A child welfare case has been opened.

b) The child(ren)/youth are not considered to be in out-of-home care as the arrangements are made through a safety plan.

c) These kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.

d) If a case is not opened, the rules for assessment apply (see Section 7.104 et seq. [12 CCR 2509-2]).

e) If a case is opened, the permanency goal is identified as return home from kinship care and the child(ren)/youth are considered in kinship care. A removal is not opened and the rules for non-certified kinship care apply when the county department has not assumed legal authority for placement or taken legal custody (see Section 7.304.21, D).

4. If during an assessment it is discovered that the child(ren)/youth are in current or impending danger with their caregiver(s) and the family will not agree to a temporary living arrangement with kin through the use of a safety plan:

A) The assessment cannot be closed until one of the following occurs:

1) The child(ren)/youth have been returned to the care of their caregiver(s);

2) Documentation is obtained demonstrating that legal authority has been granted to kin (documented in the state automated child welfare information system); or,

3) A child welfare case has been opened.

b) Child(ren)/youth are considered to be in out-of-home care and a removal is required.

c) Kinship providers may be eligible for forms of support listed in Section 7.304.21, E, 3.

d) The rules for kinship care apply when the county department has assumed legal authority for placement or taken legal custody (see Section 7.304.21, E).

D. Kinship care services when the county department has not assumed legal authority for placement or taken legal custody, the county department shall:

1. Enable the family to make voluntary arrangements for temporary custody or guardianship by kin;

2. Provide parents and kin caring for the child(ren)/youth services to ensure the child(ren)/youth's safety, well-being, and smooth transition back to the parent's home. When return to parent's home is not a viable option, services to kin shall be used to help to provide permanency for the child(ren)/youth. The child(ren)/youth may receive such services without court involvement.;

3. Evaluate the non-certified kinship family addressing the areas of: safety, parenting skills, potential for permanency, needs of the kinship family, a support system, strengths and any other areas deemed necessary by the county department.

4. Ensure initiation of a signed original application to provide care for child(ren)/youth or a state approved, county specific kinship application at the time of change in a child(ren)/youth’s living arrangement and document completion in the state automated child welfare information system.

5. Advise the kinship providers of the types of support listed in 7.304.21, E, 3.

6. Complete a background check for each adult (18 years and older) living in the home. These checks shall be completed prior to the child(ren)/youth’s change in living arrangement and documented in the state automated case management system. The background check shall include:

a. Child abuse and/or neglect records in every state where any adult residing in the home has lived in the five years immediately preceding the date of application, except that child abuse and neglect records in other states where an adult has resided shall be initiated no later than seven (7) working days following placement.

b. Fingerprint-based criminal history record information checks from the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation (FBI) shall be conducted prior to placement unless it is an emergency placement (see Section 7.304.21, E, 2, f) in order to determine if any adult who resides in the home has been convicted (see Section 7.000.2 [12 CCR 2509-1]) of:

1) Child abuse, as specified in Section 18-6-401, C.R.S.;

2) A crime of violence, as defined in Section 18-1.3-406(B)(I), C.R.S.;

3) An offense involving unlawful sexual behavior, as defined in Section 16-22-102 (9), C.R.S.;

4) A 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(1), C.R.S.;

5) A felony involving physical assault, battery, or a drug-related offense within five years of the date of application;

6) A pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. (see Section 7.000.2 [12 CCR 2509-1])

7) Any offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in 1-6, above.

c. Review the court case management system of the State Judicial Department and include a copy of the information in the case record; and,

d. Review the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement and include a copy of the information in the case record:

1) Known names and addresses of each adult residing in the home; and,

2) Address only of the non-certified kinship care home.

7. Receive affirmation of the placement either through a court order or county director(s) affirmation to place or allow continued placement of a child(ren)/youth with a non-certified kin or other adult living in the home that would otherwise be disqualified in Section 7.304.21, D, 8 and 9.

8. Decline placement of a child(ren)/youth in the home if the kin or any adult eighteen (18) years of age or older who resides in the home has been convicted of any offense described in Section D, 6, B, 1-7, is a registered sex offender or, is determined unsafe following a review of a finding of child abuse and/or neglect in the state automated case management system.

9. Evaluate the appropriateness of the placement. If a disqualifying factor (refer to Section 7.000.2, 12 CCR 2509-1) is identified following the placement of a child(ren)/youth in a non-certified kinship care home, a plan shall be developed as soon as possible and documented in the state automated case management system to address and remedy the concerns no later than two weeks after the date of placement. The plan shall include the following:

a. The circumstances of the placement;

b. The vulnerability of the child(ren)/youth, including age and development;

c. Safety issues impacting the child(ren)/youth;

d. Supports needed by the non-certified kinship caregiver(s); and,

e. Alternative solutions to removal of the child(ren)/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:

1) Risk and safety;

2) Level of functioning;

3) Strengths;

4) Specific areas of concern to be addressed;

5) Services and supports needed; and,

6) Changes that must occur to mitigate the concerns.

E. Kinship care services when the county department has assumed legal authority for placement or been granted legal custody:

1. Eligible Populations: The child(ren)/youth shall meet the following criteria for placement in kinship care through the child welfare system:

a. Program Area 4, 5, or 6 target groups (refer to Section 7.000.1, 12 CCR 2509-1)and out-of-home placement criteria; and

b. There is legal authority for placement as defined in Section 7.304.51 and the Children's Code through a court order, a Dependency and Neglect or Delinquency action, emergency removal by law enforcement, or a voluntary placement, followed within 90 calendar days by a Petition for Review of Need for Placement (PRNP).

2. Placement with Kinship Care Providers:

a. When out-of-home placement is necessary, the county department shall determine whether there are available and willing kin to provide for the child(ren)/youth.

1) Kinship care providers shall be advised of the types of support available to them through the county department including:

a) Family preservation,

b) Certification for kinship foster care, and

c) The relative guardianship assistance program (see Section 7.311, et seq).

2) In the decision making process, funding and types of support including:

a) Kinship care may be considered a means of family preservation rather than a placement service.

b) The kinship caregiver(s) may become a foster care home. If the kinship caregiver prefers to be a kinship foster care home, the county director or his/her designee may allow a waiver of non-safety certification standards (see Section 7.708.7 (12 CCR 2509-8).

c) Kinship caregivers for title IV-E eligible child(ren)/youth are entitled to the same level of reimbursement as non-related providers. Kinship caregivers may elect to receive no payment.

d) Other funding and support services, including in-kind or concrete services, can be put into place as mutually agreed upon with the provider.

3) Relative kinship care providers and potential relative kinship care providers shall be informed about the types of support noted in 7.304.21, E, 2, a, 1. The information provided, including the date(s), shall be documented in the statewide automated child welfare information system.

b. Parent(s) shall be included as part of the planning process when considering placement with kin unless there are documented reasons for their unavailability to participate.

c. If kin are available and willing, the county department shall assess the suitability of kin in accordance with the foster care certification requirements found at Sections 7.500 (12 CCR 2509-6) and 7.708 (12 CCR 2509-8).

d. If the parent(s) do not agree to a specific kinship placement, the county department shall request court ordered assessment for possible placement with kin, identify other kinship placement possibilities, and/or revisit possible kinship placement at a later time if out-of-home placement continues to be necessary. If the assessment is favorable, and the parent(s) still object to the kinship placement, the county department may request that the court order the kinship placement.

e. When removal from parents or guardians occurs on an emergency basis, child(ren)/youth may be placed with kinship providers who may be provisionally certified as a kinship foster care home in accordance with Section 7.500.311, C and D (12 CCR 2509-6).

f. When an emergency placement is necessary and a prospective relative or other available person is identified, and child(ren)/youth are placed into temporary custody by law enforcement and/or the court places temporary custody with a county department of human or social services the following actions shall occur prior to placement of child(ren)/youth in the home:

1) The county department shall contact local law enforcement to conduct an initial name-based state and federal criminal history record check. The results of the criminal record check shall be provided verbally to the county department. The county department of human or social services or law enforcement shall immediately conduct an initial criminal history record check of the relative or other available person and all adults in the home. If law enforcement is completing the criminal history check, the county department of human or social services shall request a verbal report regarding each person's criminal history from federal and state databases, and include the results in the case record.

2) The child(ren)/youth shall not be placed in the home if the criminal history record information check reflects one or more convictions of the criminal offenses listed in Subsection 7.304.21, D, 2, f, 7 unless ordered by the court.

3) Kin who is not disqualified as an emergency placement and who authorizes the child(ren)/youth to be placed in the home shall report to law enforcement, ~~or~~ the county department of human or social services, OR ANY THIRD PARTY APPROVED BY THE COLORADO BUREAU OF INVESTIGATION if a fingerprint machine is available to submit

fingerprints no later than five calendar days after the child(ren)/youth are placed in the home or no later than fifteen calendar days when documented urgent circumstances exist. The cost of the fingerprints is the responsibility of the relative or other available person.

4) The county department shall confirm timely submission of fingerprints from kin:

   a) With law enforcement: The county department shall contact the local law enforcement agency within fifteen (15) days following the placement of the child(ren)/youth to assure the potential provider reported for the purpose of obtaining fingerprints within the specified timeframe. If kin did not comply, then the child(ren)/youth shall be removed immediately from the physical custody of the person by the county department of human or social services or local law enforcement officer, unless otherwise ordered by the court; or,

   b) When the county department of human or social services has a fingerprint machine: if kin did not comply, the child(ren)/youth shall be removed immediately from the physical custody of the person by the county department of human or social services or local law enforcement officer, unless otherwise ordered by the court.

5) A fingerprint-based criminal history record information check will be conducted by CBI using state and national CBI and FBI records. The local law enforcement agency is the authorized agency to receive the results.

6) If the fingerprint-based criminal history record information check indicates the person has a disqualifying criminal history, the county department of human or social services or local law enforcement officer shall immediately remove the child(ren)/youth from the emergency placement and shall not place a child(ren)/youth with the person who has the criminal history without court involvement and an order of the court affirming placement of the child(ren)/youth with the person.

7) A county department of human or social services or local law enforcement shall not make an emergency placement or continue the emergency placement of a child(ren)/youth with a person who has been convicted of one or more of the following offenses:

   a) Child abuse, as specified in Section 18-6-401, C.R.S.;

   b) A crime of violence, as defined in Section 18 1.3 406(B)(I), C.R.S.;

   c) An offense involving unlawful sexual behavior, as defined in Section 16-22-102(9), C.R.S.;

   d) A felony, the underlying actual 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(1), C.R.S.;

   e) A felony involving physical assault or a drug-related offense, committed within the preceding five years;

f) Violation of a protection order, as described in Section 18-6-803.5, C.R.S.;

g) A crime involving homicide; or,

h) An offense in any other state the elements of which are substantially similar to the elements of any one of the offenses described in a-g, above.

8) If a relative or other person was not disqualified as an emergency placement based upon the fingerprint-based criminal history record information check and the child(ren)/youth were placed in the emergency placement, the county department of human or social services shall complete the following checks for the relative or available person and all adults in the home:

a) Review the court case management system of the State Judicial Department and include a copy of the information in the case record;

b) Review the state automated case management system and the child abuse and/or neglect registries in all states the adults living in the home have resided in the five years preceding the date of application and include a copy of the information in the case record; and,

c) Review the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement, and annually, and include a copy of the information in the case record:

i) Known names and addresses of each adult residing in the home; and,

ii) Address only of the kinship home.

9) If information is found as a result of any checks of the relative or other available person that continued placement is unsafe, the county department of human or social services shall remove the child(ren)/youth.

10) If a disqualifying factor (refer to Section 7.002) and/or a concern about the safety of the child(ren)/youth is identified following the placement of the child(ren)/youth, the 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:

a) Review the circumstances of the placement;

b) Evaluate the vulnerability of the child(ren)/youth, including age and development;

c) Safety issues impacting the child(ren)/youth;

d) Supports needed by the non-certified kinship caregiver(s); and,

e) Identify alternative solutions to removal of the child(ren)/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:

i) Risk and safety;

ii) Level of functioning;

iii) Strengths;

iv) Specific areas of concern to be addressed;

v) Services and supports needed; and,

vi) Changes that must occur to mitigate the concerns.

11) Fingerprint-based criminal history record information checks are not required if the relative or other available person in the home completed them within the three months preceding date of placement. The following checks shall be completed and included in the case record, and documented in the state automated case management system:

a) State automated case management system;

b) The CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice at initial placement and annually:

i) Known names and addresses of each adult residing in the home; and,

ii) Address only of the kinship home.

c) Court case management system of the State Judicial Department; and,

d) Contact law enforcement to determine if any additional criminal history occurred or complete an online CBI name-based check.

g. Substitution of Fingerprints for Foster Care Certification

1) If the county department of human or social services or a child placement agency (when applicable) intends to accept an application for foster care, CBI shall be notified within five calendar days after requesting fingerprint-based criminal history record information checks in order to prompt flagging and automatic notification to the county department of human or social services or child placement agency when there are new criminal charges; and,

2) The substitute fingerprint process meets the requirement for an applicant for foster care certification pursuant to Section 26-6-106.3, C.R.S.

h. The reasonable and prudent parent standard requirements for a kinship provider or kinship foster parent to approve activities for a child(ren)/ or youth in foster care requires the following action: The county department of human or social

services or child placement agency shall train the caregiver how to determine whether an extracurricular, enrichment, cultural, or social activity is consistent with the reasonable and prudent parent standard, when approving an age or developmentally appropriate activity identified in Section 7.701.200 (12 CCR 2509-8).

3. Decision Making:

a. As part of the assessment process, the county department of human or social services shall determine, with the kinship care provider, which funding options and support services will be necessary to support the placement. If the child(ren)/youth is eligible, at a minimum, the following funding sources shall be considered to support the child(ren)/youth in a kinship care placement:

1) Child Support by the absent parent(s). For Child Support, a referral shall be made to child support services;

2) Social Security and/or other death benefits;

3) Supplemental Security Income; see Section 7.001.44 (12 CCR 2509-1);

4) Supplemental Security for Disability Income;

5) Temporary Assistance to Needy Families - for kinship care to be supported by Temporary Assistance to Needy Families, the caretaker must meet the Temporary Assistance to Needy Families definition in Section 3.600 of the Income Maintenance manual (9 CCR 2503-1);

6) Tricare or other medical benefits;

7) Medicaid;

8) Core Services (Section 7.303);

9) Child Welfare Child Care;

10) Colorado Child Care Assistance Program;

11) In-Kind Services or Donations;

12) Foster care maintenance payment; see Section 7.500.31, A (12 CCR 2509-6);

13) IV-E or state relative guardianship assistance program; see Section 7.311 et seq.

14) IV-E or state adoption assistance.

b. This decision making process shall address the needs of the child(ren)/youth, family and kin and focus on how the goals of safety, permanency, and child(ren)/youth well-being can be most effectively achieved for the child(ren)/youth.

c. The kinship care provider shall be advised of all support options available, and shall be advised of the grievance process available to certified and licensed providers.

d. Requests for approval for any exceptions for relatives to the foster care rules outlined in Section 7.708 (12 CCR 2509-8) shall be submitted by the county department of human or social services or child placement agency to the State Child Care Appeal Panel in accordance with procedures established by the Colorado Department of Human Services.

4. Services to kinship care providers shall:

a. Include training, support and services specific to the needs of kinship care providers.

b. Include supervision as described in the child(ren)/youth's Family Services Plan and in Section 7.500.313, A (12 CCR 2509-6).

5. Services to children/youth in all kinship care placements shall: Include the requirements of Section 7.301 (12 CCR 2509-4), assessment and case planning section.

6. Permanency Planning in Kinship Care

a. When a child(ren)/youth has been placed by the county department into temporary kinship care and reasonable efforts to reunite the child(ren)/youth with the parents are not successful, the county department shall consider permanent placement with the kinship care provider or other appropriate kin. The preferred permanent placement shall be adoption, legal guardianship, or permanent custody.

b. The grandparent, aunt, uncle, brother or sister must file a request with the court no later than twenty (20) days after the motion for termination has been filed, if the provider wishes to be considered as the guardian or to take legal custody of the child(ren)/youth. following the order of termination of the parent-child(ren)/youth legal relationship, the court shall give preference to this provider if it has been determined to be in the best interest of the child(ren)/youth and the attachment of the child(ren)/youth to the current caregiver has been considered.

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7.305.33 Follow-Up Population [Rev. eff. 11/1/15]

The "Follow-Up Population" consists of young people who were in the baseline population at age seventeen (17) who reach age nineteen (19) or age twenty-one (21) during the six-month survey period and who appear in the survey population or sample indicated in the Trails NYTD screen.

For youth open in a case and who are in the "Follow-Up Population", the county department or Division of Youth ~~Corrections~~ SERVICES shall assure that the "follow-up surveys" are completed by the youth within the six (6) month period to which they are assigned.

For youth who have discharged from care who are in the "follow-up population", the county department or Division of Youth ~~Corrections~~ SERVICES shall assist the Division of Child Welfare in locating and engaging youth to complete the survey during the period to which they are assigned.

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7.305.41 County Responsibilities [Rev. eff. 11/1/15]

A. The designated host county department shall submit a county plan for State approval.

B. The county department shall comply in format, content, and time lines with the instructions for Chafee Foster Care Independence Program plans as published by the State Department in an agency letter which will also contain required instructions for program and financial reporting.

C. The county department shall administer the State approved plan in accordance with provisions of the plan.

D. Funds shall be used exclusively for the purposes specified in the plan.

E. County departments must submit amendments to approved plans when the county is proposing to add or delete a service to the plan. The county department shall submit amendments of the Chafee Foster Care Independence Program plan for approval to the State Department no less than thirty (30) business days before the amendment is to be effective.

F. The county department shall consider the following factors, in the prioritization of Chafee services on an individual basis:

1. Risk or history of human trafficking;

2. Risk or history of homelessness;

3. Whether the youth has emancipated from Child Welfare or exited the Division of Youth ~~Corrections~~ SERVICES after attaining age eighteen (18), or is expected to do so;

4. Previous participation in Chafee services or transfer of services from another county or state;

5. Enrollment and progress in educational programs, internships or apprenticeships;

6. Enrollment and progress in workforce innovation and opportunity act programs or workforce development activities; and,

7. Connection to permanent, supportive adults and personal support systems.

7.305.42 Eligibility [Rev. eff. 11/1/15]

To be eligible for Chafee Foster Care Independence Program (CFCIP) services, the youth must:

A. Meet Program Area 4, 5, or 6 target group eligibility requirements, in a non-secure setting, with the Division of Youth ~~Corrections~~ SERVICES, or meet requirements for ongoing Chafee services in the state where the youth emancipated, was adopted or entered Relative Guardianship, if other than Colorado.

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7.311.63 Negotiation of Relative Guardianship Assistance Agreements [Rev. eff. 12/1/12]

A. The county department shall:

1. Establish a policy regarding the criteria used for calculating the relative guardianship assistance agreements. The agreements shall be established in accordance with the written policy.

2. Determine specific needs of the youth or child and eligibility for relative guardianship assistance.

3. Utilize financial information regarding the relative guardian's family including assets, liabilities and insurance benefits in negotiating the initial agreement, and any subsequent increases in relative guardianship assistance.

4. Not include a statement in the relative guardianship assistance agreement that Title IV-E relative guardianship assistance payments and/or services are subject to the appropriation of state funds.

5. Make a good faith effort to negotiate a relative guardianship assistance agreement with the relative guardian and base the negotiation on the needs of the youth and child and the circumstances of the relative guardian. If the parties cannot agree, the county department shall establish the amount. If the relative disagrees with the decision, a fair hearing may be requested.

6. Negotiate with the relative guardian the amount that is needed by the relative guardian to meet the needs of the youth or child. This may be less than the amount for which the youth or child qualifies.

7. Establish a maximum rate that may be provided to a relative guardian; the rate cannot exceed the current foster care maintenance rate that was reimbursed for the out-of-home care of the youth, or that would have been reimbursed if the youth or child was currently in out-of-home care. The monthly respite care payment that is provided in the foster care rate is not a benefit under the relative guardianship assistance program.

8. Identify additional services and assistance that the youth or child will be eligible for and the procedures for applying for the services.

9. Use the State Department's prescribed forms to document the negotiated agreement for Title IV-E or non-Title IV-E relative guardianship assistance, and attach supporting documentation.

10. Complete and sign the relative guardianship assistance agreement form specifying:

    a. The dollar amount of the relative guardianship assistance being provided, if applicable.

    b. The duration dates of the agreement:

        1) Until the youth or child in relative guardianship reaches the age of eighteen (18) years, or,

        2) On a case-by-case basis, the duration of the agreement may be sooner than this time. All parties must be in agreement with the earlier termination date.

    c. The services and dates of services that are covered by the relative guardianship assistance agreement.

    d. The relative guardianship assistance agreement must be signed and dated by all parties prior to the effective date of the agreement, which is the date that the court appoints relative guardianship. If the county department fails to completely execute the relative guardianship assistance agreement prior to the date the relative guardianship is appointed, the assistance payment will become non-reimbursable by the state and Title IV-E funds.

11. Review the agreement every three (3) years from the date of the initial agreement.

a. Any change in the relative guardianship assistance agreement shall be related to the original needs, identified at the time the decision was made that relative guardianship assistance was needed.

b. A Title IV-E relative guardianship assistance agreement shall not be changed without the concurrence of all parties. The only exception is if there is a reduction or increase in the foster care maintenance payment rate. In that circumstance the state may adjust the relative guardianship assistance payment without the relative guardian's agreement.

c. Any change in a non-Title IV-E relative guardianship assistance agreement must be related to the specific needs of the youth or child, the relative guardian's circumstances, and the county department's policy.

The county department shall negotiate with the relative guardian that when the youth or child is in out-of-home care or committed to the Division of Youth ~~Corrections~~ SERVICES for more than thirty (30) days, the assistance payment shall be suspended until the youth or child returns to the relative guardian's home.

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7.311.82 Procedures for Relative Guardianship Assistance Payment When a Youth or Child is in Out-of-Home Care or Committed to the Division of Youth ~~Corrections~~ SERVICES [Rev. eff. 12/1/12]

A. Medicaid eligibility shall continue for Title IV-E eligible youth or children who are out of the home for more than thirty (30) calendar days unless it is determined that they are eligible for Medicaid under another program by completing the State Prescribed form (see County Responsibility, Section 7.402.2).

B. When a youth or child with a non-Title IV-E relative guardianship assistance agreement is placed in out-of-home care for more than thirty (30) days, the county department shall discontinue the relative guardianship assistance payment until the youth or child returns to the relative guardian's home. This includes a commitment to the Division of Youth ~~Corrections~~ SERVICES.

Notice of Proposed Rulemaking

Tracking number

2017-00310

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

09/01/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

To be in compliance with legislation passed during the 2017 legislative session, the name of Division of Youth Corrections needs to be changed to Division of Youth Services.

Statutory authority

26-1-107, C.R.S. (2015)
26-1-109, C.R.S. (2015)
26-1-111, C.R.S. (2015)
26-1-111, C.R.S. (2015)

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Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-5)**		
CDHS Tracking #:	**17-06-16-05**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

To be in compliance with legislation passed during the 2017 legislative session, the name of "Division of Youth Corrections" needs to be changed to "Division of Youth Services."

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

[X] to comply with state/federal law and/or
[ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] No

If yes, please explain.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-5)**		
CDHS Tracking #:	**17-06-16-05**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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?

County Departments of Human/Social Services

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?

The changes are strictly technical and change the name for the Division of Youth Corrections to the Division of Youth Services. Therefore, it will not have an impact on County Departments of Human/Social Services.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

The technical name change may have some fiscal impact to the Department to rebrand any marketing materials, but this impact will not be to the Division of Child Welfare.

County Fiscal Impact

There is no fiscal impact to county departments as these changes only impact the State's rebranding process.

Federal Fiscal Impact

There is no fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This name change was a result of legislative efforts to better reflect a continuum of services provided through, what was formally known as, the Division of Youth Corrections.

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. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

Alternatives to this effort were discussed in the stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-5)**		
CDHS Tracking #:	**17-06-16-05**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.402.1	Revision	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;	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~~ SERVICES, who are placed in a non-secure community based residential facility or in independent living situations;	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-5)**		
CDHS Tracking #:	**17-06-16-05**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Representatives Pete Lee and Lois Landgraf and Senators Don Coram and Daniel Kagan, House Judiciary Committee, House Appropriations Committee, Senate State, Veterans, & Military Affairs Committee, and Senate Appropriations Committee.

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:

CDHS Policy Advisory Committee (PAC), Child Welfare Sub PAC, County Departments of Human/Social 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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] No

(12 CCR 2509-5)

7.402.1 PROVISION OF SERVICES [Rev. eff. 12/1/12]

Subject to certain income and resource limitations, 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~~ SERVICES, who are placed in a non-secure community based residential facility or in independent living situations;

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-5)**		
CDHS Tracking #:	**17-06-16-05**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

To be in compliance with legislation passed during the 2017 legislative session, the name of "Division of Youth Corrections" needs to be changed to "Division of Youth Services."

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

[X] to comply with state/federal law and/or
[ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] No

If yes, please explain.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-5)**		
CDHS Tracking #:	**17-06-16-05**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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?

County Departments of Human/Social Services

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?

The changes are strictly technical and change the name for the Division of Youth Corrections to the Division of Youth Services. Therefore, it will not have an impact on County Departments of Human/Social Services.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

The technical name change may have some fiscal impact to the Department to rebrand any marketing materials, but this impact will not be to the Division of Child Welfare.

County Fiscal Impact

There is no fiscal impact to county departments as these changes only impact the State's rebranding process.

Federal Fiscal Impact

There is no fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

This name change was a result of legislative efforts to better reflect a continuum of services provided through, what was formally known as, the Division of Youth Corrections.

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. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

Alternatives to this effort were discussed in the stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-5)**		
CDHS Tracking #:	**17-06-16-05**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.402.1	Revision	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;	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~~ SERVICES, who are placed in a non-secure community based residential facility or in independent living situations;	HB 17-1329 requires the modification to the name of DYC to DYS.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-5)**		
CDHS Tracking #:	**17-06-16-05**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Representatives Pete Lee and Lois Landgraf and Senators Don Coram and Daniel Kagan, House Judiciary Committee, House Appropriations Committee, Senate State, Veterans, & Military Affairs Committee, and Senate Appropriations Committee.

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:

CDHS Policy Advisory Committee (PAC), Child Welfare Sub PAC, County Departments of Human/Social 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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] No

(12 CCR 2509-5)

7.402.1 PROVISION OF SERVICES [Rev. eff. 12/1/12]

Subject to certain income and resource limitations, 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~~ SERVICES, who are placed in a non-secure community based residential facility or in independent living situations;

Notice of Proposed Rulemaking

Tracking number

2017-00311

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-7

Rule title

COUNTY RESPONSIBILITIES, STAFF TRAINING AND QUALIFICATIONS, CLIENT RIGHTS, CONFIDENTIALITY

Rulemaking Hearing

Date

09/01/2017

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Subjects and issues involved

To be in compliance with legislation passed during the 2017 legislative session, Child Protection Teams rule needs to be repealed.

Statutory authority

26-1-107, C.R.S. (2015)
26-1-109, C.R.S. (2015)
26-1-111, C.R.S. (2015)
26-1-111, C.R.S. (2015)

Contact information

Name

Paige Rosemond

Title

Rule Author

Telephone

303-866-2866

Email

paige.rosemond@state.co.us

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-7)**		
CDHS Tracking #:	**17-06-16-07**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

To be in compliance with legislation passed during the 2017 legislative session, Child Protection Teams rule needs to be repealed.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

[X] to comply with state/federal law and/or
[ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] No

If yes, please explain.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-7)**		
CDHS Tracking #:	**17-06-16-07**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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?

County Departments of Human/Social Services

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?

County Departments of Human/Social Services will now have the option as to whether or not and how they utilize Child Protection Teams. Therefore, County Departments of Human/Social Services may be positively impacted as resources utilized to coordinate and facilitate this process can be reallocated elsewhere.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

In regards to Child Protection Teams, there is no fiscal impact to the State as they are not a process initiated of facilitated by the State.

County Fiscal Impact

This change could potentially have a positive fiscal impact and resources may not be utilized to facilitate and participate in Child Protection Teams. Therefore, these resources may be utilized elsewhere.

Federal Fiscal Impact

There is not fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The Office of the State Auditors' (OSA) 2014 Child Welfare Performance Audit helped to inform the statutory change to make Child Protection Teams optional as opposed to mandatory.

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?

There were extensive efforts to modify the Child Protection Teams process via prior unsuccessful rule promulgation, prior unsuccessful statutory changes, and through the Department's memorandum series. The repeal of the rule is in alignment with the recommendations of OSA's audit and what was learned through the prior attempts to modify the process.

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-7)**		
CDHS Tracking #:	**17-06-16-07**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@state.co.us

Title of Proposed Rule: **Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-7)**
CDHS Tracking #: **17-06-16-07**
Office, Division, & Program: OCYF, DCW Phone: 303.866.2866
Rule Author: Paige Rosemond E-Mail: paige.rosemond@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.601.6	Repeal	**7.601.6 CHILD PROTECTION TEAMS** **A county department of [HUMAN OR] social services receiving fifty (50) or more referrals of child abuse and neglect per year shall have a multi-disciplinary child protection team in accordance with Sections 19- 1-103(22) and 19-3-308(6), C.R.S.**	**7.601.6 CHILD PROTECTION TEAMS** **A county department of [HUMAN OR] social services receiving fifty (50) or more referrals of child abuse and neglect per year shall have a multi-disciplinary child protection team in accordance with Sections 19- 1-103(22) and 19-3-308(6), C.R.S.**	SB 17-016 modified the use of Child Protection Teams to optional.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.601.7	Revision		**7.601.~~7~~ 6**		
7.601.8	Revision	**If a child is determined eligible for services, the county department shall document the child's funding source eligibility on the Department's automated reporting system. This activity shall occur for each child opened on the department's automated reporting system. Eligibility shall be documented for each funding source for which the child is eligible. Eligibility criteria and required time frames for determination are found in subsections 7.601.81 through 7.601.84.**	**7.601.8 7** **If a child is determined eligible for services, the county department shall document the child's funding source eligibility on the Department's automated reporting system. This activity shall occur for each child opened on the department's automated reporting system. Eligibility shall be documented for each funding source for which the child is eligible. Eligibility criteria and required time frames for determination are found in subsections 7.601.871 through 7.601.874.**		
7.601.81	Revision	**F. Eligibility Factor - Relinquishment If a child is relinquished to the county**	**7.601.8 71** **F. Eligibility Factor - Relinquishment If a**		

		department, the county shall petition the court to judicially remove the child even though the parent relinquished the child to the agency. Children relinquished to the county department can be Title IV-E eligible when: 1. The child had last been living with the parent within six (6) months of the date court proceedings were initiated. 2. The court order contains the findings shown at Section 7.601.81, B, 2. 3. The child meets other eligibility factors.	**child is relinquished to the county department, the county shall petition the court to judicially remove the child even though the parent relinquished the child to the agency. Children relinquished to the county department can be Title IV-E eligible when: 1. The child had last been living with the parent within six (6) months of the date court proceedings were initiated. 2. The court order contains the findings shown at Section 7.601.871, B, 2. 3. The child meets other eligibility factors.**		
7.601.82	Revision		**7.601.8 72**		
7.601.83	Revision		**7.601.8 73**		
7.601.84	Revision		**7.601.8 74**		
7.601.9	Revision		**7.601.9 8**		

Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-7)**		
CDHS Tracking #:	**17-06-16-07**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Senators Cheri Jahn and Tim Neville, and Representatives Tracy Kraft-Tharp and Dan Nordberg, Senate Health & Human Services Committee, and House Public Health Care & Human Services Committee, 2015 Legislative Committee, Child Protection Task Group, Sub PAC, PAC, CDHS Community Partner Announcement to 4000 stakeholders, Ombusdsman's Office, Rocky Mountain Children's Law Center, multiple webinars

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:

CDHS Policy Advisory Committee (PAC), Child Welfare Sub PAC, County Departments of Human/Social 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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] No

~~**7.601.6 CHILD PROTECTION TEAMS [Eff. 1/1/15]**~~

~~A county department of [HUMAN OR] social services receiving fifty (50) or more referrals of child abuse and neglect per year shall have a multi-disciplinary child protection team in accordance with Sections 19-1-103(22) and 19-3-308(6), C.R.S.~~

7.601.~~7~~6 COUNTY RESPONSIBILITIES FOR CASE DOCUMENTATION [Eff. 1/1/15]

A. There shall be case documentation in all active cases as required by the individual Program Area.

1. Frequency of case documentation of case activity will be at a minimum every six (6) months and more often as needed, according to the case plan or Family Service Plan.

2. Summary documentation updating a case record shall be done at least every six (6) months or whenever a case is transferred from county to county, between workers in a county, or when a case is closed.

3. For cases in Program Areas 4, 5, and 6, when there is a change in caseworker or a transfer of a service case to another county, the new caseworker shall have telephone or in-person contact with the child and/or provider within thirty (30) calendar days after the change or transfer.

B. A written narrative summary of case activity shall include, but is not limited to, the following (a court report containing the same information will suffice):

1. Ongoing assessment of individual and/or family functioning;

2. Assessment of progress toward objectives and goals;

3. Chronology of significant events including dates of occurrence;

4. Method of intervention/treatment and impressions of effectiveness;

5. Changes and/or refinements of case plan;

6. Type and extent of court involvement; and

7. Other significant individuals or agencies involved.

For cases in Program Areas 4, 5, and 6 in which an Administrative Review is substituting for a court review, the county shall assure that a written summary containing the above information is complete and present in the case file. The county shall submit this written summary with the Administrative Review findings to the court.

C. A case plan/agreement for each service period shall be developed which contains all of the required information.

D. Documentation of all pertinent contact sheets shall be prepared and prior to the periodic summary of such activities.

E. Evaluation and reassessments pertaining to each service period shall be conducted which reflect case movement toward the long-term goal.

F. A written summary shall be completed within thirty (30) calendar days of closure which shall include:

1. Summary of contacts;

2. Reason for closure;

3. Summary of services provided; and

4. Assessment of effectiveness of services in terms of client's stated goals including, where possible, the client's assessment of the experience.

7.601.87 COUNTY RESPONSIBILITIES TO DETERMINE AND DOCUMENT FUNDING SOURCE FOR THE PURPOSE OF REPORTING SERVICES AND TO GAIN MAXIMUM FEDERAL REIMBURSEMENT [Eff. 1/1/15]

If a child is determined eligible for services, the county department shall document the child's funding source eligibility on the Department's automated reporting system. This activity shall occur for each child opened on the department's automated reporting system. Eligibility shall be documented for each funding source for which the child is eligible.

Eligibility criteria and required time frames for determination are found in subsections 7.601.81 through 7.601.84.

7.601.871 Title IV-E Foster Care [Eff. 1/1/15]

Title IV-E of the Social Security Act provides federal matching funds to help pay for the cost of foster care for eligible children. It also pays for training and administrative costs associated with the delivery of services to Title IV-E eligible children.

A. Eligibility Verification and Documentation

1. Verification of the child's citizenship or alien status is required. Other information received by the county department to support a Title IV-E eligibility determination does not require verification unless it conflicts with other information in the possession of the department. If such a conflict occurs, the county department shall use verification procedures provided in the rules for the Colorado Works Program to resolve the conflict (Section 3.140, et seq.; 9 CCR 2503-1).

2. The county department shall document each of the eligibility factors on the state prescribed form. The county must ensure that a copy of the signed voluntary placement agreement or court order and any required verification are present in the case file.

3. The county department shall use the following eligibility effective dates in the state automated case management system:

a. The eligibility effective date of the child for Title IV-E shall be the first day of the month in which all eligibility criteria for the child are met, but can be no earlier than the first day of placement.

b. The date of eligibility of the placement for reimbursements through Title IV-E is the first day of the month in which all the Title IV-E provider eligibility criteria are met.

c. With respect to the court order/petition, the date that is used is the date of the court order or the date a petition is filed for custody of the child which eventually leads to a court ordered removal of the child from the home.

B. Title IV-E Eligibility Criteria for a Child - Initial Determination

1. The child was removed from his/her parent(s) or other specified relative either by:

a. A voluntary placement agreement entered into by the child's parent or legal guardian; or,

b. Order of the court.

2. The first court ruling sanctioning the removal of the child from the home must contain findings to the effect that:

a. Continuation in the home would be contrary to the welfare of the child; or,

b. Out-of-home placement is in the best interests of the child.

If this “best interests” determination is not recorded in the first written court order, signed by a judge or magistrate, pertaining to the removal of the child from the home, a transcript of the findings and orders from the court proceeding is the only other documentation that can be accepted to verify that the required judicial determination was made. Neither affidavits nor subsequent “nunc pro tunc” orders are acceptable verification for meeting the “best interests” requirement.

3. There must be an order of the court within sixty (60) calendar days after the date the child is placed in out-of-home care with a finding to the effect that:

a. Reasonable efforts were made to prevent the removal of the child from the home; or

b. An emergency situation exists such that the lack of preventative services was reasonable; or,

c. Reasonable efforts to prevent the removal of the child from the home were not required. (See Section 7.304.53, B, 3, for circumstances in which the court may determine, that reasonable efforts to prevent removal are not required).

If a “reasonable efforts to prevent the removal” determination was made by the court as required, but was not recorded in the original written court order signed by the judge or magistrate pertaining to that judicial determination, a transcript of the findings and orders from the court proceeding is the only other documentation that can be accepted to verify that the required determination was made. Neither affidavits nor subsequent “nunc pro tunc” orders are acceptable verification for meeting this “reasonable efforts” requirement.

4. The county is granted legal custody of the child or the child is in out-of-home care under a voluntary placement agreement.

5. The child must have lived with a parent or other specified relative from whom the child is removed through a voluntary placement agreement or court-ordered custody with the county department in the month, or within the six (6) months preceding the month, in which the voluntary placement agreement was signed or court proceedings were initiated to remove the child.

6. A child removed through a “constructive removal” shall be determined Title IV-E eligible if all other applicable criteria for Title IV-E eligibility are met.

A constructive removal occurs when all of the following apply:

a. The child resides with a non-parent caretaker who is not the legal custodian or guardian of the child;

b. The child is court ordered into the custody of the county department or placed through a voluntary placement agreement; and

c. The child remains in the home of the caretaker who serves as the out-of-home care provider to the child after the county is awarded custody or obtains the agreement for voluntary placement.

7. To be eligible for Title IV-E, the child must be determined eligible for Aid to Families with Dependent Children (AFDC) in accordance with the July 16, 1996, regulations (and exceptions as allowed).

C. Title IV-E Eligibility Criteria of a Provider

For the placement costs of a Title IV-E eligible child to be claimable through Title IV-E funding the provider must be a Title IV-E eligible provider. An out-of-home provider must be fully licensed or fully certified to be a Title IV-E eligible provider.

Placement costs of Title IV-E eligible children placed with provisionally licensed or provisionally certified out-of-home care providers will not be claimable through Title IV-E foster care as they are not fully licensed or fully certified providers.

Administrative costs for an otherwise Title IV-E eligible child who is placed in less than fully licensed or fully certified out-of-home care placements are not claimable through Title IV-E funding, except when the child is placed with a relative and the relative is pursuing full foster care certification. Administrative costs can be claimed for up to six months while the child remains in placement with a provisionally certified relative provider.

Administrative costs are not claimable through Title IV-E funding for children who are placed in facilities that are not Title IV-E eligible facilities, such as a detention placement, except for the calendar month in which a child moves from a facility that is not eligible for Title IV-E funding to a Title IV-E claimable out-of-home care facility.

D. AFDC Eligibility Tests

Title IV-E requires that eligibility for Aid to Families with Dependent Children (AFDC) must be determined in accordance with the regulations as in effect on July 16, 1996, and exceptions as allowed. See AFDC rules from July 16, 1996. The AFDC eligibility month is the month court proceedings leading to the removal were initiated or the month in which a voluntary placement agreement was signed.

1. Living with a Relative - The child must have lived with a parent or other specified relative:

a. During the month in which court proceedings to remove the child were initiated or a voluntary placement agreement was signed; or,

b. Sometime within the six (6) months preceding the month in which court proceedings to remove the child were initiated or a voluntary placement agreement was signed.

2. Deprivation of Parental Support - The child must be deprived of parental support or care of one or both parents by reason of:

a. Death;

b Incapacity - physical or mental;

c. Continued absence from the home; or

d. Unemployment - deprivation due to unemployment exists when:

1) Both of the child's natural or adoptive parents resided in the removal home in the month the voluntary placement agreement was signed or court proceedings were initiated to remove the child from the home; and,

2) The household income, after AFDC income tests are applied, is less than the need standard for the household.

3. Determination of Need

The income and resources of the household members of the removal home must be within the allowable standards for an AFDC assistance unit. Refer to the AFDC rules from July 16, 1996, to determine which members of the household are considered in the determination of income and resources.

a. Resources - The family must have less than $10,000 in countable resources.

b. Income Test - The household income after AFDC income tests are applied must be less than the need standard for the household.

4. Additional AFDC Eligibility Factors

a. Age - The child must be under eighteen (18) years, or if over eighteen (18) but not yet nineteen (19) years of age, must be a fulltime student in a secondary school or in the equivalent level of vocational or technical training and expected to complete the program before age 19. Such children are eligible for Title IV-E though the month of completion of the educational program.

b. Citizenship - The child must be a United States citizen, naturalized citizen, or qualified alien to be eligible of Title IV-E. Refer to Section 3.140 of the Income Maintenance rules (9 CCR 2503-1).

c. Residency - The child must be a resident of Colorado. If the child's residency is from another state, that state is responsible for determining Title IV-E eligibility of the child.

E. Eligibility Factor - Voluntary Placement Agreement

1. A voluntary placement agreement must be completed and signed by the parent(s) or legal guardian and the county department.

2. Eligibility for Title IV-E foster care can begin no earlier than the signature date of the voluntary placement agreement.

3. Voluntary placement agreements are limited to ninety (90) calendar days. If placement of the child is to continue beyond ninety (90) calendar days, the county department must obtain a petition to review the need for placement that leads to a court order granting the county department legal custody.

4. There must be an order by the court within one hundred eighty (180) calendar days of the child's placement in foster care that “continued placement is in the best interests of the child”, or words to that effect. If such an order is not made by the court within the allowable one hundred eighty (180) calendar days, the child is not eligible for Title IV-E foster care reimbursement for the remainder of the child's placement in out-of-home care.

F. Eligibility Factor - Relinquishment

If a child is relinquished to the county department, the county shall petition the court to judicially remove the child even though the parent relinquished the child to the agency. Children relinquished to the county department can be Title IV-E eligible when:

1. The child had last been living with the parent within six (6) months of the date court proceedings were initiated.

2. The court order contains the findings shown at Section 7.601.81, B, 2.

3. The child meets other eligibility factors.

G. Minor Parent and Child in Mutual Care

A child residing in mutual out-of-home care with his/her adult parent is not considered removed from the parent because the child continues to reside with the parent in the same residence; therefore, the child is not IV-E eligible.

When the parent is a minor and the minor parent has been determined eligible for Title IV-E foster care, the child's placement costs are reimbursable through Title IV-E foster funding as an extension of the minor parent's cost of care.

H. Required Time Frames

1. The county department is responsible for determining the eligibility of every child entering out-of-home foster care within forty-five (45) calendar days of the placement date unless good faith efforts have been made and recorded in the child's record.

2. Counties shall redetermine eligibility using the state prescribed form every twelve (12) months from the date the child enters foster care.

I. Referral to Child Support Enforcement

The county department shall refer every child determined eligible for Title IV-E foster care to the county department's Child Support Enforcement Unit for child support services, except when the:

1. Child is in continuous placement for less than thirty-one (31) days.

2. Child's absent parent is unknown.

3. Best interests of the child would not be served, such as when parental rights have been terminated or the Family Services Plan documents that family contact is inappropriate.

4. Child's deprivation status under Title IV-E eligibility is “Unemployment”.

J. Redetermination of Title IV-E Eligibility Requirements

1. A court order must remain in effect which grants legal custody of the child to the county department or a petition to review the need for placement was filed and the court has ordered legal authority for continued placement within one hundred eighty (180) calendar days of the date a child entered out-of-home care by voluntary placement agreement.

2. Effective March 27, 2001, there must be an order of the court finding that the county department has made reasonable efforts to finalize a permanency plan. This finding must be made within twelve (12) months of the date the child enters foster care, and every twelve (12) months thereafter while the child remains in out-of-home care. If twelve (12) months elapse without this judicial determination, eligibility for Title IV-E foster care

temporarily ends. Title IV-E eligibility can resume the 1st day of the month in which the finding is made.

K. Redetermination of Provider Eligibility

An out-of-home care provider must be licensed or certified to be a Title IV-E eligible placement. Placement costs for a Title IV-E eligible child are only Title IV-E claimable when a child is placed with a Title IV-E eligible provider.

Effective September 1, 2000, provisionally licensed or provisionally certified out-of-home care providers will not be claimable placements through Title IV-E foster care as they are not fully licensed or fully certified.

L. Reasonable Candidates

Reasonable candidates for foster care, for the purposes of Title IV-E program, are children determined to be at risk of imminent placement out of the home as defined in Section 19-1-103(64), C.R.S. Administrative costs may be claimed for children who are determined to be at imminent risk of removal from the home through a voluntary placement agreement or court-ordered custody with the county department. A determination must be made as to whether the child is at imminent risk of removal from the home no less frequently than every six (6) months. Reasonable efforts shall be made to prevent the removal of the child from the home until such time that pursuing removal of the child from the home becomes necessary.

7.601.872 Supplemental Security Income (SSI) [Eff. 1/1/15]

Supplemental Security Income is a federal monthly award granted to a child 0–21 years of age who has a verified disability.

A. Recipients of Social Security Administration (SSA) death benefits or Supplemental Security Disability Income for Dependents (SSDI) shall not be coded in this fund source.

B. The county department shall make application to the Social Security Administration for any child who is believed to meet Supplemental Security Income eligibility criteria. Application for Supplemental Security Income is required for all children enrolled in the Children's Habilitation Residential Program (CHRP) waiver.

C. Concurrent eligibility for Title IV-E foster care and Supplemental Security Income (SSI) is allowed.

D. Required Time Frames - Application for benefits shall begin within forty-five (45) calendar days of the child's out-of-home placement in appropriate cases.

7.601.873 Title IV-A Emergency Assistance [Eff. 1/1/15]

The county department shall determine eligibility for the Title IV-A Emergency Assistance Program anytime services are provided or purchased for families with children at risk of placement or when the worker transfers an intake case for on-going services.

A. Eligibility Factors

The eligibility determination shall be documented on the state prescribed form and shall include:

1. Whether an emergency exists, defined as the removal of a child from his or her home into publicly funded care or state or county supervision, or risk of such removal as determined by the responsible state or county agency officials.

2. Whether the child has lived with a relative anytime within the six (6) months preceding the Title IV-A Emergency Assistance application. See the Income Maintenance manual for requirements of relative (9 CCR 2503-1).

3. Whether the family's total gross annual income is under $75,000.

B. Maintenance of Effort (MOE)

Expenditures of services to or on behalf of eligible members of an Emergency Assistance eligible family can be attributed to the State's TANF Maintenance of Effort requirement if a child is living in the household with the parent or other adult relative. The Maintenance of Effort entitlement shall be recorded in the state automated case management system if a case is opened for the child.

C. Required Time Frames

The county shall complete the eligibility determination within thirty (30) business days of case opening. The eligibility effective date can be no earlier than the date when the application is initiated.

7.601.874 Without Regard to Income [Eff. 1/1/15]

The Without Regard to Income entitlement shall be the default funding stream when a case is opened in the state automated case management system.

7.601.98 COUNTY RESPONSIBILITIES TO REPORT FRAUD – RECOVER MONIES OWED [Eff. 1/1/15]

A. County departments shall refer, within ten (10) working days, to the appropriate investigatory agency and the district attorney any alleged discrepancy which may be a fraudulent act or suspected fraudulent act by a staff member, client, former client, or provider of services.

B. County departments shall seek recovery for the total amount of services costs if the county department finds that the individual was not eligible for the service or if fraud is established.

C. County departments shall take whatever action is necessary to recover payments when staff members, current or former clients and/or providers owe money to the state and/or county department because of overpayments, ineligibility and/or failure to comply with applicable state laws, rules or procedures.

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Title of Proposed Rule:	**Changes to Rule as a Result of 2017 Legislation (12 CCR 2509-7)**		
CDHS Tracking #:	**17-06-16-07**		
Office, Division, & Program:	OCYF, DCW	Phone:	303.866.2866
Rule Author:	Paige Rosemond	E-Mail:	paige.rosemond@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.

To be in compliance with legislation passed during the 2017 legislative session, Child Protection Teams rule needs to be repealed.

An emergency rule-making (which waives the initial Administrative Procedure Act noticing requirements) is necessary:

[X] to comply with state/federal law and/or
[ ] to preserve public health, safety and welfare

Justification for emergency:

NA

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
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Does the rule incorporate material by reference? [ ] Yes [X] No
Does this rule repeat language found in statute? [ ] Yes [X] 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?

County Departments of Human/Social Services

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?

County Departments of Human/Social Services will now have the option as to whether or not and how they utilize Child Protection Teams. Therefore, County Departments of Human/Social Services may be positively impacted as resources utilized to coordinate and facilitate this process can be reallocated elsewhere.

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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)*

In regards to Child Protection Teams, there is no fiscal impact to the State as they are not a process initiated of facilitated by the State.

County Fiscal Impact

This change could potentially have a positive fiscal impact and resources may not be utilized to facilitate and participate in Child Protection Teams. Therefore, these resources may be utilized elsewhere.

Federal Fiscal Impact

There is not fiscal impact to the federal government as these changes only impact State level practice.

Other Fiscal Impact *(such as providers, local governments, etc.)*

NA

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The Office of the State Auditors' (OSA) 2014 Child Welfare Performance Audit helped to inform the statutory change to make Child Protection Teams optional as opposed to mandatory.

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?

There were extensive efforts to modify the Child Protection Teams process via prior unsuccessful rule promulgation, prior unsuccessful statutory changes, and through the Department's memorandum series. The repeal of the rule is in alignment with the recommendations of OSA's audit and what was learned through the prior attempts to modify the process.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

New **Revision** **Technical Change** **Repeal**

Rule section and Page #	Type of Change/ Modification	Old Language	New Language or Response	Reason/Example/ Best Practice	Public Comment None/Detail
7.601.6	Repeal	**7.601.6 CHILD PROTECTION TEAMS** **A county department of [HUMAN OR] social services receiving fifty (50) or more referrals of child abuse and neglect per year shall have a multi-disciplinary child protection team in accordance with Sections 19- 1-103(22) and 19-3-308(6), C.R.S.**	**7.601.6 CHILD PROTECTION TEAMS** **A county department of [HUMAN OR] social services receiving fifty (50) or more referrals of child abuse and neglect per year shall have a multi-disciplinary child protection team in accordance with Sections 19- 1-103(22) and 19-3-308(6), C.R.S.**	SB 17-016 modified the use of Child Protection Teams to optional.	Yes, the public was included in stakeholder and legislative committee meetings during the legislative process.
7.601.7	Revision		**7.601.~~7~~ 6**		
7.601.8	Revision	**If a child is determined eligible for services, the county department shall document the child's funding source eligibility on the Department's automated reporting system. This activity shall occur for each child opened on the department's automated reporting system. Eligibility shall be documented for each funding source for which the child is eligible. Eligibility criteria and required time frames for determination are found in subsections 7.601.81 through 7.601.84.**	**7.601.8 7** **If a child is determined eligible for services, the county department shall document the child's funding source eligibility on the Department's automated reporting system. This activity shall occur for each child opened on the department's automated reporting system. Eligibility shall be documented for each funding source for which the child is eligible. Eligibility criteria and required time frames for determination are found in subsections 7.601.871 through 7.601.874.**		
7.601.81	Revision	**F. Eligibility Factor - Relinquishment If a child is relinquished to the county**	**7.601.8 71** **F. Eligibility Factor - Relinquishment If a**		

		department, the county shall petition the court to judicially remove the child even though the parent relinquished the child to the agency. Children relinquished to the county department can be Title IV-E eligible when: 1. The child had last been living with the parent within six (6) months of the date court proceedings were initiated. 2. The court order contains the findings shown at Section 7.601.81, B, 2. 3. The child meets other eligibility factors.	**child is relinquished to the county department, the county shall petition the court to judicially remove the child even though the parent relinquished the child to the agency. Children relinquished to the county department can be Title IV-E eligible when: 1. The child had last been living with the parent within six (6) months of the date court proceedings were initiated. 2. The court order contains the findings shown at Section 7.601.871, B, 2. 3. The child meets other eligibility factors.**		
7.601.82	Revision		**7.601.8 72**		
7.601.83	Revision		**7.601.8 73**		
7.601.84	Revision		**7.601.8 74**		
7.601.9	Revision		**7.601.9 8**		

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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):

CDHS Legislative Liaison, DYC, DCW, Prime Sponsors – Senators Cheri Jahn and Tim Neville, and Representatives Tracy Kraft-Tharp and Dan Nordberg, Senate Health & Human Services Committee, and House Public Health Care & Human Services Committee, 2015 Legislative Committee, Child Protection Task Group, Sub PAC, PAC, CDHS Community Partner Announcement to 4000 stakeholders, Ombusdsman's Office, Rocky Mountain Children's Law Center, multiple webinars

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:

CDHS Policy Advisory Committee (PAC), Child Welfare Sub PAC, County Departments of Human/Social 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 [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Child Welfare		
Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	6/8/17		
What issues were raised?	None		
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [X] No

~~**7.601.6 CHILD PROTECTION TEAMS [Eff. 1/1/15]**~~

~~A county department of [HUMAN OR] social services receiving fifty (50) or more referrals of child abuse and neglect per year shall have a multi-disciplinary child protection team in accordance with Sections 19-1-103(22) and 19-3-308(6), C.R.S.~~

7.601.~~7~~6 COUNTY RESPONSIBILITIES FOR CASE DOCUMENTATION [Eff. 1/1/15]

A. There shall be case documentation in all active cases as required by the individual Program Area.

1. Frequency of case documentation of case activity will be at a minimum every six (6) months and more often as needed, according to the case plan or Family Service Plan.

2. Summary documentation updating a case record shall be done at least every six (6) months or whenever a case is transferred from county to county, between workers in a county, or when a case is closed.

3. For cases in Program Areas 4, 5, and 6, when there is a change in caseworker or a transfer of a service case to another county, the new caseworker shall have telephone or in-person contact with the child and/or provider within thirty (30) calendar days after the change or transfer.

B. A written narrative summary of case activity shall include, but is not limited to, the following (a court report containing the same information will suffice):

1. Ongoing assessment of individual and/or family functioning;

2. Assessment of progress toward objectives and goals;

3. Chronology of significant events including dates of occurrence;

4. Method of intervention/treatment and impressions of effectiveness;

5. Changes and/or refinements of case plan;

6. Type and extent of court involvement; and

7. Other significant individuals or agencies involved.

For cases in Program Areas 4, 5, and 6 in which an Administrative Review is substituting for a court review, the county shall assure that a written summary containing the above information is complete and present in the case file. The county shall submit this written summary with the Administrative Review findings to the court.

C. A case plan/agreement for each service period shall be developed which contains all of the required information.

D. Documentation of all pertinent contact sheets shall be prepared and prior to the periodic summary of such activities.

E. Evaluation and reassessments pertaining to each service period shall be conducted which reflect case movement toward the long-term goal.

F. A written summary shall be completed within thirty (30) calendar days of closure which shall include:

1. Summary of contacts;

2. Reason for closure;

3. Summary of services provided; and

4. Assessment of effectiveness of services in terms of client's stated goals including, where possible, the client's assessment of the experience.

7.601.87 COUNTY RESPONSIBILITIES TO DETERMINE AND DOCUMENT FUNDING SOURCE FOR THE PURPOSE OF REPORTING SERVICES AND TO GAIN MAXIMUM FEDERAL REIMBURSEMENT [Eff. 1/1/15]

If a child is determined eligible for services, the county department shall document the child's funding source eligibility on the Department's automated reporting system. This activity shall occur for each child opened on the department's automated reporting system. Eligibility shall be documented for each funding source for which the child is eligible.

Eligibility criteria and required time frames for determination are found in subsections 7.601.81 through 7.601.84.

7.601.871 Title IV-E Foster Care [Eff. 1/1/15]

Title IV-E of the Social Security Act provides federal matching funds to help pay for the cost of foster care for eligible children. It also pays for training and administrative costs associated with the delivery of services to Title IV-E eligible children.

A. Eligibility Verification and Documentation

1. Verification of the child's citizenship or alien status is required. Other information received by the county department to support a Title IV-E eligibility determination does not require verification unless it conflicts with other information in the possession of the department. If such a conflict occurs, the county department shall use verification procedures provided in the rules for the Colorado Works Program to resolve the conflict (Section 3.140, et seq.; 9 CCR 2503-1).

2. The county department shall document each of the eligibility factors on the state prescribed form. The county must ensure that a copy of the signed voluntary placement agreement or court order and any required verification are present in the case file.

3. The county department shall use the following eligibility effective dates in the state automated case management system:

a. The eligibility effective date of the child for Title IV-E shall be the first day of the month in which all eligibility criteria for the child are met, but can be no earlier than the first day of placement.

b. The date of eligibility of the placement for reimbursements through Title IV-E is the first day of the month in which all the Title IV-E provider eligibility criteria are met.

c. With respect to the court order/petition, the date that is used is the date of the court order or the date a petition is filed for custody of the child which eventually leads to a court ordered removal of the child from the home.

B. Title IV-E Eligibility Criteria for a Child - Initial Determination

1. The child was removed from his/her parent(s) or other specified relative either by:

a. A voluntary placement agreement entered into by the child's parent or legal guardian; or,

b. Order of the court.

2. The first court ruling sanctioning the removal of the child from the home must contain findings to the effect that:

a. Continuation in the home would be contrary to the welfare of the child; or,

b. Out-of-home placement is in the best interests of the child.

If this “best interests” determination is not recorded in the first written court order, signed by a judge or magistrate, pertaining to the removal of the child from the home, a transcript of the findings and orders from the court proceeding is the only other documentation that can be accepted to verify that the required judicial determination was made. Neither affidavits nor subsequent “nunc pro tunc” orders are acceptable verification for meeting the “best interests” requirement.

3. There must be an order of the court within sixty (60) calendar days after the date the child is placed in out-of-home care with a finding to the effect that:

a. Reasonable efforts were made to prevent the removal of the child from the home; or

b. An emergency situation exists such that the lack of preventative services was reasonable; or,

c. Reasonable efforts to prevent the removal of the child from the home were not required. (See Section 7.304.53, B, 3, for circumstances in which the court may determine, that reasonable efforts to prevent removal are not required).

If a “reasonable efforts to prevent the removal” determination was made by the court as required, but was not recorded in the original written court order signed by the judge or magistrate pertaining to that judicial determination, a transcript of the findings and orders from the court proceeding is the only other documentation that can be accepted to verify that the required determination was made. Neither affidavits nor subsequent “nunc pro tunc” orders are acceptable verification for meeting this “reasonable efforts” requirement.

4. The county is granted legal custody of the child or the child is in out-of-home care under a voluntary placement agreement.

5. The child must have lived with a parent or other specified relative from whom the child is removed through a voluntary placement agreement or court-ordered custody with the county department in the month, or within the six (6) months preceding the month, in which the voluntary placement agreement was signed or court proceedings were initiated to remove the child.

6. A child removed through a “constructive removal” shall be determined Title IV-E eligible if all other applicable criteria for Title IV-E eligibility are met.

A constructive removal occurs when all of the following apply:

a. The child resides with a non-parent caretaker who is not the legal custodian or guardian of the child;

b. The child is court ordered into the custody of the county department or placed through a voluntary placement agreement; and

c. The child remains in the home of the caretaker who serves as the out-of-home care provider to the child after the county is awarded custody or obtains the agreement for voluntary placement.

7. To be eligible for Title IV-E, the child must be determined eligible for Aid to Families with Dependent Children (AFDC) in accordance with the July 16, 1996, regulations (and exceptions as allowed).

C. Title IV-E Eligibility Criteria of a Provider

For the placement costs of a Title IV-E eligible child to be claimable through Title IV-E funding the provider must be a Title IV-E eligible provider. An out-of-home provider must be fully licensed or fully certified to be a Title IV-E eligible provider.

Placement costs of Title IV-E eligible children placed with provisionally licensed or provisionally certified out-of-home care providers will not be claimable through Title IV-E foster care as they are not fully licensed or fully certified providers.

Administrative costs for an otherwise Title IV-E eligible child who is placed in less than fully licensed or fully certified out-of-home care placements are not claimable through Title IV-E funding, except when the child is placed with a relative and the relative is pursuing full foster care certification. Administrative costs can be claimed for up to six months while the child remains in placement with a provisionally certified relative provider.

Administrative costs are not claimable through Title IV-E funding for children who are placed in facilities that are not Title IV-E eligible facilities, such as a detention placement, except for the calendar month in which a child moves from a facility that is not eligible for Title IV-E funding to a Title IV-E claimable out-of-home care facility.

D. AFDC Eligibility Tests

Title IV-E requires that eligibility for Aid to Families with Dependent Children (AFDC) must be determined in accordance with the regulations as in effect on July 16, 1996, and exceptions as allowed. See AFDC rules from July 16, 1996. The AFDC eligibility month is the month court proceedings leading to the removal were initiated or the month in which a voluntary placement agreement was signed.

1. Living with a Relative - The child must have lived with a parent or other specified relative:

a. During the month in which court proceedings to remove the child were initiated or a voluntary placement agreement was signed; or,

b. Sometime within the six (6) months preceding the month in which court proceedings to remove the child were initiated or a voluntary placement agreement was signed.

2. Deprivation of Parental Support - The child must be deprived of parental support or care of one or both parents by reason of:

a. Death;

b Incapacity - physical or mental;

c. Continued absence from the home; or

d. Unemployment - deprivation due to unemployment exists when:

1) Both of the child's natural or adoptive parents resided in the removal home in the month the voluntary placement agreement was signed or court proceedings were initiated to remove the child from the home; and,

2) The household income, after AFDC income tests are applied, is less than the need standard for the household.

3. Determination of Need

The income and resources of the household members of the removal home must be within the allowable standards for an AFDC assistance unit. Refer to the AFDC rules from July 16, 1996, to determine which members of the household are considered in the determination of income and resources.

a. Resources - The family must have less than $10,000 in countable resources.

b. Income Test - The household income after AFDC income tests are applied must be less than the need standard for the household.

4. Additional AFDC Eligibility Factors

a. Age - The child must be under eighteen (18) years, or if over eighteen (18) but not yet nineteen (19) years of age, must be a fulltime student in a secondary school or in the equivalent level of vocational or technical training and expected to complete the program before age 19. Such children are eligible for Title IV-E though the month of completion of the educational program.

b. Citizenship - The child must be a United States citizen, naturalized citizen, or qualified alien to be eligible of Title IV-E. Refer to Section 3.140 of the Income Maintenance rules (9 CCR 2503-1).

c. Residency - The child must be a resident of Colorado. If the child's residency is from another state, that state is responsible for determining Title IV-E eligibility of the child.

E. Eligibility Factor - Voluntary Placement Agreement

1. A voluntary placement agreement must be completed and signed by the parent(s) or legal guardian and the county department.

2. Eligibility for Title IV-E foster care can begin no earlier than the signature date of the voluntary placement agreement.

3. Voluntary placement agreements are limited to ninety (90) calendar days. If placement of the child is to continue beyond ninety (90) calendar days, the county department must obtain a petition to review the need for placement that leads to a court order granting the county department legal custody.

4. There must be an order by the court within one hundred eighty (180) calendar days of the child's placement in foster care that “continued placement is in the best interests of the child”, or words to that effect. If such an order is not made by the court within the allowable one hundred eighty (180) calendar days, the child is not eligible for Title IV-E foster care reimbursement for the remainder of the child's placement in out-of-home care.

F. Eligibility Factor - Relinquishment

If a child is relinquished to the county department, the county shall petition the court to judicially remove the child even though the parent relinquished the child to the agency. Children relinquished to the county department can be Title IV-E eligible when:

1. The child had last been living with the parent within six (6) months of the date court proceedings were initiated.

2. The court order contains the findings shown at Section 7.601.81, B, 2.

3. The child meets other eligibility factors.

G. Minor Parent and Child in Mutual Care

A child residing in mutual out-of-home care with his/her adult parent is not considered removed from the parent because the child continues to reside with the parent in the same residence; therefore, the child is not IV-E eligible.

When the parent is a minor and the minor parent has been determined eligible for Title IV-E foster care, the child's placement costs are reimbursable through Title IV-E foster funding as an extension of the minor parent's cost of care.

H. Required Time Frames

1. The county department is responsible for determining the eligibility of every child entering out-of-home foster care within forty-five (45) calendar days of the placement date unless good faith efforts have been made and recorded in the child's record.

2. Counties shall redetermine eligibility using the state prescribed form every twelve (12) months from the date the child enters foster care.

I. Referral to Child Support Enforcement

The county department shall refer every child determined eligible for Title IV-E foster care to the county department's Child Support Enforcement Unit for child support services, except when the:

1. Child is in continuous placement for less than thirty-one (31) days.

2. Child's absent parent is unknown.

3. Best interests of the child would not be served, such as when parental rights have been terminated or the Family Services Plan documents that family contact is inappropriate.

4. Child's deprivation status under Title IV-E eligibility is “Unemployment”.

J. Redetermination of Title IV-E Eligibility Requirements

1. A court order must remain in effect which grants legal custody of the child to the county department or a petition to review the need for placement was filed and the court has ordered legal authority for continued placement within one hundred eighty (180) calendar days of the date a child entered out-of-home care by voluntary placement agreement.

2. Effective March 27, 2001, there must be an order of the court finding that the county department has made reasonable efforts to finalize a permanency plan. This finding must be made within twelve (12) months of the date the child enters foster care, and every twelve (12) months thereafter while the child remains in out-of-home care. If twelve (12) months elapse without this judicial determination, eligibility for Title IV-E foster care

temporarily ends. Title IV-E eligibility can resume the 1st day of the month in which the finding is made.

K. Redetermination of Provider Eligibility

An out-of-home care provider must be licensed or certified to be a Title IV-E eligible placement. Placement costs for a Title IV-E eligible child are only Title IV-E claimable when a child is placed with a Title IV-E eligible provider.

Effective September 1, 2000, provisionally licensed or provisionally certified out-of-home care providers will not be claimable placements through Title IV-E foster care as they are not fully licensed or fully certified.

L. Reasonable Candidates

Reasonable candidates for foster care, for the purposes of Title IV-E program, are children determined to be at risk of imminent placement out of the home as defined in Section 19-1-103(64), C.R.S. Administrative costs may be claimed for children who are determined to be at imminent risk of removal from the home through a voluntary placement agreement or court-ordered custody with the county department. A determination must be made as to whether the child is at imminent risk of removal from the home no less frequently than every six (6) months. Reasonable efforts shall be made to prevent the removal of the child from the home until such time that pursuing removal of the child from the home becomes necessary.

7.601.872 Supplemental Security Income (SSI) [Eff. 1/1/15]

Supplemental Security Income is a federal monthly award granted to a child 0–21 years of age who has a verified disability.

A. Recipients of Social Security Administration (SSA) death benefits or Supplemental Security Disability Income for Dependents (SSDI) shall not be coded in this fund source.

B. The county department shall make application to the Social Security Administration for any child who is believed to meet Supplemental Security Income eligibility criteria. Application for Supplemental Security Income is required for all children enrolled in the Children's Habilitation Residential Program (CHRP) waiver.

C. Concurrent eligibility for Title IV-E foster care and Supplemental Security Income (SSI) is allowed.

D. Required Time Frames - Application for benefits shall begin within forty-five (45) calendar days of the child's out-of-home placement in appropriate cases.

7.601.873 Title IV-A Emergency Assistance [Eff. 1/1/15]

The county department shall determine eligibility for the Title IV-A Emergency Assistance Program anytime services are provided or purchased for families with children at risk of placement or when the worker transfers an intake case for on-going services.

A. Eligibility Factors

The eligibility determination shall be documented on the state prescribed form and shall include:

1. Whether an emergency exists, defined as the removal of a child from his or her home into publicly funded care or state or county supervision, or risk of such removal as determined by the responsible state or county agency officials.

2. Whether the child has lived with a relative anytime within the six (6) months preceding the Title IV-A Emergency Assistance application. See the Income Maintenance manual for requirements of relative (9 CCR 2503-1).

3. Whether the family's total gross annual income is under $75,000.

B. Maintenance of Effort (MOE)

Expenditures of services to or on behalf of eligible members of an Emergency Assistance eligible family can be attributed to the State's TANF Maintenance of Effort requirement if a child is living in the household with the parent or other adult relative. The Maintenance of Effort entitlement shall be recorded in the state automated case management system if a case is opened for the child.

C. Required Time Frames

The county shall complete the eligibility determination within thirty (30) business days of case opening. The eligibility effective date can be no earlier than the date when the application is initiated.

7.601.874 Without Regard to Income [Eff. 1/1/15]

The Without Regard to Income entitlement shall be the default funding stream when a case is opened in the state automated case management system.

7.601.98 COUNTY RESPONSIBILITIES TO REPORT FRAUD – RECOVER MONIES OWED [Eff. 1/1/15]

A. County departments shall refer, within ten (10) working days, to the appropriate investigatory agency and the district attorney any alleged discrepancy which may be a fraudulent act or suspected fraudulent act by a staff member, client, former client, or provider of services.

B. County departments shall seek recovery for the total amount of services costs if the county department finds that the individual was not eligible for the service or if fraud is established.

C. County departments shall take whatever action is necessary to recover payments when staff members, current or former clients and/or providers owe money to the state and/or county department because of overpayments, ineligibility and/or failure to comply with applicable state laws, rules or procedures.

****

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 1 - eff 09/01/2017

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09/01/2017

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-10

REPORTING REQUIREMENTS FOR MULTIPLE EMPLOYER WELFARE ARRANGEMENTS (MEWAS)

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 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 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 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, 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, 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 by the Commissioner in order to demonstrate if the MEWA's complies with the requirements of § 10-3-903.5(7)(c), 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 Commissioner to make a determination regarding the qualification of a MEWA seeking exemption from licensure requirements:

1. Evidence that the MEWA has existed continuously since January 1, 1983.

2. 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.

3. 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 support the required 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.

4. The method of marketing and enrolling eligible participants.

5. The actuarial information required by § 10-3-903.5(7)(c)(III), C.R.S.,~~that~~ must be prepared and signed by a qualified actuary. The actuarial information must include:

a. An opinion that:

(1) Is prepared in a format consistent with that required by the National Association of Insurance Commissioners for commercial health insurers; and

(2) Opines on the adequacy of the health plan reserves and liabilities reflected in the financial report.

b. 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.

6. 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 Colorado's mandated benefit provisions.

7. Such other relevant information as the Commissioner may request in order to evaluate the qualification status of the MEWA.

8. A copy of an audited annual financial report within 150 days of the MEWA's fiscal year end.

C. Subsections B.1. and B.2. are only required to be filed once, unless materially altered. B.3. through B.7. must be filed annually within sixty (60) days following the fiscal year end of the MEWA. Subsection B.8. must be filed annually.

Section 6 Authorized Insurance Arrangements

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 § 10-3-903.5(7)(c), C.R.S., and Section 5 of this regulation.

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 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.

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 September 1, 2017.

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

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Office of the Attorney General

Tracking number: 2017-00218

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 07/12/2017

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2

The above-referenced rules were submitted to this office on 07/12/2017 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.

July 31, 2017 11:42:45

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

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09/01/2017

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-29

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

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 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 by entities subject to Part 2, Part 3 and Part 4 of Article 16 of Title 10 of the Colorado Revised Statutes.

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 coverage" means, for the purpose of this regulation, 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.

F. “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 coverage.

B. The card size must be approximately 2.125 inches by 3.370 inches, which is consistent with standard-sized credit cards, and must 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 must be legible and conducive to black and white photocopying.

D. The following information 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, 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 policy’s deductible and applicable coinsurance, a non-specific amount notation of “Deductible and coinsurance” is sufficient; otherwise, the required copayments 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 must be placed on the card in a clear and conspicuous manner.

E. The following information must 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, which must 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 Section 5.D.6., such as:

1. "PCP" to describe or refer to primary care provider benefits;

2. "SCP" to describe or refer to specialty care provider 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 Section 5.G. must 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 September 1, 2017.

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

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on 07/12/2017

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2

The above-referenced rules were submitted to this office on 07/12/2017 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.

July 31, 2017 11:44:02

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

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Division of Insurance

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3 CCR 702-4 Series 4-6

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3 CCR 702-4 Series 4-6 LIFE, ACCIDENT AND HEALTH, Series 4-6 1 - eff 09/01/2017

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DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-6-12

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

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.

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 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 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., 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 § 10-16-104(5), C.R.S. (2012), but will provide "additional" insurance benefits above the limitations set out in § 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 (20^{th}) 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 must not be more restrictive than 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 September 1, 2017.

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

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Tracking number: 2017-00220

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 07/12/2017

3 CCR 702-4 Series 4-6

LIFE, ACCIDENT AND HEALTH, Series 4-6

The above-referenced rules were submitted to this office on 07/12/2017 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.

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

July 31, 2017 11:45:16

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Public Utilities Commission

CCR number

4 CCR 723-2

Rule title

4 CCR 723-2 RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES 1 - eff 09/01/2017

Effective date

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COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-2

PART 2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

TABLE OF CONTENTS

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these rules is generally to implement, administer and enforce the telecommunications provisions of Title 40 of the Colorado Revised Statutes; and regulate telecommunications proceedings and regulatory activities before the Commission. These rules address a wide variety of subject areas. Therefore, specific statements of Basis, Purpose, and Statutory Authority are found at the beginning of each subchapter of these rules.

The statutory authority for the promulgation of these rules is found at §§ 29-11-106(3); 38-5.5-101; 39-32-104; 40-2-108; 40-3-101; 40-3-102; 40-3-103; 40-3-107; 40-3-110; 40-3.4-106; 40-4-101; 40-7-113.5; 40-7-116.5; 40-15-101; 40-15-108(2); 40-15-109(3); 40-15-201; 40-15-203.5; 40-15-208(2)(a); 40-15-301; 40-15-302(1)(a) and (2); 40-15-302.5; 40-15-305; 40-15-404; 40-15-502(1), (3)(a), and (5)(b); 40-15-503; 40-17-103(2) and (3), C.R.S.

GENERAL PROVISIONS

2000. Scope and Applicability.

Rules 2000 through 2099 are rules of general applicability to be applied consistent with Commission jurisdiction and rules 2100 through 2999. More specific applicability provisions are found in the various subchapters of this Part 2.

2001. Definitions.

The meaning of terms in Part 2 shall be consistent with general usage in the telecommunications industry unless specifically defined by Colorado statute or a more specific rule. In the event the general usage of terms in the telecommunications industry or the definitions anywhere in Part 2 conflict with statutory definitions, the statutory definitions control. In the event the general usage of terms in the telecommunications industry conflict with definitions anywhere within Part 2, the Part 2 definitions control. In the event another Commission rule of general applicability (such as in the Commission's Rules of Practice and Procedure) conflicts with Part 2 rules, the Part 2 rules control. Except as may be provided by applicable statute or more specifically applicable rule, the following definitions apply throughout this Part 2:

(a) "Access line" means the connection of a customer's premises to the public switched telephone network regardless of the type of technology used to connect the customer to the network.

(b) "Access to emergency services" means access to services, such as 9-1-1 basic emergency service provided by local governments or other public safety organizations to the extent the local government or the public safety organization has implemented 9-1-1.

(c) "Access to operator service" means access to a mechanized system or access through a real person to arrange for billing and/or completion of a telephone call.

(d) "Access to toll service" means the use of the network elements, including but not limited to loop, circuit, and switch facilities or their functional equivalents, necessary to access an interexchange provider's network.

(e) "Base rate area" means the geographic area within an exchange service area, as defined in the terms of service of a local exchange provider, wherein uniform rates that do not vary with distance from the central office apply to each class or grade of service.

(f) "Basic local exchange service" or "basic service" means the telecommunications service that provides:

(I) a local dial tone;

(II) local usage necessary to place or receive a call within an exchange area; and

(III) access to emergency, operator, and interexchange telecommunications services.

(g) "Busy hour" means the uninterrupted period of 60 minutes during the day when the traffic load offered to a particular switch, trunk, or network component is at its designed maximum load. The 60-minute periods are generally measured from hour-to-hour or from half-hour to half-hour.

(h) "Busy season" means a month or several months that may be non-consecutive, within a consecutive 12-month interval, when the maximum busy hour requirements are experienced excluding days with abnormal traffic volume, such as Christmas or Mother's Day. The busy season generally is at least 30 days in length and generally does not exceed 60 days in length.

(i) "Calls" means customers' telecommunications messages.

(j) "Central office" means the plant, facilities, and equipment, including, but not limited to, the switch, located inside a structure of a provider of telecommunications service that functions as an operating unit to establish connections between customer lines, between customer lines and trunks to other central offices within the same or other exchanges, and between customer lines and the facilities of other providers of telecommunications service.

(k) "Certificate of Public Convenience and Necessity" (CPCN) means the Commission-granted authority to provide services, subject to terms and conditions established by the Commission in its decision granting the authority.

(l) "Channel" means a transmission path for telecommunications between two points. It may refer to a one-way path that permits the completion of traffic from the first point to the second point, or from the second point to the first point. Alternatively, it may refer to a two-way path that permits the completion of traffic in either direction. Generally a channel is the smallest subdivision of a transmission system by means of which a single type of communication service is provided.

(m) "Class of service" means a classification of a telecommunications service provided to a customer or group of customers, which denotes characteristics such as its nature of use (business or residence) or type of rate (flat rate, measured rate, or message rate).

(n) "Collocation" means the following:

(I) physical collocation occurs when one provider of telecommunications service owns interconnection facilities physically located within another provider of telecommunications service physical premises; or

(II) virtual collocation occurs when one telecommunications provider extends its facilities to a point of interconnection within a reasonably close proximity to, but not physically located within, another telecommunications provider's physical premises. In virtual collocation, the provider requesting collocation (lessee) may request the type of equipment to be used from another provider who owns the space (lesser). In such case, the lessee may own or may lease and maintain the equipment.

(o) "Commercial Mobile Radio Service" or "CMRS" means cellular or wireless service, personal communications service, paging service, radio common carrier service, radio mobile service, or enhanced specialized mobile radio service.

(p) "Common carrier" means a provider of telecommunications service that offers telecommunications services to the public, or to such classes of users as to be effectively available to the public, on a non-discriminatory basis.

(q) "Community of interest" means an area consisting of one or more exchanges in which the general population has similar governmental, health, public safety, business, or educational interests.

(r) "Competitive local exchange carrier" (CLEC) means a provider of local exchange service that is not the incumbent local exchange carrier in an identified exchange area.

(s) "Customer" means, to the extent consistent with the context of each definition or other rule, a person who is currently receiving a jurisdictional telecommunications service.

(I) "Business customer" means a customer whose use of telecommunications service is primarily of a commercial, professional, institutional, or other occupational nature.

(II) "Residential customer" means a customer whose use of telecommunications service is primarily of a social or domestic nature.

(t) "Customer proprietary network information" has the same meaning as the meaning given to such term in 47 U.S.C. § 222(h)(1).

(u) "Customer trouble report" means any oral or written report from a customer or from a user of telecommunications services relating to a physical defect with or relating to difficulty or dissatisfaction with the operation of the provider's facilities. Any subsequent report received from the same customer or user of telecommunications services in the same day shall be counted as a separate report, unless it duplicates a previous report or unless it merely involves an inquiry concerning progress on a previous report.

(v) "Day" means a calendar day, consistent with the definition found in rule 1004(o).

(w) "Decibel" means the unit of measurement for the logarithmic ratio to the base ten of two power signals. The abbreviation dB is commonly used for the term decibel.

(x) "Deregulated telecommunications services" means services and products exempted from regulation pursuant to Title 40, Article 15, Part 4, C.R.S., or by the Commission in accordance with § 40-15-305(1), C.R.S.

(y) "Dial equipment minutes of use" (DEM) means the minutes of holding time of originating and terminating local switching equipment, as defined in 47 C.F.R., Part 36.

(z) "Dial tone or its equivalent" means:

(I) the signal placed on a local access line by the wireline provider signaling that the network is ready to receive a call from the subscriber; or

(II) the receipt by a wireless provider of the caller's dialed digits without a 'system busy' response.

(aa) "Effective competition area" (ECA) means a geographic area in which the Commission has determined that basic local exchange service is competitive and no longer eligible to receive High Cost Support Mechanism (HCSM) support pursuant to § 40-15-207, C.R.S.

(bb) "Electronic mail" (e-mail) means an electronic message that is transmitted between two or more computers or electronic terminals. Electronic mail includes electronic messages that are transmitted within or between computer networks.

(cc) "Eligible telecommunications carrier" (ETC) means a common carrier that is authorized by the Commission to receive federal universal service support as required by 47 U.S.C. 214(e)(2).

(dd) "Eligible Provider" (EP) means a provider who offers basic local exchange services and has been designated by the Commission as qualified to receive disbursements from the Colorado High Cost Support Mechanism.

(ee) "Emerging competitive telecommunications services" (Part III services) means services and products regulated by the Commission in accordance with Title 40, Article 15, Part III, C.R.S.

(ff) "End user" means, to the extent consistent with the context of each definition or other rule, a person, other than another provider of telecommunications service, who purchases a jurisdictional telecommunications service from a telecommunications provider.

(gg) "Enhanced 9-1-1" (E9-1-1) means a telephone system which includes such features as Automatic Number Identification (ANI), Automatic Location Identification (ALI), and call routing features to facilitate public safety response as described within rules 2130 through 2159.

(hh) "Exchange" means the totality of the telecommunications plant, facilities, and equipment including plant, facilities and equipment located inside and outside of buildings, used in providing telecommunications service to customers located in a geographic area defined by a provider's tariff or terms of service document. An exchange may include more than one central office location or more than one wire center.

(ii) "Exchange area" means a geographic area established by the Commission for the purpose of establishing a local calling area that consists of one or more central offices together with associated facilities and plant located outside the central office, used in providing basic local exchange service.

(jj) "FCC" means the Federal Communications Commission.

(kk) "Governing body" means the board of county commissioners of a county; the city council or other governing body of a city, city and county, or town; or the board of directors of a special district.

(ll) "Held service order" means an application by a customer for basic local exchange service in a HCSM recipient's or ETC's service territory that the HCSM recipient or ETC is unable to provide within 30 days after the date of the customer's application, except when the customer requests a later service date. The application shall be notice to the HCSM recipient or ETC that the customer desires service. Oral or written requests shall both be considered applications.

(mm) "HCSM recipient" means a provider of basic service in a geographic support area that receives high cost support distributions pursuant to §§ 40-15-208 and 40-15-502(5), C.R.S.

(nn) "Incumbent local exchange carrier" (ILEC) means either:

(I) with respect to a geographic area, the LEC that, on the date of enactment of the Telecommunications Act of 1996 (February 8, 1996), provided telephone exchange service in such geographic area and that either:

(A) on such date of enactment, was deemed to be a member of the exchange carrier association pursuant to 47 C.F.R., 69.601(b) of the FCC's regulations; or

(B) is a person or entity that, on or after such date of enactment, became a successor or assign of a member described in subparagraph (I)(A) of this paragraph; or

(II) any comparable LEC that the Commission has, by rule or order, deemed to be an ILEC after finding that:

(A) such carrier occupies a position in the market for telephone exchange service within a geographic area that is comparable to the position occupied by a carrier described in subparagraph (I) of this paragraph;

(B) such carrier has substantially replaced an ILEC described in subparagraph (I) of this paragraph; and

(C) such treatment is consistent with the public interest, convenience, and necessity.

(oo) "Individual line service or its functional equivalent" means a grade of basic local exchange service that permits a user to have exclusive use of a dedicated message path for the length of the user's particular transmission.

(pp) "Information service" has the same meaning as set forth in 47 USC § 153.

(qq) "Interexchange provider" means a person who provides interexchange telecommunications services.

(rr) "Interexchange telecommunications service" means telephone service between exchange areas that is not included in basic local exchange service.

(ss) "Internet-Protocol- enabled service" or "IP-enabled service means a service, functionality, or application, other than voice-over-internet protocol, that uses internet protocol or a successor protocol and enables an end user to send or receive a voice, data, or video communication in internet protocol format or a successor format, utilizing a broadband connection at the end user's location.

(tt) “Jurisdictional service” means any service, subject to the authority of the Commission under the statutes of the State of Colorado included in Title 40, Article15, Part 2, Part 3 or Part 5, C.R.S. Jurisdictional service also includes basic local exchange service in areas where HCSM support is provided, and interexchange service only for the purpose of Commission jurisdiction over unauthorized charges on a subscriber’s bill, or complaints of changing a subscriber’s service without his or her consent.

(uu) "Letter of Registration" (LOR) means Commission-granted authority to provide switched access services, subject to terms and conditions established in the Commission decision granting the authority.

(vv) "Local Access and Transport Area" (LATA) means a geographic area designated at the time of the1984 divestiture of the American Telephone and Telegraph System. A LATA may encompass more than one contiguous local exchange area that serves common social, economic, or other purposes, even where such area transcends municipal or other local government boundaries.

(ww) "Local call" means any call originating and terminating within the same local calling area.

(xx) "Local calling area" (LCA) means the geographic area approved by the Commission in which customers may make calls without payment of a toll charge for each call. The local calling area may include exchange areas in addition to the serving exchange area.

(yy) "Local exchange carrier" (LEC) or “local exchange provider” means any person authorized by the Commission to provide basic local exchange service.

(zz) “Local exchange telecommunications service” and “local exchange service” means basic local exchange service and other such services identified in § 40-15-401, C.R.S., or defined by the Commission pursuant to § 40-15-502(2), C.R.S., and switched access as defined in §§ 40-15-102(28) and 40-15-301(2), C.R.S.; or any of the above singly or in combination.

(aaa) "Local usage" means the usage necessary to place and receive calls within a local calling area in which the customer is located.

(bbb) "Network element" means a facility or equipment used in the provision of a telecommunications service including features, functions, and capabilities that are provided by means of such a facility or equipment, including subscriber numbers, databases, signaling systems, including information sufficient for billing and collection of such elements, and including facilities used in the transmission, routing, or other provision of a telecommunications service.

(ccc) "Out-of-service trouble report" means a report by the customer of:

(I) no dial tone, inability to make calls, or inability to receive calls on the customer's local access line; or

(II) service quality deterioration to such an extent that the customer is incapable of sending or receiving a facsimile or data transmission at voicegrade, or technology equivalent, transmission levels using the local access line.

(ddd) "Part II service" means a service subject to regulation pursuant to Title 40, Article 15, Part 2, C.R.S.

(eee) "Private branch exchange" (PBX) means a private switchboard or switching system usually on the premises of customers such as campuses, large business offices, apartment buildings, or hotels,

which, over a common group of lines from the central office, can receive calls, place outgoing calls, and interconnect intra-office extensions.

(fff) "Provider of last resort" (POLR) means a Commission-designated telecommunications provider that has the responsibility to offer basic local exchange service to all customers who request it within a geographic support area. All HCSM recipients are designated as POLRs in the geographic areas in which they receive HCSM support.

(ggg) "Public agency" means any city, city and county, town, county, municipal corporation, public district, or public authority located, in whole or in part, within this state that provides, or has the authority to provide, fire fighting, law enforcement, ambulance, emergency medical, or other emergency services.

(hhh) "Rate center" means a geographic point which is defined by specific vertical and horizontal coordinates on a map used by telecommunication companies to determine interexchange mileage when calculating toll charges.

(iii) "Rural telecommunications provider" or "rural provider" (RLEC) means a local exchange provider that meets one or more of the following conditions:

(I) provides common carrier service to any LEC study area, as defined by the Commission, that does not include either:

(A) any incorporated place of 10,000 inhabitants or more or any part thereof, based on the most recent available population statistics of the United States Bureau of the Census; or

(B) any territory, incorporated or unincorporated, included in an urbanized area as defined by the United States Bureau of the Census as of August 10, 1993;

(II) provides telephone exchange service, including exchange access to fewer than 50,000 access lines;

(III) provides telephone exchange service to any LEC study area, as defined by the Commission, with fewer than 100,000 access lines; or

(IV) has less than 15 percent of its access lines in communities of more than 50,000 inhabitants.

(jjj) "Service affecting trouble report" means a report by the customer of:

(I) impairment of the quality of the call such as noise, crosstalk, ringing, echo or diminished volume; or

(II) service quality deterioration such that the performance characteristics of the customer's local access line fall within the substandard range as defined in rule 2337.

(kkk) "Service territory" means a geographic area in which a provider of local exchange telecommunications services is authorized by the Commission to provide such services.

(lll) "Station" means a device and any other necessary equipment at the customer's premises that allows the customer to establish and continue communication.

(mmm) "Switched access" means the service or facilities provided by a local exchange provider to interexchange providers, which allows them to use the local exchange network or the public switched network to originate, terminate, or both originate and terminate interexchange telecommunications services.

(nnn) "Telecommunications relay service" means any telecommunications transmission service that allows a person who has a hearing or speech disability to engage in communication by wire or radio with a hearing individual in a manner that is functionally equivalent to the ability of an individual who does not have a hearing or speech disability. Such term includes any service that enables two-way communication between a person who uses a telecommunications device or other nonvoice terminal device and an individual who does not use such a device.

(ooo) "Telecommunications service" and “telecommunications” have the same meanings as set forth in 47 U.S.C. § 153(53), 47 U.S.C. § 153(50) and § 40-15-102(29), C.R.S.

(ppp) "Toll service" (interexchange telecommunications service) means a type of telecommunications service, commonly known as long-distance service that is provided on an intrastate basis between LATAs and within LATAs and that:

(I) is not included as part of basic local exchange service;

(II) originates and terminates in different local calling areas; and

(III) was or is traditionally billed to the customer separately from basic local exchange service.

(qqq) "Unbundling" means the disaggregation of facilities and functions into network products or services so that they can be separately offered to other providers of telecommunications service in a manner that allows requesting providers of telecommunications service to combine such elements in order to provide telecommunications services.

(rrr) "Universal service", "Universal basic service", or "Universal basic local exchange service" means the availability of basic local exchange service to all citizens of Colorado at affordable rates.

(sss) “Urban rate floor” means the basic local exchange service rate required to be charged in order to prevent a reduction in Federal high cost support.

(ttt) "USOA" means Uniform System of Accounts.

(uuu) "Voicegrade access" to the public switched network means the functionality than enables a user of telecommunications services to transmit voice communications within the frequency range of approximately 300 Hertz and 3,000 Hertz, for a bandwidth of approximately 2,700 Hertz. It also includes signaling the network that: the caller wishes to place a call; there is an incoming call; and the called party is ready to receive voice communications.

(vvv) “Voice-over-internet protocol” or VoIP” means a service that:

(I) enables real-time, two-way voice communications originating from or terminating at a user’s in internet protocol or a successor protocol;

(II) utilizes a broadband connection from the user’s location; and

(III) permits a user to generally receive calls that originate on the public switched network and to terminate calls to the public switched telephone network.

(www) "Wire center" means the structure that houses the equipment used for providing telecommunications services and that terminates outside cable plant and other facilities for a designated serving area.

(xxx) "Wire center serving area" means the geographic area of an exchange area served by a single wire center.

2002. Applications.

(a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate application:

(I) for a CPCN to provide services, as provided in rule 2103;

(II) for the issuance of a LOR for services, as provided in rule 2103;

(III) to amend a CPCN or LOR, as provided in rule 2105;

(IV) to change exchange area boundaries, as provided in rule 2106;

(V) to discontinue the provisioning of basic emergency service, switched access service, or basic local exchange service provided by an ETC, EP, or HCSM recipient, as provided in rule 2109;

(VI) to transfer or encumber a CPCN, LOR, or assets, or to merge a provider with another entity, as provided in rule 2110;

(VII) to amend a tariff on less than statutory notice, as provided in subparagraph 2122;

(VIII) for certification as a basic emergency service provider, as provided in rule 2132;

(IX) for designation as a POLR, as provided in rules 2183 and 2184;

(X) for relinquishment of the designation as a POLR, ETC, or EP, as provided in rule 2186;

(XI) for designation as an ETC, as provided in rule 2187;

(XII) for approval of a disaggregation of a study area of a rural ILEC, as provided in rule 2189;

(XIII) for reclassification of a Part II service to a Part III service, as provided in rule 2203;

(XIV) for deregulation of Part III Services, as provided in rule 2204;

(XV) for approval of a refund plan, as provided in rule 2305; or

(XVI) for any other authority or relief provided for in these rules, or for any other relief not inconsistent with statute or rule and not specifically described in this rule.

(b) Unless otherwise noted in specific rules, all applications shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the name and address of the applicant;

(II) the name(s) under which the applicant is, or will be, providing telecommunications service in Colorado;

(III) the name, address, telephone number, and e-mail address of the applicant's representative to whom all inquiries concerning the application should be made;

(IV) the name, address, telephone number, and e-mail address of the applicant's contact person for customer inquiries concerning the application, if that contact person is different from the person listed in subparagraph (III);

(V) a statement indicating the town or city, and any alternate town or city, where the applicant prefers any hearings be held;

(VI) a statement that the applicant agrees to respond to all questions propounded by the Commission or its Staff concerning the application;

(VII) a statement that the applicant shall permit the Commission or any member of its Staff to inspect the applicant's books and records as part of the investigation into the application;

(VIII) a statement that the applicant understands that if any portion of the application is found to be false or to contain material misrepresentations, any authorities granted may be revoked upon Commission order;

(IX) acknowledgment that, by signing the application, the applying utility understands that:

(A) the filing of the application does not by itself constitute approval of the application;

(B) if the application is granted, the applying utility shall not commence the requested action until the applying utility complies with applicable Commission rules and with any conditions established by Commission order granting the application;

(C) if a hearing is held, the applying utility shall present evidence at the hearing to establish its qualifications to undertake, and its right to undertake, the requested action; and

(D) in lieu of the statements contained in subparagraphs (b)(IX)(A) through (C) of this rule, an applying utility may include a statement that it has read, and agrees to abide by, the provisions of subparagraphs (b)(IX)(A) through (C) of this rule.

(X) An attestation which is made under penalty of perjury; which is signed by an officer, a partner, an owner, an employee of, an agent for, or an attorney for the applying utility, as appropriate, who is authorized to act on behalf of the applying utility; and which states that the contents of the application are true, accurate, and correct. The application shall contain the title and the complete address of the affiant; and

(XI) the company's proposed notice to the public and its customers, if such notice is required.

(c) Applications shall be processed in accordance with the Commission's Rules Regulating Practice and Procedure.

(d) Except as required or permitted by § 40-3-104, C.R.S., if the applicant is required by statute, Commission rule, or order to provide notice to its customers of the application, the applicant shall,

within seven days after filing an application with the Commission, cause to have published notice of the filing of the application in each newspaper of general circulation in the municipalities impacted by the application. The applicant shall provide proof of such customer notice within 14 days of the publication in the newspaper. Failure to provide such notice or failure to provide the Commission with proof of notice may cause the Commission to deem the application incomplete. The applicant may also be required by statute, Commission rule, or order to provide additional notice. Both the newspaper notice and any additional customer notice(s) shall include the following:

(I) the title "Notice of Application by [Name of the Utility] to [Purpose of Application]";

(II) state that [Name of Utility] has applied to the Colorado Public Utilities Commission for approval to [Purpose of Application]. If the utility commonly uses another name when conducting business with its customers, the "also known as" name should also be identified in the notice to customers;

(III) provide a brief description of the proposal and the scope of the proposal, including an explanation of the possible impact, including rate impact, if applicable, upon persons receiving the notice;

(IV) identify which customer class(es) will be affected and the monthly customer rate impact by customer class, if customers' rates are affected by the application;

(V) identify the proposed effective date of the application;

(VI) identify that the application was filed on less than statutory notice or if the applicant requests an expedited Commission decision, as applicable;

(VII) state that the filing is available for inspection in each local office of the applicant and at the Colorado Public Utilities Commission;

(VIII) identify the proceeding number, if known at the time the customer notice is provided.

(IX) state that any person may file written comment(s) or objection(s) concerning the application with the Commission. As part of this statement, the notice shall identify both the address and e-mail address of the Commission and shall state that the Commission will consider all written comments and objections submitted prior to the evidentiary hearing on the application;

(X) state that if a person desires to participate as a party in any proceeding before the Commission regarding the filing, such person shall file an intervention in accordance with the rule 1401 of the Commission's Rules of Practice and Procedure or any applicable Commission order;

(XI) state that the Commission may hold a public hearing in addition to an evidentiary hearing on the application and that if such a hearing is held members of the public may attend and make statements even if they did not file comments, objections or an intervention. State that if the application is uncontested or unopposed, the Commission may determine the matter without a hearing and without further notice; and

(XII) state that any person desiring information regarding if and when hearings may be held shall submit a written request to the Commission or shall alternatively contact the External Affairs section of the Commission at its local or toll-free phone number.

Such statement shall also identify both the local and toll-free phone numbers of the Commission's External Affairs section.

(e) Filings shall be made in accordance with rule 1204.

2003. Petitions.

(a) Any person may seek Commission action regarding any of the following matters through the filing of an appropriate petition:

(I) for variance from a Commission rule, as provided in rule 1003;

(II) for issuance of a declaratory order, as provided in paragraph 1304(i);

(III) for the Declaration of Intent to Serve within the territory of a rural telecommunications provider, as provided in rule 2107;

(IV) for arbitration of an interconnection agreement, as provided in rules 2562 through 2579; or

(V) for use of N-1-1 abbreviated dialing codes, as provided in rules 2742(e).

(b) Unless otherwise noted in specific rules, all petitions shall include, the information contained in paragraph 2002(b).

(c) If the petitioner is required by statute, Commission rule or order to provide additional notice to its customers of the petition, such notice shall include the same information as required by paragraph 2002(d).

(d) Filings should be made in accordance with rule 1204.

2004. Disputes.

For purposes of this rule, a dispute is a concern, difficulty, or problem needing resolution that a customer brings directly to the attention of the provider without involvement of the Commission staff. In any dispute that a customer initiates directly with a provider, and that concerns jurisdictional services, the provider shall give to the customer the current address and phone numbers (local and toll free) of the External Affairs Section of the Commission if the customer and provider are unable to resolve the dispute.

2005. Records.

(a) All providers of jurisdictional services shall make available required records to the Commission or Commission staff at any time upon request.

(b) Providers shall preserve and retain all records related to jurisdictional services for not less than:

(I) two years after the date of entry of the record; or

(II) for any longer period of time enumerated by a specific FCC or Commission rule, whichever is longer.

(c) Records to be maintained include, as applicable:

(I) Each HCSM recipient shall keep a record showing all interruptions affecting service in an entire exchange area or any major portion of the exchange area that affects the lesser of 25 percent or 1,000 of the exchange's local access lines for one or more hours during the day. This record shall identify the date, time, duration, extent, and cause of the interruption. Each HCSM recipient shall also keep a record or all customers eligible for credits related to such interruptions, pursuant to subparagraph 2304(b)(IV).

(II) Each HCSM recipient shall keep customer billing and dispute records.

(III) Providers shall maintain and preserve carrier change authorization records of verification of subscriber authorization of service.

(IV) Held service orders.

(A) This rule applies to HCSM recipients and ETCs.

(B) During periods of time when the provider is not able to establish new primary line service to customers in areas of an exchange currently served by the provider within the time frames set forth in the applicable definition of held service order in rule 2001 of this Part, or by Commission order, the provider shall keep a record, by wire center serving area, identifying the following:

(i) the name and address of each applicant for service;

(ii) the date of the application;

(iii) the class of service (e.g., residence, business);

(iv) the order number assigned to the application for service;

(v) the reason for the delay in providing service to the applicant;

(vi) the expected in-service date; and

(vii) a record of all provider contacts, whether written or oral, with the applicant.

(C) During periods of time when the provider is not able to supply service to applicants within the time frames established by the applicable definitions of held service order in rule 2001 of this Part or by Commission order, the provider shall keep a record identifying:

(i) all expenses incurred in providing bill credits as a result of failure to timely provide service; and

(ii) all installation fees waived and credits issued in compliance with subparagraphs 2308(f)(III) and (IV).

(D) When the number of held service orders to establish new primary line service exceeds 50 access lines at a wire center providing service to 2,000 or more access lines, or the number of held service orders to establish primary line service exceeds 20 access lines at a wire center serving fewer than 2,000 access lines, the provider shall maintain records including information on each

held service order showing the application date, the cause(s) for the delay and number of days for installation beyond ten days or the applicant's requested installation date, if later.

(V) Each provider of jurisdictional service shall maintain records showing the monthly and annual performance of the provider to determine the level of service for each item included in rules 2330 through 2399.

(VI) Other records as the Commission may require.

(d) Accounting records for jurisdictional services.

(I) Except as specifically provided by Commission rule, each provider shall maintain its books of accounts and records using Generally Accepted Accounting Principles (GAAP).

(II) Unless otherwise approved by the Commission, depreciation for book purposes shall be determined by applying the straight-line method of depreciation.

(III) ILECs shall use the Uniform System of Accounts (USOA) prescribed for Common Carriers, Classes A and B by the FCC, pursuant to 47 C.F.R. Part 32.

(IV) For all providers of jurisdictional service exempt by the FCC from USOA requirements, the system for keeping the books of account and associated records shall be capable of generating Colorado intrastate- specific information upon request. The books of account and records shall be maintained in sufficient detail to allow for a determination by the Commission that the provider complies with standards relating to cross-subsidization, affiliate transactions, separations, and other standards set forth by Commission order, rules, or applicable statute.

2006. Reports.

(a) Pursuant to § 40-2-109, C.R.S., all providers that are required by the Department of Revenue to file an annual DR525 form shall file with the Commission, on or before May 15 of each year, a copy of the DR525 form filed with the Department of Revenue pursuant to § 40-2-111, C.R.S., for use in the Commission's budgetary process.

(b) All providers that have been granted a CPCN or LOR by the Commission shall biennially file a completed Statement of Information, beginning on October 1, 2017 and every two years thereafter. Providers whose CPCN or LOR was granted after January 1, 2017, shall file the statement on the second July 1 anniversary following a Commission order granting the company a CPCN or LOR. The biennial statement shall contain any updates to the company's information previously provided to the Commission. The Statement of Information form is available on the Commission's website and shall be submitted through filing with the Commission's E-Filings System in the proceeding designated for this purpose.

2007. [Reserved].

2008. Incorporations by Reference.

(a) The Commission incorporates by reference the following standards issued by the National Emergency Number Association: the Recommended Formats & Protocols For Data Exchange (NENA-02-010), revised as of February 25, 2006; NENA Recommended Data Standards for Local Exchange Carriers, ALI Service Providers & 9-1-1 Jurisdictions (NENA-02-011), revised as

of November 9, 2004; NENA Network Quality Assurance (NENA-03-001), original as of June 12, 1995; NENA Recommendation for the implementation of Enhanced MF Signaling, E9-1-1 tandem to PSAP (NENA-03-002), recommended June 21, 1998; and NENA Recommended Standards for Local Service Provider Interconnection Information Sharing (NENA-06-001), revised as of August 2004. No later amendments to or editions of these standards are incorporated into these rules.

(b) The Commission incorporates by reference 47 C.F.R., Parts 32, 36, 54, 68, 69 and Part 64 Subparts I and K (as published February 4, 2015). No later amendments to or editions of these regulations are incorporated in these rules.

(c) The Commission incorporates by reference the regulations published in 47 C.F.R. Part 64 Subpart U as revised on June 8, 2007. No later amendments to or editions of the C.F.R. are incorporated into these rules.

(d) The Commission incorporates by reference the National Electrical Safety Code, C2-2007 edition, published by the Institute of Electrical and Electronics Engineers and endorsed by the American National Standards Institute. No later amendments to or editions of the National Electrical Safety Code are incorporated into these rules.

(e) The Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319, as revised on. January 28, 2013 No later amendments to or editions of these regulations are incorporated into these rules.

(f) The Commission incorporates by reference the rule promulgated by the FCC's *LNP First Report and Order,* Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996. No later amendments to or editions of these requirements are incorporated into these rules.

(g) The Commission incorporates by reference the FCC's Truth in Billing Rules found at 47 C.F.R. § 64.2401, et seq. revised on November 30, 2012. No later amendments to or editions of the C.F.R. are incorporated into these rules.

(h) The standards and regulations incorporated by reference may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, during normal business hours, Monday through Friday, except when such days are state holidays. Certified copies of the incorporated standards shall be provided at cost upon request. The Director or the Director's designee will provide information regarding how the incorporated standards and regulations may be examined at any state public depository library.

CIVIL PENALTIES

2009. Definitions.

The following definitions apply to rules 2009, 2010, and 2011, unless a specific statute or rule provides otherwise. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

(a) "Civil penalty" means any monetary penalty levied against a public utility because of intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.

(b) "Civil penalty assessment" means the act by the Commission of imposing a civil penalty against a public utility after the public utility has admitted liability or has been adjudicated by the

Commission to be liable for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders.

(c) "Civil penalty assessment notice" means the written document by which a public utility is given notice of an alleged intentional violation of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders and of a proposed civil penalty.

(d) "Intentional violation." A person acts "intentionally" or "with intent" when his conscious objective is to cause the specific result proscribed by the statute, rule, or order defining the violation.

2010. Regulated Telecommunications Utility Violations, Civil Enforcement, and Enhancement of Civil Penalties.

(a) The Commission may impose a civil penalty in accordance with the requirements and procedures contained in § 40-7-113.5, C.R.S., § 40-7-116.5, C.R.S., and paragraph 1302(b), 4 Code of Colorado Regulations 723-1, for intentional violations of statutes in Articles 1 to 7 and 15 of Title 40, C.R.S., Commission rules, or Commission orders as specified in §§ 40-7-113.5 and 40-7-116.5, C.R.S., and in these rules.

(b) The director of the commission or his or her designee shall have the authority to issue civil penalty assessments for the violations enumerated in § 40-7-113.5, C.R.S., subject to hearing before the Commission. When a public utility is cited for an alleged intentional violation, the public utility shall be given notice of the alleged violation in the form of a civil penalty assessment notice.

(c) The public utility cited for an alleged intentional violation may either admit liability for the violation pursuant to § 40-7-116.5(1)(c) or the public utility may contest the alleged violation pursuant to § 40-7-116.5(1)(d), C.R.S. At any hearing contesting an alleged violation, trial staff shall have the burden of demonstrating a violation by a preponderance of the evidence.

(d) In any written decision entered by the Commission pursuant to § 40-6-109, C.R.S., adjudicating a public utility liable for an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order, the Commission may impose a civil penalty of not more than two thousand dollars, pursuant to § 40-7-113.5(1), C.R.S. In imposing any civil penalty pursuant to § 40-7-113.5(1), C.R.S., the Commission shall consider the factors set forth in paragraph 1302(b).

(e) The Commission may assess doubled or tripled civil penalties against any public utility, as provided by § 40-7-113.5(3), C.R.S., § 40-7-113.5(4), C.R.S., and this rule.

(f) The Commission may assess any public utility a civil penalty containing doubled penalties only if:

(I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted an intentional violation of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;

(II) the conduct for which doubled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable; and

(III) the conduct for which doubled civil penalties are sought occurred within one year after conduct for which the public utility has admitted liability by paying the civil penalty assessment, or conduct for which the public utility has been adjudicated by the Commission in an administratively final written decision to be liable.

(g) The Commission may assess any public utility a civil penalty containing tripled penalties only if:

(I) the public utility has admitted liability by paying the civil penalty assessment for, or has been adjudicated by the Commission in an administratively final written decision to be liable for, engaging in prior conduct that constituted two or more prior intentional violations of a statute in Articles 1 to 7 and 15 of Title 40, C.R.S., a Commission rule, or a Commission order;

(II) the conduct for which tripled civil penalties are sought violates the same statute, rule, or order as conduct for which the public utility has either admitted liability by paying the civil penalty assessment or been adjudicated by the Commission in an administratively final written decision to be liable, in at least two prior instances; and

(III) the conduct for which tripled civil penalties are sought occurred within one year after the two most recent prior instances of conduct for which the public utility has either admitted liability by paying the civil penalty assessment, or been adjudicated by the Commission in an administratively final written decision to be liable.

(h) When more than two instances of prior conduct exist, the Commission shall only consider those instances occurring within one year prior to the date of such alleged conduct for which tripled civil penalties are sought.

(i) Nothing in this rule shall preclude the assessment of tripled penalties when doubled and tripled penalties are sought in the same civil penalty assessment notice.

(j) The Commission shall not issue a decision on doubled or tripled penalties until after the effective date of the administratively final Commission decision upon which the single civil penalty was based.

(k) The civil penalty assessment notice shall contain the maximum penalty amount provided by rule for each individual violation noted, with a separate provision for a reduced penalty of 50 percent of the penalty amount sought if paid within ten days of the public utility's receipt of the civil penalty assessment notice.

(l) The civil penalty assessment notice shall contain the maximum amount of the penalty surcharge pursuant to § 24-34-108(2), C.R.S., if any.

(m) A penalty surcharge referred to in paragraph (l) of this rule shall be equal to the percentage set by the Department of Regulatory Agencies on an annual basis. The surcharge shall not be included in the calculation of the statutory limits set in § 40-7-113.5(5), C.R.S.

(n) Nothing in these rules shall affect the Commission's ability to pursue other remedies in lieu of issuing civil penalties.

2011. Regulated Telecommunications Utility Rule Violations, Civil Enforcement, and Civil Penalties.

An admission to or Commission adjudication for liability for an intentional violation of the following may result in the assessment of a civil penalty of up to $2,000.00 per offense. Fines shall accumulate up to, but shall not exceed, the applicable statutory limits set in § 40-7-113.5, C.R.S.

Citation	**Description**	**Maximum Penalty Per Violation**
Rule 2109(b),(e)-(g); text preceding (a)	Discontinuance of Regulated Services	$2000
Rule 2110, text preceding (a) only	Applications to Transfer or Encumber	$2000
Rule 2122	Keeping a Current Tariff on File with the Commission	$2000
Rule 2135	Uniform System of Accounts, Cost Segregation and Collection	$2000
Rule 2139	Obligations of Resellers of Basic Local Exchange Service	$2000
Rule 2142	Nondisclosure of Name/Number/Address Information	$2000
Rule 2143	Diverse Routing and Priority Service Restoration	$2000
Rule 2186(a),(d), (e) and (f)	Relinquishment of Designation as Provider of Last Resort	$2000
Rule 2305, text preceding (a) only	Refund Plans	$2000
Rule 2335	Provision of Service During Maintenance or Emergencies	$2000
Rule 2413	Affiliate Transactions for Local Exchange Providers	$2000
Rule 2533	Submission of Agreement and Amendments for Approval	$2000
Rule 2742	Abbreviated Dialing Codes	$2000

Rule 2334	Construction and Maintenance Practices for Telecommunications Facilities	$1000
Rule 2337(a)	Standard Performance Characteristics for Customer Access Lines	$1000
Rule 2302(a)-(c);(e)-(g)	Applications for Service, Customer Deposits, and Third Party Guarantees	$500
Rule 2823(a),(c)-(e)	Conformity with the Federal Americans with Disabilities Act of 1990	$100
Rule 2824	Conformity with the Commission's Quality of Service Rules	$100
Rule 2827(b)	Timely or Completely Filing or Making Appropriate Payments to the TRS Fund	$100
Rule (TBD)	Timely or Completely Filing or Making Appropriate Payments to the HCSM Fund	$100

2012. - 2099. [Reserved].

OPERATING AUTHORITY

Authority to Offer Services – Discontinuances – Transfers – Interexchange Provider Registration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish regulations regarding: applications for a Certificate of Public Convenience and Necessity (CPCN) to provide basic emergency services; applications for Letters of Registration (LOR) to provide switched access services; applications of providers of Part IV services for a CPCN or LOR; applications to discontinue services; applications to execute a merger, encumbrance or transfer; and registrations.

The statutory authority for promulgation of these rules is found at §§ 24-4-103, 40-2-108, 40-15-111, 40-15-204, 40-15-301(2), 40-15-302(2), 40-15-302.5, 40-15-303, 40-15-305(2), 40-15-501, 40-15-502, 40-15-503(2), 40-15-503.5, and 40-15-509, C.R.S.

2100. Applicability.

Rules 2100 through 2119 apply to CPCNs, LORs, registrations for interexchange telecommunications service providers, authority to discontinue service, and authority to execute a transfer, encumbrance, or any combination of these.

2101. Definitions.

The following definitions apply only in the context of rules 2100 through 2119:

(a) "Alternate provider" means any provider of telecommunications service certified by the Commission that has an effective tariff on file to provide basic emergency service.

(b) "Encumbrance" means any liability, lien, claim or restriction placed on a provider of telecommunications service's CPCN or LOR.

(c) "Transfer" means any or all of the following:

(I) a transaction to convey, by sale, assignment, or lease: a CPCN; a LOR; or a combination of these;

(II) a transaction to obtain, whether by conveyance of assets or shares, controlling interest in a provider defined as a public utility;

(III) a conveyance of assets not in the ordinary course of business; or

(IV) an execution of a merger of a provider of telecommunications service defined as a public utility.

2102. Application Procedures.

(a) The applicant shall submit filings in accordance with rule 1204 and any supporting documentation.

(b) Rule 1206 shall apply to applications made pursuant to this rule, except that the Commission need only give notice by electronic posting on its website within seven days of receipt of an application for a CPCN or a LOR. Unless otherwise ordered by the Commission, the notice period will expire 30 days after the notice is posted.

(c) No discontinuance of basic emergency service; switched access service; or basic local exchange service from HCSM recipients; or encumbrance of a CPCN, or LOR shall become effective until the Commission issues an order approving such application.

2103. Application for CPCN or LOR.

To request a CPCN to provide basic emergency services or a LOR to provide switched access services, an applicant shall submit the required information by filing an application or the LOR form provided by the Commission on its website. No CPCN or LOR is required for services classified in Part IV of Article 15 of Title 40 of the Colorado Revised Statutes. A provider is not required to, but may apply for a CPCN to provide Part IV services pursuant to this section, unless otherwise required by law or Commission rule.

(a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the information required by paragraph 2002(b);

(II) name, mailing address, toll free telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to customer disputes;

(III) name, mailing address, telephone number, facsimile number, and e-mail address of applicant's representative responsible for responding to the Commission concerning customer informal complaints;

(IV) the applicant's applicable organizational documents, e.g., Articles of Incorporation; Partnership Agreement; Articles of Organization, etc.;

(V) if the applicant is not organized in Colorado, a current copy of the certificate issued by the Colorado Secretary of State authorizing the applicant to transact business in Colorado;

(VI) a description of the geographic service area for which the applicant seeks authority;

(VII) name and address of applicant's Colorado agent for service of process;

(VIII) a description of the applicant's affiliation, if any, with any other company and the name and address of all affiliated companies;

(IX) the applicant's most recent audited balance sheet, income statement, and statement of retained earnings;

(X) if the applicant is a newly created company that is unable to provide the audited financial information requested in subparagraph

(XI) detailed information on the sources of capital funds that will be used to provide the services that are the subject of the application, including the amount of any loans, lines of credit, or equity infusions that have been received or requested, and the names of each source of capital funds

(XII) the names, business addresses, and titles of all officers, directors, partners, agents and managers who will be responsible for the provisioning of services in Colorado;

(XIII) any management contracts, service agreements, marketing agreements or any other agreements between the applicant and any other entity, including affiliates of the applicant, that relate to the provisioning of services in Colorado;

(XIV) identification of any of the following actions by any court or regulatory body within the last five years regarding the provisioning of regulated telecommunications services by the applicant, by any of applicant's agents, officers, board members, managers, partners, or management company personnel, or by any of applicant's affiliates that resulted in:

(A) assessment of fines or civil penalties;

(B) assessment of criminal penalties;

(C) injunctive relief;

(D) corrective action;

(E) reparations;

(F) a formal complaint proceeding brought by any regulatory body;

(G) initiation of or notification of a possible initiation of a disciplinary action by any regulatory body, including, but not limited to, any proceeding to limit or to place restrictions on any authority to operate, any CPCN, or any service offered;

(H) refusal to grant authority to operate or to provide a service;

(I) limitation, de-certification, or revocation of authority to operate or to provide a service; or

(J) any combination of the above.

(XV) For each item identified in subparagraph (XIV) of this paragraph: an identification of the jurisdiction, summary of any applicable notification of a possible initiation or pending procedure, including the docket/proceeding, case, or file number, and, upon the request of the Commission or Commission staff, a copy of any written decision; and

(XVI) acknowledgment that by signing the application, the applicant:

(A) certifies that it possesses the requisite managerial qualifications, technical competence, and financial resources to provide the services for which it is applying;

(B) understands that:

(i) the filing of the application does not by itself constitute authority to operate; and

(ii) if the application is granted, the applicant shall not provide service until: (a) the applicant complies with applicable Commission rules and any conditions established by Commission order granting the application; and (b) has an effective tariff on file with the Commission, if applicable;

(C) agrees to respond in writing, within ten days, to all customer informal complaints made to the Commission;

(D) agrees to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the funding of:

(i) Telecommunications Utility Fund

(ii) Colorado High Cost Support Mechanism;

(iii) Colorado Telephone Users with Disabilities Fund;

(iv) Emergency Telecommunications Services (e.g., 9-1-1 and E9-1-1); and

(v) any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, and

(E) certifies that it will not unjustly discriminate among customers in the same class of service; and

(F) certifies that the applicant will not permit any other person or entity to operate under its Commission-granted authority without explicit Commission approval.

(b) An applicant may additionally seek a Commission determination that the services they provide or seek to provide are telecommunications services. An applicant may submit evidence, such as a verified statement from an officer, director, or manager detailing those services.

(c) If an applicant is requesting a LOR for switched access services, its application shall include the information required by subparagraphs (a)(I) - (VII) and (XIII) – (XV).

2104. Registrations – Providers of Interexchange Telecommunications Service.

All providers of interexchange telecommunications service shall initially register and provide any necessary updates to their registration within 15 days after any change, including discontinuance, using the form provided by the Commission on its website. All forms shall be filed in the proceedings opened by the Commission for such purpose. All initial registrations will be effective 30 days from the date filed, unless the Commission orders otherwise.

2105. Application to Amend a CPCN or LOR.

To amend a CPCN or LOR, an applicant shall submit the required information by filing an application with the Commission.

(a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments, to the extent that information has changed since the original grant of authority:

(I) the information required for a CPCN or for a LOR by subparagraphs 2103(a)(I) – (III) and(VI);

(II) the services affected by the proposed amendment;

(III) the reason for requesting the proposed amendment;

(IV) acknowledgment that by signing the application, the applicant:

(A) certifies that it meets the requirements pursuant to subparagraph 2103(a)(XVI)(A)

(B) understands that:

(i) the filing of the application does not by itself constitute approval to amend its authority;

(ii) if the application is granted, the applicant shall not provide the proposed service until the requirements pursuant to subparagraph 2103(a)(XVI)(B)(ii) are met.

(C) agrees to contribute in the manner described in subparagraph 2103(a)(XVI)(D); and

(D) certifies that it will not unjustly discriminate among customers in the same class of service.

2106. Application to Change Exchange Area Boundaries.

This rule applies to ILECs that seek to change exchange area boundaries. An applicant shall submit the required information by filing an application with the Commission. If the exchange area boundary change affects more than one provider of telecommunications service, the affected providers shall file a joint application containing the information applicable to each provider.

(a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the information required by paragraph 2002(b);

(II) the specific boundaries described by metes and bounds that the applicant proposes to change;

(III) the proposed exchange area maps;

(IV) the proposed effective date of the change;

(V) the facts (not in the form of conclusory statements) relied upon to show that the proposed change is consistent with, and not contrary to, the statements of public policy in §§ 40-15-101, 40-15-111(2), 40-15-501, and 40-15-502, C.R.S.; and

(VI) acknowledgment that by signing the application, the applicant understands and agrees to the requirements of subparagraph 2002(b)(IX).

(b) If a grant of the application will result in changing a customer's provider of telecommunications service, phone number, local calling area, or rates, the applicant shall provide customer notice to affected customers as follows:

(I) concurrent with the filing of the application, the applicant shall provide notice to the affected customers; and

(II) in addition to the information required by paragraph 2002(d), the notice shall provide details of the proposed change, including a description of changes in the provider of telecommunications service, rates, phone numbers, and local calling areas.

2107. Declaration of Intent to Serve within Territory of Rural Telecommunications Provider.

A provider that has been granted a CPCN to provide telecommunications services, and that wishes to provide such services in the service territory of an incumbent rural telecommunications provider, shall file with the Commission, a petition stating its Declaration of Intent to Serve at least 45 days prior to offering such services.

(a) The petition shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified attachments:

(I) the information required by paragraph 2003(b);

(II) identification of the rural telecommunications provider(s) operating in the service territory proposed to be served;

(III) a description of the service territory proposed to be served including lists of exchange areas and local calling areas, and a copy of the exchange maps for the proposed service territory;

(IV) a description of the local telecommunications services to be provided;

(V) the method of providing each of the telecommunications services, i.e., resale, unbundled network elements, facilities-based, or a combination thereof; and

(VI) the notice provided to the affected rural telecommunications provider(s) as required by paragraph (c) below.

(b) Commission notice. Within seven days of the receipt of the petition, the Commission shall provide notice by electronic posting on the Commission's website.

(c) Petitioner notice. Concurrent with the filing of the petition with the Commission, the petitioner shall send by first-class mail written notice to the affected rural telecommunications provider(s) within the proposed service territory. Such notice shall state that an intervention must be filed in accordance with the timelines and form specified by rule 1401 of the Commission's Rules of Practice and Procedure or any applicable Commission order.

(d) The Declaration shall become effective only upon order of the Commission.

2108. CPCN or LOR Deemed Null and Void.

A CPCN or a LOR shall be deemed null and void without further action of the Commission, if the provider of jurisdictional service fails to file an applicable tariff, if required, within one year after the effective date of the Commission order granting the CPCN and/or LOR. For good cause shown, the provider of jurisdictional service may file a motion to extend the one-year filing deadline at least 30 days prior to the expiration of the one-year deadline.

2109. Discontinuance of Services.

To discontinue basic emergency service or switched access service, any service required for the provisioning of basic emergency service, or basic local exchange service provided by an ETC or EP, in a selected service territory or portion(s) thereof, a provider of such service shall file an application with the Commission not less than 45 days prior to the effective date of the proposed discontinuance. The applicant may submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

(a) An application to discontinue service is not required if any of the following apply:

(I) the provider has no customers in Colorado and has notified the Commission under paragraph (f) of this rule;

(II) the provider is discontinuing interexchange service and has notified the Commission under rule 2104;

(III) the provider is discontinuing facilities-based long distance service and has notified the Commission and the provider's customers under subparagraph (g);or

(IV) the discontinuance is the result of a transfer, no interruption or change of service will occur, and the provider has filed an application to transfer under rule 2110.

(b) Compliance with reporting and regulatory funding requirements.

(I) If the application is for a discontinuance of all jurisdictional services in Colorado the provider shall:

(A) seek authority to cancel its tariffs;

(B) submit any required annual reports and remit payments for all amounts due to all applicable funds for the period prior to the effective date of the order granting the discontinuance;

(C) identify the name, title, address, phone number, facsimile number, and e-mail address of the officer or officers or agent responsible for completion of all subsequent reports and payments required by the Commission and an affidavit from the officers acknowledging their responsibility under this rule; and

(D) make all necessary and appropriate arrangements with underlying facilities-based provider of jurisdictional service regarding the discontinuation of services provided.

(II) If the application is for a discontinuance of all facilities-based local exchange telecommunications services in Colorado the provider shall notify NANPA and/or the Number Pooling Administrator of the pending return of numbers if the applicant has been assigned numbering resources.

(c) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the information required by paragraph 2002(b);

(II) identification of the service territory or portion thereof proposed for discontinuance.

(III) a statement as to whether the granting of the application will result in the cancellation of its tariff in part or in its entirety, CPCN, and LOR.

(IV) a statement that the applicant has notified NANPA and/or the Number Pooling Administrator of the pending return of numbers, if applicable.

(V) the proposed effective date, which shall not be sooner than 45 days after the date on which the provider of telecommunications service files the application with the Commission.

(VI) the notice that will be provided to customers in accordance with paragraph (e) of this rule

(VII) acknowledgment that by signing the application, the applicant and its successors understand and agree that:

(A) filing of the application does not, by itself, constitute authority to discontinue any service;

(B) if the application is granted, any discontinuance is conditional upon fulfillment of conditions established by Commission order;

(C) if the application is granted, any discontinuance is conditional upon fulfillment of relevant statutory and regulatory obligations, including filing annual reports and remitting payments for all amounts due to all applicable funds for the period prior to the effective date of the order granting the discontinuance;

(D) acknowledgement that the officer or officers or agent named in its application may be held personally liable if reports are not completed and submitted and if payments are not submitted to the appropriate regulatory agency, in accordance with § 40-7-106, C.R.S., and that the officer or officers may be punished as provided in § 18-1-106, C.R.S.; and

(E) if the application is granted, the provider of jurisdictional service shall, on not less than two business days' notice, make a compliance advice letter filing citing the applicable Commission decision number that cancels part or all of its tariffs.

(d) If the applicant has been designated as a POLR, it shall supplement its application by providing the information required by the Commission's rule relating to relinquishment of the POLR designation, in accordance with rule 2186.

(e) The applicant shall work with Commission staff on the content of the notice and shall provide such customer notice of the application to discontinue service.

(I) At least 30 days prior to the effective date of the proposed discontinuance, the applicant shall mail by a separate first-class mailing, or by hand delivery, the notice to each of the applicant's affected customers. A list of other providers of telecommunications service to include in the notice shall be obtained from the Commission.

(II) Except as may otherwise be ordered by the Commission, the notice shall:

(A) include the information required by subparagraphs 2002(d)(I) – (XII);

(B) provide details of the proposed discontinuance, including a description of the services affected;

(C) state the specific time period during which customers must select an alternate provider; and

(D) notify customers that if a customer does not select an alternate local provider within the specified time period, the customer's basic local exchange service will be disconnected, the customer will be without dialtone and the customer may not be able to retain his telephone number.

(III) The applicant shall file with the Commission an affidavit attesting to its compliance with this paragraph regarding notice not less than 15 days before the date of the proposed discontinuance. The affidavit shall state the date on which notice was completed and the method used to give notice. A copy the notice given shall accompany the affidavit.

(f) If no customers are affected by the proposed discontinuance, the provider of telecommunications service is not required to file an application. However, at least 30 days prior to the proposed date of discontinuance, the provider of telecommunications service shall file with the Commission a written notification of discontinuance and an affidavit in the prescribed Commission format attesting that no customers will be affected.

(g) If the proposed discontinuance requires an amendment of the provider's tariff, nothing in this rule shall be construed as a waiver or variance from statute or Commission rules regarding the provider's obligation to file an appropriate advice letter.

2110. Application to Transfer or Encumber.

To request authority to execute a transfer or encumbrance of a CPCN or LOR, the transferor and the transferee or lender for an encumbrance shall file a joint application with the Commission not less than 45 days prior to the effective date of the proposed transfer or encumbrance. If the transferee does not hold a Commission- issued CPCN and/or LOR, the transferee shall provide the Commission with the information required pursuant to rule 2103, and must receive an appropriate Commission grant of authority to assume

the transferor's CPCN and/or LOR. The joint applicants may submit the required information by filing either a pleading or a completed application form provided by the Commission on its website.

(a) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the information required by paragraph 2002(b);

(II) name under which the transferee or encumberer is, or will be, providing service in Colorado if the transfer or encumbrance is approved;

(III) the specific assets, including any operating authority or rights obtained under such operating authority that the applicants propose to transfer or encumber;

(IV) a statement of the facts (not in the form of conclusory statements) relied upon to show that the proposed transfer or encumbrance is consistent with, and not contrary to, the statements of public policy in §§ 40-15-101, 40-15-501, and 40-15-502, C.R.S.; and

(V) acknowledgment that by signing the application, the joint applicants understand and agree that:

(A) the filing of the application does not, by itself, constitute authority to execute the transfer or encumbrance;

(B) the applicants shall not undertake the proposed transfer or encumbrance unless and until a Commission decision granting the application is issued;

(C) the granting of the application does not constitute execution of the transfer or encumbrance, but only represents the Commission's approval of the request for authority to transfer or encumber;

(D) if a transfer is granted, such transfer is conditional upon:

(i) the existence of applicable, effective tariffs for relevant services, including any required adoption notices;

(ii) compliance with the statutes and all applicable Commission rules, including the transferor's filing an annual report and remitting payment for all amounts due to all applicable funds or support mechanisms for the period up to the effective date of the transfer; and

(iii) compliance with all conditions established by Commission order; and

(E) if the application to transfer or encumber is granted, the joint applicants shall notify the Commission if the transfer is not consummated within 60 days of the proposed effective date stated in the application or if the proposed transfer terms are changed prior to the consummation date. This notice shall include the proceeding and decision number(s) which granted the authority to execute the transfer or encumbrance.

(b) If the Commission has designated either the transferor or the transferee as a POLR, the application shall also include the information required by rule 2186 relating to relinquishment of POLR designation.

2111. Financial Assurance.

The Commission may require a bond or other security as a condition of obtaining a Commission operating authority.

2112. – 2119. [Reserved].

Advice Letters, Tariffs, and Terms of Service Documents

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to describe the process by which a provider files tariffs, advice letters, or terms of service documents enabling the Commission to ensure that the rates, charges, terms, and conditions contained therein are just, reasonable, and not unduly discriminatory.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101(1), 40-3-102, 40-3-103, 40-3-104, 40-3-104(1)(c)(V), and 40-2-108, 40-15-208 and 40-15-502, C.R.S.

2120. Applicability.

Rules 2120 through 2129 are applicable to providers of switched access service, basic emergency service, and basic service provided by HCSM recipients in HCSM-supported areas as provided in each rule.

2121. Definitions [Reserved].

2122. Tariffs, Advice Letters and Terms of Service Documents.

(a) All tariffs and advice letters shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.

(b) All providers of basic emergency service shall file and maintain a tariff with the Commission.

(c) All providers of switched access service shall file and maintain a tariff with the Commission.

(d) HCSM recipients shall provide the Commission and publish on its website a Terms of Service document (TOS) for basic service offered in HCSM-supported areas. In addition to the requirements and contents in rule 1210, the following shall be included in a HCSM recipient's TOS, as applicable:

(I) a description of the provider's local calling areas, which shall include the exchange area and all other exchanges which are included in its local calling area;

(II) a currently applicable exchange area boundary map for each of its exchanges within the state in which the HCSM recipient has been granted authority to provide service. Each map shall identify clearly the boundary lines of the exchange area and shall include a map scale. Exchange boundary lines shall identify, by appropriate measurement, the boundary line if the boundary line is not otherwise located on section lines, waterways, railroads, or roads. Maps shall include detail equivalent to the detail provided on county highway maps;

(III) the rates and charges for basic service pursuant to § 40-15-401(1)(b)(IV)(B), C.R.S.;

(IV) a description of subscribers' options regarding freezing their authorized local, intraLATA toll, and interLATA interexchange providers),;

(V) a description of the High Cost Support Mechanism (HCSM) surcharge, consistent with paragraphs 2847(f) and (g);

(VI) a description of the Telecommunications Relay Services (TRS) surcharge, consistent with rule 2827;

(VII) a description of all other state-mandated surcharges; and

(VIII) information sufficient to indicate that the HCSM recipient's terms of service comply with the requirements for basic service set forth in Rules 2300 through 2399.

(e) All providers of telecommunications service proposing to introduce any jurisdictional service required to be tariffed shall file an advice letter and proposed tariff pages on not less than 30-days' notice to the Commission and to the public. The Commission may order the provider of telecommunications service to give additional notice of the proposed new service.

(f) Notice requirements for all tariff and TOS changes.

(I) Any provider of tariffed switched access or basic emergency services proposing to change any rate, or to change any rule, regulation, classification, term, or condition in a tariff that will result in an increase in rates or charges shall give notice in accordance with § 40-3-104, C.R.S.

(II) Any provider of tariffed switched access or basic emergency services proposing to change any rate in a tariff that will result in a decrease in rates or charges shall file an advice letter and tariff pages on not less than 14-days' notice to the Commission. No additional public notice shall be required.

(III) Changing tariff terms or conditions on not less than 14-days' notice. Any provider of tariffed switched access or basic emergency services proposing a change in its tariff terms or conditions shall file an advice letter and tariff pages on not less than 14-days' notice to the Commission. No additional notice is required, unless the Commission finds that it is in the public interest to order additional notice. If the Commission so orders, and to avoid rejection of the advice letter filing, the provider of telecommunications service shall extend the effective date of such advice letter to accommodate the additional notice.

(IV) A HCSM recipient shall notify the Commission of and publish on its website each change to its TOS document prior to that change taking effect, and shall notify the Commission at the same time it notifies its customers of each such change.

(g) Changing tariffs upon less than 30-days' or 14-days' notice. A provider of tariffed switched access or basic emergency service may file an application for permission to change a tariff on less than 30-days or 14-days' notice, as applicable. The Commission, for good cause shown, under § 40-3-104(2), C.R.S., may grant permission to change a tariff without formal oral hearing on less than 30-days or 14-days' notice. No tariff change shall become effective unless the Commission orders: a change in the manner in which the tariff shall be filed and published; the change to be made to the tariff; and the date when the change shall take effect. In providing notice of the application, the provider of telecommunications service shall comply with paragraph 1207(a) concerning less-than-statutory notice. The following shall be included in the application: details of the proposed change to the provider's tariff; the tariff pages that the provider proposes to change; justification for the proposed change becoming effective on less than 14-days' or

30-days' notice, as applicable; any prior Commission action, in any proceeding, pertaining to the present or proposed tariff; and financial data supporting the proposed change, if appropriate.

(h) Customer notice. If the utility is required by statute, Commission rule or order to provide additional notice to customers of the advice letter filing, such customer notice shall include, without limitation, the following:

(I) information required by subparagraphs 2002(d)(I) – (XII); and

(II) identification of the advice letter number, if known at the time the customer notice is provided.

(i) All existing tariffs or tariff language on file with the Commission for services deregulated pursuant to § 40-15-401, C.R.S., are null and void. All tariffs on file with the Commission offering rates, terms and conditions for basic emergency service and tariffs offering rates, terms and conditions for the offering of switched access service remain effective.

2123. Customer-specific contracts and notice.

(a) Irrespective of any tariff requirement, the Commission may permit a provider to contract for jurisdictional services.

(b) A notice of contract shall be filed with the Commission under seal within 14 days of the date the contract is executed. The notice shall: disclose any early termination penalty to the customer; confirm that the charges exceed the company's costs; and confirm that the contract contains a provision acknowledging that it is subject to regulatory review. If a provider of jurisdictional service fails to timely make the required notice with the Commission, both parties of the contract may be subject to Commission sanctions, including civil penalties.

(c) The contract shall be subject to Commission review to determine if:

(I) the negotiated contract is nondiscriminatory;

(II) the contract terms are not inconsistent with the public interest; and

(III) the contract terms are not inconsistent with applicable Commission rules.

(d) The Commission may set the contract for hearing and, after hearing, may approve or disapprove the contract. At the hearing, the provider of jurisdictional services shall bear the burden of proof with respect to the contract. If the Commission does not set the contract for hearing, the contract is effective according to its terms.

2124. – 2129. [Reserved].

* * *

[indicates omission of unaffected rules (Rules 2130 - 2159 - 9-1-1)]

2160. – 2179. [Reserved].

Designation of Providers of Last Resort, Eligible Telecommunications Carriers and Eligible Providers and Relinquishment of Designations

The basis and purpose of these rules is to: establish regulations concerning the designation of providers of last resort (POLRs) in geographic support areas for which the Commission provides HCSM support; establish the obligations that attach to such designation; establish procedures for changing or relinquishing such designation; establish regulations concerning the designation and relinquishment of eligible telecommunications carriers (ETCs) and eligible providers (EPs).

The statutory authority for the promulgation of these rules is found at §§ 40-15-201, 40-15-301, 40-15-502(5) and (6), and 40-2-108, C.R.S. These rules are consistent with 47 U.S.C. 254 and 47 C.F.R., Part 54.

2180. Applicability.

Rules 2180 through 2199 are applicable to all providers seeking to be designated as a POLR, ETC or EP; or to relinquish a designation as a POLR or as an ETC or EP.

2181. Definitions.

The following definitions apply only in the context of rules 2180 through 2199.

(a) "Geographic area" means a Commission defined geographic unit usually the same as or smaller than an existing provider's serving area.

(b) "Service area" means a geographic area established by the Commission for the purpose of determining federal universal service obligations and support mechanisms.

(I) A service area defines the overall area for which the carrier may receive support from federal universal service support mechanisms. In the case of a service area served by a rural telephone company, "service area" means such company's "study area", as defined in 47 C.F.R., Part 36, unless and until the FCC and the Commission, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c) of the Telecommunications Act of 1934, establish a different definition of service area for such company.

(II) If the Commission proposes to define a service area served by a rural telephone company to be other than such company's study area, the FCC will consider that proposed definition in accordance with the procedures set forth in 47 C.F.R. § 54.207(c).

2182. Incorporation by Reference.

References in rules 2180 through 2199 to Parts 36 and 54 are references to rules issued by the FCC and have been incorporated by reference as identified in rule 2008.

2183. Designation of Providers of Last Resort.

(a) A provider of basic local exchange service that receives HCSM support in a geographic area shall be considered a POLR in those geographic areas.

(b) If multiple providers receive HCSM support in the same geographic area, the Commission:

(I) may, in the case of an area served by a rural telecommunications provider, permit more than one POLR in a geographic area; and

(II) Shall, in the case of all other areas, permit more than one POLR in a geographic area.

(c) The Commission shall, upon request by a person within an unserved geographic area, or upon its own motion, designate a POLR for that unserved geographic area, based upon a determination of the provider best able to provide basic local exchange service to the area.

2184. Application for Designation as an Additional Provider of Last Resort.

(a) A provider of basic local exchange service seeking designation as an additional POLR shall file an application with the Commission requesting designation as such for a specific geographic area in which it receives HCSM.

(b) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the information required by paragraph 2002(b);

(II) a description of the geographic area for which applicant seeks designation as a POLR including a description of such geographic area by metes and bounds and a map displaying the service area;

(III) an affirmative statement that the applicant will accept the responsibilities identified in rule 2185;

(IV) the facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it has the managerial, financial, and technical ability to provide basic local exchange service throughout that relevant geographic area notwithstanding whether there are other providers of basic local exchange service in that area;

(V) the facts (not in the form of conclusory statements) relied upon by the applicant to establish that the POLR designation for that geographic area serves the public interest by demonstrating that such designation is consistent with the legislative statements of intent in §§ 40-15-101, 40-15-501, and 40-15-502(7), C.R.S.;

(VI) a statement that the applicant understands that the filing of the application does not constitute, by itself, designation as a POLR; and

(VII) a statement that, if a designation is granted, applicant understands that such designation is conditional upon compliance with applicable Commission rules and any conditions established by Commission order.

2185. Obligations of Providers of Last Resort.

(a) A POLR shall offer basic local exchange service to every customer who requests such service within a designated geographic area, regardless of the availability of facilities, unless said customer has an outstanding balance owing to the POLR and no agreement for repayment has been established.

(b) A POLR shall advertise the availability of such service and charges using media of general distribution.

(c) Report of held local exchange service orders exceeding 90 days (90-day held orders) and not subject to any applicable exceptions in rule 2308. This paragraph only applies with respect to a POLR's residential and small business customers. Consistent with paragraph 2308(f), when a does not supply basic local exchange service to any customer in an exchange area currently served by the POLR within 90 days, the POLR shall file a report with the Director of the Commission, stating the circumstances causing the delay, explaining if such circumstances are beyond the POLR's control, and providing an estimate of the time necessary to provide service. This report shall identify: the name and address of each applicant; the date of application for service; the class type applied for (e.g., residence or business); the date the application became a 90-day held order; the wire center from which the customer will receive service; and the order number assigned by the POLR to the application for service. This report shall be filed with the Director by the last business day of the following month and shall identify all customers where the period to provide local exchange service exceeds 90 days.

(d) Report of service orders exceeding thresholds. This paragraph only applies with respect to a POLR's residential and small business customers. When the lesser of 50 or five percent of the total number of service applications in a wire center in a consecutive three-month period are held orders, the POLR shall, within five days of the close of the three-month period, submit to the Commission a report identifying the information required by subparagraph 2005(c)(IV) and identifying the number of days service has been delayed for each held order. The POLR shall further submit to the Commission, within 14 days of the close of the three-month period, a plan of its proposed action to reduce the number of these held service orders to fewer than the lesser of 50 or five percent of the total number of service applications in that wire center.

2186. Relinquishment of Designation as a Provider of Last Resort, Eligible Telecommunications Carrier or Eligible Provider.

(a) As of July 1, 2016, only providers of basic local exchange service with POLR obligations in geographic areas in which they receive HCSM support retain POLR obligations.

(b) Providers of basic local exchange service seeking to relinquish designation as a POLR, EP or an ETC, shall file an application with the Commission, at least 45 days before the effective date of the proposed relinquishment.

(c) The application shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the information required by paragraph 2002(b);

(II) a detailed explanation of the proposed relinquishment and the affected geographic area;

(III) an explanation as to how the customers currently served by the applicant will continue to be served. A list of known telecommunications providers of basic local exchange service shall be provided;

(IV) a plan for transition of customers to another provider of basic local exchange service, if the applicant proposes to discontinue the provision of basic local exchange service. The transition plan shall include sufficient notice to permit the purchase or construction of adequate facilities by a remaining POLR, ETC, EP or other provider of basic local exchange service; and

(V) the amount of support the provider of basic local exchange service receives from the federal universal service fund for the geographic serving area for which the relinquishment is sought.

(d) If the applicant proposes to discontinue the provision of basic local exchange service, the Commission shall establish a time, not to exceed one year after the approval of the discontinuance, within which such purchase or construction of adequate facilities by a remaining POLR, ETC, EP or other provider of basic local exchange service shall be completed.

(e) During the transition period, the applicant shall ensure that customers do not experience a break in service as a result of the applicant discontinuing service.

(f) In addition to filing an application with the Commission, the applicant shall prepare a written notice regarding the proposed relinquishment and shall mail or hand-deliver the notice at least 30 days before the effective date to all currently served customers or subscribers, including all interconnecting telecommunications providers of basic local exchange service. The applicant shall separately provide notice to all potentially affected customers through publication for four consecutive weeks in a publication or publications that are distributed in the affected certificated area. A notice shall be mailed to the Board of County Commissioners of each affected county, and to the Mayor of each affected city, town or municipality.

(I) In addition to the requirements of paragraph 2002(d), the notice shall:

(A) be signed by an authorized officer of the provider or its representative; and

(B) include said officer or representative's title and address.

(II) At least 15 days before the date of the proposed relinquishment, the applicant shall file with the Commission a written affidavit stating its compliance with this paragraph. The affidavit shall state the date notice was completed and the method used to give notice. A copy of the notice shall accompany the affidavit.

(g) No hearing needs to be held if no objection, protest, or intervention is filed. If a hearing is to be held on an application, the Commission shall endeavor, within its operating constraints, to hold the hearing, or a portion thereof, at a location within the local calling area of the affected community.

(h) No proposed relinquishment shall be effective until the Commission issues an order approving it.

2187. Eligible Telecommunications Carrier Designation.

(a) The Commission shall, upon application, designate a common carrier that meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202 and paragraph 2187(b) as an ETC for a service area designated by the Commission.

(b) Upon request and consistent with the public interest, convenience, and necessity, the Commission may, in the case of an area served by a rural telecommunications provider, and shall, in the case of all other areas, designate more than one common carrier as an ETC for a service area designated by the Commission, so long as each additional requesting carrier meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202. Before designating an additional ETC for an area served by a rural telecommunications provider, the Commission shall find that the designation is in the public interest.

(c) Pursuant to Subpart E of 47 C.F.R., Part 54, as of January 27, 2015 all ETCs shall make available Lifeline service, as defined in § 54.401, to qualifying low-income customers.

(d) The application for designation as an ETC shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the information required by paragraph 2002(b);

(II) a description of the service area for which the applicant seeks designation as an ETC. The application shall include either a description of such service area by metes and bounds or the underlying carrier's exchange area map displaying the applicant's service area;

(III) the facts (not in the form of conclusory statements) relied upon by the applicant to demonstrate that it meets the requirements of 47 C.F.R. § 54.201(d) and § 54.202;

(IV) an affirmative statement that the applicant will offer the services that are supported by the federal universal service support mechanisms under 47 U.S.C. § 254(c);

(V) an affirmative statement that the applicant is a common carrier;

(VI) an affirmative statement that the applicant (ETC) will advertise the availability of such service and charges using media of general distribution pursuant to 47 U.S.C. § 214(e)(1)(B) of the Communications Act of 1934 as amended by the Telecommunications Act of 1996;

(VII) an affirmative statement that the applicant will make available Lifeline service, as defined in 47 C.F.R. § 54.401, to qualifying low-income customers;

(VIII) an affirmative statement that the applicant is in compliance with the Commission's rules;

(IX) a demonstration of the applicant's ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;

(X) a demonstration that the applicant will satisfy consumer protection and service quality standards. Wireless applicants that comply with the Cellular Telecommunications and Internet Association's (CTIA) Consumer Code for Wireless Service will satisfy this requirement;

(XI) a two-year build-out plan demonstrating how high-cost universal service support will be used to improve the applicant's coverage, service quality or capacity in every wire center for which it seeks designation and expects to receive universal service support. If a wire center is not part of the build-out plan and the applicant does not have existing facilities in the service area, a detailed explanation of how the applicant will provide service to a requesting customer in the service area for which it is seeking designation;

(XII) common carriers seeking designation as an eligible telecommunications for purposes of receiving support only for low-income consumers other than for the purpose of receiving Lifeline broadband support must provide:

(A) a demonstration that it is financially and technically capable of providing the Lifeline service in compliance with 47 C.F.R. § 54.400, Subpart E;

(B) an affirmative statement that the applicant will offer local usage plans that meet the minimum service standards as prescribed by the FCC in order to receive Lifeline support; and

(C) an affirmative statement that the applicant will satisfy the requirements for an initial determination of a subscriber's eligibility and certification requirements pursuant to 47 C.F.R. § 54.400.

(e) Within one year of the effective date of the Commission's decision approving an application for ETC designation, the ETC shall offer the supported services. If the ETC does not offer the supported services within one year, its ETC designation shall be cancelled and deemed null and void.

(f) As required by the FCC's universal service regulations found at 47 C.F.R. § 54.313, and when appropriate, the Commission shall file an annual certification with the Administrator of the federal Universal Service Fund (USF) and the FCC on behalf of each ETC serving access lines in the state, stating that all federal high-cost support provided to such carriers within that state will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission shall require a carrier to provide the information it finds necessary and convenient to make such a certification. At a minimum, carriers shall furnish requested information outlined in paragraph (g). ETCs that have LATAs that cross the Colorado state boundary and have the primary study area located within an adjacent state to Colorado, will be allowed to file a copy of the adjoining state regulatory commission's ETC certification to the FCC in lieu of information requested in paragraph (g) no later than October 1st of each year.

(g) Annual reporting requirements for Eligible Telecommunication Carriers.

(I) In order for an ETC previously designated by the Commission, or previously designated by the FCC, to be certified to receive federal support for the following calendar year, or to retain its ETC designation, it shall submit the reporting information specified below no later than August 15th of each calendar year to the Commission. ETCs failing to meet these annual report filing requirements and deadlines may not be certified by the Commission to the FCC and the Universal Service Administrative Company (USAC) as eligible to receive federal support for the following calendar year.

(II) FCC forms 481, 497, and 690.

(III) In addition to the information and certifications included in subparagraph (II) and required in §§ 54.313(b),(c), (d) and 54.316, each ETC receiving federal high cost support shall provide the wire center names associated with each of the locations reported.

(IV) Certification that the ETC is complying with the applicable service quality standards and consumer protection rules, e.g., the CTIA Consumer Code for Wireless Service.

(V) Certification that the ETC is able to function in emergency situations as set forth in 47 C.F.R. § 54.202(a)(2).

(VI) The total amount of all federal high cost support received in the previous calendar year and year-to-date through June 30 for the current calendar year.

(VII) Documentation the carrier offers and advertises the rate and availability of Basic Universal Service offerings, Lifeline, and Linkup programs throughout the service areas in Colorado where the carrier has been designated an ETC. Copies of written material used in newspaper advertisements, press releases, posters, flyers and outreach efforts

and a log of when and where these materials were distributed. For newspaper advertisements, dated copies of the published newspaper advertisements may serve as copies of written material. For radio station advertising, a confirmation from broadcasters of when the public service announcement was aired.

(VIII) A copy of cost study filing made on July 31st to NECA for current year. If an ETC is not required to file cost study to NECA, then a copy of the line count filing made to the FCC and USAC Administrator shall be submitted.

(IX) Each ETC shall file with the Commission, on or before April 30 of each year, an annual report for the preceding calendar year. The ETC shall submit the annual report on forms prescribed and supplied by the Commission; shall properly complete the forms; and, shall ensure the forms are verified and signed by a person authorized to act on behalf of the ETC.

(X) If a certified public accountant prepares an annual report for an ETC, within 30 days of publication, the ETC shall either file two copies of the report or shall file the report through the Commission's E-Filings System.

(XI) An affidavit attesting to the fact that the information reported on the annual report and information submitted under this rule is true and correct. The affidavit must also state that the ETC is aware of the purpose of the support for the federal high-cost support and it is complying with the requirement set forth by the FCC in 47 U.S.C. § 254(e). An officer, director, partner, or owner of the company must sign the affidavit.

(XII) If a review of the data submitted by an ETC indicates that the ETC is no longer in compliance with the Commission's criteria for ETC designation, the Commission may refrain from certifying the carrier to the FCC or revoke the carrier's designation as an ETC. In addition, ETCs must submit their reports on a timely basis.

2188. Combined Applications.

Applicants may file to be designated as a POLR, to be designated as an ETC, and/or to be designated as an EP in a combined application. Applicants may file to relinquish designation as a POLR, to relinquish designation as an eligible provider, and to relinquish designation as an ETC in a combined application. In a combined application, the applicant shall follow the application process and shall provide all information required for each separate component of the combined application.

2189. Disaggregation Plans.

(a) The Commission shall use the disaggregation plans of each rural ILEC established pursuant to 47 C.F.R. § 54.315, November 30, 2001 for disaggregation of the study area of the rural ILEC pursuant to 47 C.F.R. 54.207 into smaller discrete service areas.

(b) A provider of telecommunications service must file an application to modify a disaggregation plan of a rural ILEC pursuant to paragraph (a). Such application shall include the information required by paragraph 2002(b) in addition to the requirements of this paragraph:

(I) a description of the geographic area to be disaggregated, other providers offering similar services in that geographic area, and the level of the proposed disaggregation;

(II) the proposed method of disaggregation and targeting of Universal service support plan, if applicable; and

(III) support in the form of a description of the rationale used, including the methods and data relied upon to develop the disaggregation area.

(c) The Commission shall make a determination as to whether the disaggregation plan is in the public interest.

2190. – 2199. [Reserved].

Regulation of Providers of Switched Access Services; Regulation of Providers of Interexchange Services; Reclassification of Parts II and III Services; and Effective Competition Areas.

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish procedures and standards concerning: reclassifying a regulated telecommunications service as an emerging competitive service; deregulating an emerging competitive service; and conducting proceedings to determine effective competition areas.

The statutory authority for the promulgation of these rules is found at §§ 40-15-101, 40-15-203, 40-15-203.5, 40-15-207, 40-15-301, 40-15-302, 40-15-305, 40-15-501, 40-15-502, 40-15-503, and 40-2-108, C.R.S.

2200. Applicability.

Rules 2200 through 2299 are applicable to providers of Part II or Part III services pursuant to § 40-15-201, C.R.S. et seq., or § 40-15-301, C.R.S. et seq., and proceedings to reclassify Part II or Part III services or determine effective competition areas.

2201. Regulation for Providers of Switched Access Service.

(a) Except where FCC rules and orders require otherwise or as otherwise provided by law, the Commission shall regulate the terms and conditions, including rates and charges, under which switched access service is offered and provided to customers exclusively in accordance with the provisions of §§ 40-4-101(1), 40-4-111, 40-4-112, 40-5-105, 40-15-301, 40-15-302, 40-15-303, and 40-15-307, C.R.S.

(b) All tariffs and advice letters shall comply with rule 1210 of the Commission's Rules of Practice and Procedure.

(c) In addition to the requirements and contents in rule 1210, providers of switched access service shall comply with the following:

(I) Consistent with § 40-15-105(1), C.R.S., and except where FCC rules and orders require otherwise or as otherwise provided by law:

(A) a provider's access charges shall be cost-based, as determined by the Commission; and

(B) shall not exceed the rate of the competing ILEC, unless the provider of telecommunications service is determined to be a rural CLEC pursuant to FCC 47 C.F.R. §§ 61.26 and 61.3. A rural CLEC competing with a non-rural ILEC, shall not file rates for its intrastate access above the rates prescribed in the NECA access tariff.

(C) Each switched access provider's charges by rate element shall be capped at that provider of telecommunications service's tariffed rate as of January 1, 2012. The capping of rates does not affect any required implementation of rate changes pursuant to federal requirements.

2202. Regulation of Providers of Interexchange Service.

(a) An Interexchange provider shall:

(I) agree to contribute, in a manner prescribed by statute, rule, or order of the Commission, to the:

(A) Telecommunications Utility Fund; and

(B) Colorado High Cost Support Mechanism; and

(C) any other financial support mechanism created by § 40-15-502(4), C.R.S., and adopted by the Commission, as required by § 40-15-503(2(b)(V), C.R.S.; and

(II) file an updated registration form within 15 days of any change in the information previously provided to the Commission, including any discontinuance of service.

(b) For the purposes of enforcing § 40-15-112, C.R.S. and § 40-15-113, C.R.S, the Commission may invoke all lawful remedies available under Title 40, Articles 1 through 7, C.R.S. Failure to comply with applicable statutes or Commission rules is cause for revocation of the registration, an order to cease and desist, an order to the appropriate local exchange providers of telecommunications service to disconnect an interexchange provider's service, or any other remedy deemed appropriate by the Commission.

2203. Reclassification of a Part II Service to a Part III Service.

(a) The Commission, if it finds that effective competition exists in the relevant market for a Part II service and that reclassification of such service to a Part III service will promote the public interest and the provision of adequate and reliable service at just and reasonable rates, may reclassify such service upon its own motion or upon application by any Part II provider. Such reclassification shall be in compliance with the requirements of § 40-15-207, C.R.S.

(b) Any application under this rule shall comply with the requirements of § 40-15-207, C.R.S. and shall include the information required by paragraph 2002(b).

(c) At the time the application is filed, the applicant shall file its direct testimony and attachments to be offered at the hearing.

(d) Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves or requires an alternative notice procedure. The notice shall include the requirements of paragraph 2002(d).

2204 Deregulation of Part III Services.

(a) The Commission, if it finds that effective competition exists in the relevant market for a Part III service and that deregulation of such service to a Part IV service will promote the public interest and the provision of adequate and reliable service at just and reasonable rates, may deregulate

such service upon its own motion or upon application by any Part III provider of telecommunications service. Such deregulation shall be in compliance with the requirements of § 40-15-305, C.R.S.

(b) Any application under this rule shall comply with the requirements of § 40-15-305, C.R.S., and shall include the information required by paragraph 2002(b).

(c) At the time the application is filed, the applicant shall file its direct testimony and attachments to be offered at the hearing.

(d) Concurrent with the filing of an application, the applicant shall provide notice of the application to all existing customers pursuant to § 40-3-104, C.R.S., unless the Commission approves or requires an alternative notice procedure. The notice shall include the requirements of paragraph 2002(d).

2205. Adjudicatory Proceedings for Determination of Effective Competition Areas

(a) Based upon evidence provided through an adjudicatory proceeding initiated by the Commission or any person, the Commission may find that certain geographic areas in Colorado are designated as effective competition areas (ECAs).

(b) A geographic area is defined as a wire center serving area unless the Commission determines otherwise. If a proposal for a relevant geographic service area that is smaller than a wire center for an ECA designation, the proponent must provide data and information supporting the use of such smaller geographic area.

(c) In adjudicatory proceedings addressing evaluating the level of effective competition of basic local exchange service pursuant to § 40-15-207, C.R.S., the Commission may consider similar services offered by multiple, non-affiliated, providers of telecommunications service regardless of technology.

(d) If the Commission finds that a geographic area is an ECA, then the ECA is deregulated pursuant to § 40-15-401, C.R.S.

(e) HCSM support will be discontinued in an ECA beginning on the effective date of a Commission order designating the geographic area as an ECA.

2206. – 2299. [Reserved].

RELATIONSHIPS BETWEEN CUSTOMERS AND PROVIDERS

Services Provided to the Public

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish standards for the adequate provisioning and performance of services.

The statutory authority for the promulgation of these rules is found at §§ 40-3-101, 40-3-102, 40-3-103, , 40-4-101(1), 40-4-101(2), 40-15-112, 40-15-113, 40-15-201(1), 40-15-302(1)(a), 40-15-503(2), and 40-2-108, C.R.S.

2300. Applicability.

Except as otherwise provided in rules 2305, 2308 and 2310, rules 2300 through 2310 apply only to basic emergency service, switched access service, and basic service provided by HCSM recipients.

2301. Definitions. [Reserved].

2302. Customer Deposits.

(a) With the exception of paragraph (b) of this rule, this rule governs deposits for HCSM recipients.

(I) Each HCSM recipient shall process an application for service made orally, in writing, or via a secure website in a non-discriminatory manner.

(II) The HCSM recipient shall establish and maintain a written procedure for determining an applicant's credit status and include this on its website.

(b) Each HCSM recipient's deposit and credit policy shall be equitable and non-discriminatory and shall not impose more stringent requirements than the HCSM imposes in areas where HCSM support is not provided.

(c) A deposit required under this rule may be in addition to any advance payment, contribution to, or guarantee in connection with construction of lines or facilities, as provided in the line extension policy of the HCSM recipient's TOS documents, if applicable, on file with the Commission.

(d) The payment of a deposit shall not relieve any customer of the obligation to pay current bills when due. If forfeited, a deposit shall be applied only to the indebtedness of the customer.

(e) A customer who is required by an HCSM recipient to pay a deposit shall pay the deposit in full, prior to receiving service, or if agreed to by the HCSM recipient, enter into a written installment arrangement for payment of the deposit.

(f) Interest and deposits.

(I) Simple interest shall be paid by the HCSM recipient upon a deposit at the percentage rate per annum as determined by Commission staff on an annual basis, payable upon the return of the deposit. Interest on a deposit shall be earned for the time the deposit is held by the HCSM recipient, and shall be calculated from the date the deposit is received by the HCSM recipient to the date of refund to the customer.

(II) When it is determined that a change in the interest rate is warranted, the Commission shall send a letter to each HCSM recipient within the state by November 15th identifying the new rate to be paid beginning on January 1 of the next year. Following notification by the Commission, each provider of telecommunications service shall change its TOS to be effective January 1 of the following year. To the extent any of the dates contemplated herein are modified, there shall be at least 30 days between the date of the notification letter and the effective date of the rate change.

(g) Refund of deposits. Upon discontinuance of service, or when a customer establishes satisfactory credit, the HCSM recipient shall promptly refund any deposit, plus accrued simple interest, or the balance, if any, in excess of the unpaid bills.

(h) Each HCSM recipient shall include in its TOS its deposit requirement policy, explaining in detail under what circumstances a deposit shall be required, and under what conditions the deposit shall be returned.

2303. Denial or Discontinuance of Service.

(a) No HCSM recipient shall deny or discontinue service to a customer in an area where HCSM support is provided without prior written notice except for the following reasons.

(I) If a safety condition that is immediately dangerous or hazardous to life, physical safety, or property exists.

(II) Upon order by an appropriate court, the Commission, or any other duly authorized public authority.

(III) If service, having already been properly discontinued, has been restored by someone not authorized by the company and the original cause for discontinuance has not been cured.

(IV) Any condition that may adversely affect the safety of any person or the integrity of the provider of telecommunications service.

(V) Failure of the customer to permit the provider of telecommunications service reasonable access to its facilities or equipment.

(VI) The customer obtained service by subterfuge. Subterfuge includes, without limitation:

(A) obtaining service in another person's name with the intent to avoid outstanding charges; or

(B) applying for new service at a location:

(i) where a person has outstanding charges for basic service including outstanding charges for any associated taxes and surcharges; and

(ii) where such person continues to reside.

(b) In an area where HSCM support is provided, a HCSM recipient may temporarily suspend or permanently discontinue service and may sever the connection and remove any of its equipment from the customer's premises after at least 15-days written notice only for one of the following reasons:

(I) non-payment of any past due bill for basic local exchange service and any associated taxes and surcharges. Solely for the purposes of this paragraph, a bill is past due if not paid within 30 days of the due date which must be at least 15 days after the billing date; or.

(II) if the HCSM recipient determines service was obtained fraudulently or is being used for fraudulent purposes.

(c) Restrictions on denial or discontinuation of service in HCSM-supported area – Disposition of payments.

(I) Basic local exchange service shall not be denied or discontinued for delinquency or nonpayment of charges for service unless the customer has been issued a bill for the charges consistent with the billing requirements under rule 2304.

(II) A HCSM recipient shall not deny or discontinue basic local exchange service for delinquency in payment for service rendered to a previous occupant of the premises to be served, for unpaid charges for services or facilities not ordered by the applicant or customer, or for any other indebtedness, except as incurred for basic local exchange service and any associated taxes and surcharges.

(III) A HCSM recipient may not use its purchase of a customer's indebtedness, i.e., the accounts receivable, from another provider of telecommunications service to deny or discontinue providing its basic services to that customer.

(IV) If a customer pays or is willing to pay all current charges, a HCSM recipient shall not discontinue service for non-payment of a past due amount for these services when the customer has entered into a payment arrangement with the HCSM recipient. If the payment arrangement is not satisfied, the service may be disconnected for non-payment without further notice.

(V) Unless requested by the customer, a HCSM recipient shall disconnect dial tone only during the normal business hours of the HCSM recipient's business or customer service offices. There shall be no disconnection of dial tone when the business or customer service offices of the HCSM recipient is not open or after noon the day before the business or customer service offices will not be open.

(VI) Medical emergencies.

(A) A HCSM recipient shall postpone discontinuance of basic local exchange service to a residential customer for 60 days from the date of a medical certificate issued by a Colorado-licensed physician or health care practitioner acting under a physician's authority which evidences that discontinuance of service will aggravate an existing medical emergency or create a medical emergency for the customer or a permanent resident of the customer's household. The customer may receive a single 30-day extension by providing a second medical certification prior to the expiration of the original 60-day period. A customer may invoke this subparagraph 2303(c)(VII)(A) only once in any twelve consecutive months.

(B) As a condition of obtaining a new installment payment plan on or before the last day covered by a medical certificate, a customer who had already entered into a payment arrangement, but had broken the arrangement prior to seeking a medical certification, may be required to pay all amounts that were due up to the date of the original medical certificate as a condition of obtaining a new payment arrangement. At no time shall a payment from the customer be required as a condition of honoring a medical certificate.

(C) The certificate of medical emergency shall be in writing, sent to the HCSM recipient from the office of a licensed physician, and show clearly the name of the customer or individual whose illness is at issue; the Colorado medical identification number, phone number, name, and signature of the physician or health care practitioner acting under a physician's authority certifying the medical emergency. Such certification shall be incontestable by the LEC as to the

medical judgment, although the HCSM recipient may use reasonable means to verify the authenticity of such certification.

(d) Notice requirements.

(I) Except where prior written notice is not required, consistent with paragraph 2303(a) above, the customer shall be notified of the intention of a HCSM recipient to discontinue basic local exchange service and shall be allowed no fewer than 15 days from the date the notice was issued in which to respond to the company. The notice shall clearly state the amount that is past due and the date by which an installment payment arrangement must be entered into or payment must be received to prevent interruption of service. It shall also state that disconnection of basic local exchange service cannot occur for non-payment of other charges, such as for optional services, wireless service, or other companies' services. If the customer has chosen electronic billing, the notice of disconnection may be provided electronically.

(II) All discontinuance notices shall be printed in English and Spanish.

(e) Restoration of service

(I) Any service already discontinued must be restored without any additional charge if it was not properly discontinued or restored as provided in this rule 2303.

(II) Service must be restored within 24 hours, or by 5:00 p.m. on the next business day in the event the end of the 24-hour period falls on a Saturday, Sunday, or holiday unless prevented by safety concerns, or circumstances beyond the company's control, if the customer:

(A) Within ten days of the discontinuance of service, remits the full amount shown on the notice for basic services, plus any deposit as may be specifically required by the HCSM recipient's TOS by:

(i) paying the HCSM recipient directly; or

(ii) paying an authorized payment agent of the HCSM recipient, contacting the HCSM recipient by telephone and providing the HCSM recipient with the date paid, the amount paid and the valid receipt information;

(B) Presents a medical certificate, as provided in subparagraph 2303(c)(VI), within 24 hours of a disconnection for non-payment; or

(C) Demonstrates to the HCSM recipient that the cause for the discontinuance, if other than non- payment, has been cured.

2304. Customer-Billing Requirements.

(a) The Commission incorporates by reference the FCC's Truth in Billing Rules, as identified in rule 2008. In addition to the requirements found in the FCC's Truth in Billing Rules, all bills for basic service provided by HCSM recipients shall clearly display the billing date and the payment due date, which must be at least 15 days after the billing date. At the option of the customer, and where it is technically feasible, electronic billing (e-billing) is permitted.

(b) Payment of bills, billing disputes, and bill credits or refunds for HSCM.

(I) Whenever a customer makes a partial payment, the HCSM recipient shall apply it first to past due basic local exchange service and any associated taxes and surcharges in such a manner consistent with preserving basic local exchange service, unless otherwise instructed by the customer.

(II) In the event of a billing dispute between the customer and the provider of telecommunications service, the provider may require the customer to pay the undisputed portion of the bill to avoid discontinuance of service for non-payment. The provider of telecommunications service shall make a prompt investigation appropriate to the case and report the results to the customer. In the event the dispute is not reconciled, the provider shall advise the customer that an informal complaint may be registered with Commission Staff or that a formal complaint may be filed with the Commission.

(III) Whenever billing for basic local exchange service and any associated taxes and surcharges has not been determined accurately because of a HCSM recipient's omission or negligence, the HCSM recipient shall offer the following:

(A) Whenever a HCSM recipient over-bills a customer for the service, the HCSM recipient shall offer the customer a refund or credit. When the amount of the refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customer shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company. If the customer elects a one-time payment, the HCSM recipient shall mail the refund within thirty days. If the customer discontinues service, the provider shall refund to the customer any remaining credit due within thirty days. Such over-billing shall not be subjected to interest. Refunds for over-billing shall not be provided for a period of time exceeding two years.

(B) Whenever a HCSM recipient under-bills a customer for service, the customer shall be allowed to make an installment payment arrangement when the amount exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges. A customer shall be advised that any installment payment agreement may, at the option of the customer, extend over a time period equal in length to the period over which the errors were accrued. Charges for under-billing shall not be billed for a period of time exceeding two years and shall not include late payment fees or interest.

(C) Whenever a HCSM recipient collects from a customer more money than is due the HCSM recipient because of an erroneous payment or electronic transfer, the HCSM recipient shall electronically issue or mail the customer a credit or refund within five days of realizing the mistake. When the amount of the credit or refund exceeds the charges for two months of basic local exchange service and any associated taxes and surcharges, the customer shall be offered the choice either to receive the refund as a one-time credit on the customer's bill or as a one-time payment from the company. If the customer discontinues service, the provider shall refund to the customer any remaining credit due within thirty days. Such refunds shall not be subjected to interest. Refunds for erroneous payments shall not be provided for a period of time exceeding two years.

(IV) In the event the customer's basic local exchange service is interrupted and remains out of order for eight or more hours during a continuous 24-hour period after being reported by the customer, or is found to be out of order by the HCSM recipient (whichever occurs

first), appropriate adjustments shall be automatically made by the HCSM recipient to the customer's bill.

(A) The adjustment shall be, at a minimum, a credit on the monthly bill for basic local exchange service and any associated taxes and surcharges proportional to the duration of the service interruption, with each occurrence of the loss of service for eight or more hours during the 24-hour period counting as one day. For the purpose of administering this rule, every month is considered to have 30 days.

(B) The HCSM recipient is not required to provide an adjustment for the loss of service during time periods due to the following conditions:

(i) the negligence or willful act of the customer;

(ii) a malfunction of facilities other than those under the control of the HCSM recipient;

(iii) natural disasters or other events affecting large numbers of customers such as described in paragraph 2336(c); or

(iv) the inability of the HCSM recipient to gain access to the customer's premises when required.

(V) In the event the HCSM recipient misses a service call, i.e., an appointment for a premises visit associated with installation of new service by more than four hours, the HCSM recipient shall make a credit to the monthly bill of the customer in the amount of one-third the rate for installation as reflected in the HCSM recipient's TOS. This credit shall also apply when the HCSM recipient misses scheduled installation work to be done in the central office.

(VI) The bill credit policies set forth in paragraphs (a) and (b) are minimum requirements. HCSM recipients that merely adopt paragraphs (a) and (b) as their bill credit policy are not required to file a TOS that incorporate this rule. HCSM recipients that wish to have additional bill credit policies shall file a TOS that fully describes such additional policies. All bill credit policies shall be non-discriminatory and non-preferential.

2305. Refund Plans.

Any provider proposing or required by Commission order to make a refund to customers by class of service shall file an application for Commission approval of the plan of refund. The application shall contain the analysis of the feasibility and costs of customer-specific refunds in lieu of a general refund.

(a) Unless the Commission orders otherwise, an application for approval of a plan of refund shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(I) the information required by paragraph 2002(b);

(II) a detailed description of the proposed refund plan, including but not limited to: a description of the telecommunications service that is the subject of the refund plan; the dollar amount of the proposed refund by class of service; the date applicant proposes to start making the refund, which shall be at least 60 days after the filing of the application; the date by which the applicant proposes to complete the refund; the means by which the

refund is proposed to be made; an identification of the service area(s) impacted by the refund; the interest rate that will be paid to customers, equal to the current rate paid on customer deposits unless the Commission establishes an alternative interest rate; and the proposed treatment of unclaimed refunds, consistent with § 40-8-101, C.R.S., et seq.;

(III) a statement describing in detail the extent to which the applicant has any financial interest in any other company involved in the refund plan;

(IV) a reference by proceeding number, decision number, and date of any Commission decision requiring the refund; and/or a copy of any federal agency or other state order, if the refund is to be made because of the applicant's receipt of monies under any such order;

(V) if the applicant proposes to refund less than all of the monies received as described in subparagraph (a)(II), a detailed statement justifying the proposed refund of a lesser amount, with a copy of applicant's most recent balance sheet, dated not earlier than three months before the date of the filing of the application, with a copy of an income statement and a retained earnings statement as of the date of the balance sheet;

(VI) a statement showing the accounting entries for the refund plan; and

(VII) a statement that if the application is granted, applicant will file an affidavit with the Commission establishing that the refund has been made in accordance with the Commission decision.

(b) The Commission shall give notice of the filing of an application to make a refund, as provided in rule 1206 of the Rules Regulating Practice and Procedure.

(c) The applicant shall give notice of the filing of an application to make a refund, as provided in paragraphs 1207 of the Commission’s Rules Regulating Practice and Procedure. Such notice shall also include the requirements of paragraph 2002(d).

2306. Public Information.

(a) Each HCSM recipient shall have one or more business offices or customer service centers staffed to provide access in person or by telephone to qualified personnel, including supervisory personnel when warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, and generally act as customer service representatives of the HCSM recipient. Toll free calling to the business office and customer service centers shall be provided to customers.

(b) Each HCSM recipient shall, at a minimum, provide the following information to the public, as applicable and upon request, at each business office open to the public and may also be available on the provider’s website:

(I) copies of all TOS documents as filed with the Commission;

(II) for each exchange that includes any area where HCSM support is provided, maps showing the exchange, base rate area and zone (if applicable) boundaries in sufficient size and detail from which all customer locations can be determined and mileage and zone charges measured from these boundaries can be quoted;

(III) publicly announced information about the present and intended future availability of services at the location of a potential customer; and

(IV) publicly announced information concerning plans for major service changes in the area served by the provider of telecommunications service.

2307. Local Exchange Service Standards.

(a) As part of its obligation to provide adequate basic local exchange service in areas where HCSM support is provided, each HCSM recipient shall construct and maintain its telecommunications network so that the instrumentalities, equipment, and facilities within the network shall be adequate, efficient, just, and reasonable in all respects in order to provide the following services or capabilities to each of its customers within its service area:

(I) individual line service or its functional equivalent constructed and maintained to meet the general parameters and characteristics of rule 2337;

(II) voice grade access to the public switched network;

(III) the local exchange usage necessary to place calls to or receive calls from all local exchange access lines within a Commission approved local calling area;

(IV) access to emergency services;

(V) access to toll services;

(VI) customer billing to the extent described in rule 2304;

(VII) public information assistance to the extent described in rule 2306;

(VIII) access to operator services;

(IX) provisioning of service during maintenance or emergencies to the extent described in rule 2335; and

(X) any HCSM recipient must offer basic local exchange service by itself as a separate offering; however, this subparagraph does not preclude the HCSM recipient from also offering basic local exchange service packaged with other services.

(b) In order to maintain a reasonable uniformity between all localities in the state for adequate basic local exchange service in the ordinary course of its business, each HCSM recipient shall construct and maintain its telecommunications network so as to provide for universal (i.e., ubiquitous) availability of the following services or capabilities when requested by a customer within areas where HCSM support is provided:

(I) the basic service standard defined in paragraph 2307(a);

(II) E9-1-1 service, either by providing the necessary facilities and identification (name/number, etc.) information to a BESP or as provided by the LEC under rules 2130 through 2159; and

(III) services to which the customer may voluntarily subscribe:

(A) services that deny or limit access to providers of interexchange service; and

(B) services that deny access to other information service providers.

(c) In areas where HCSM support is provided, local calling areas as established by the Commission shall meet either the community of interest or incremental extended service criteria. Any HCSM recipient shall provide at least one option to its customers that includes that same local calling area, unless modified by order of the Commission. In general, and to the extent possible, each local calling area shall:

(I) allow customers to place and receive calls without payment of a toll charge to 9-1-1, their county seat, municipal government, elementary and secondary school districts, libraries, primary centers of business activity, police and fire departments, and essential medical and emergency services;

(II) be provided in both directions between the two exchange areas; and

(III) not exhibit any discontinuities (i.e., an exchange area physically located between two exchanges that is not included in a local calling area that serves the two exchanges).

2308. Expanding a Local Calling Area.

LECs must notify the Commission 45 days prior to expanding any local calling area. The notice for an expanded local calling area shall include the following:

(a) a description of the existing local calling area;

(b) a description of the proposed local calling area;

(c) attestation of the date the Local Exchange Routing Guides (LERG) will be modified;

(d) customer and carrier notifications; and

(e) the implementation date of the local calling area expansion.

2309. Availability of Service -- Adequacy of Facilities.

Each HCSM recipient shall employ prudent management planning practices, including budgeting and prioritizing resources, to ensure that adequate facilities and equipment are in service to provide service to prospective customers in its service territory and in areas where HCSM support is provided in conformance with the HCSM recipient's line extension policy.

(a) Each HCSM recipient shall maintain, as part of its TOS, the rules, regulations, circumstances, terms, and conditions under which line extensions or extensions of service by the HCSM recipient will be made in order to render service to a prospective end user within the exchange area.

A HCSM recipient's line extension policies:

(I) shall not discriminate among the HCSM recipient's prospective customer by class of service;

(II) shall include rate schedules for service connections, extensions, and line mileage, as applicable;

(III) shall provide a construction credit to prospective customers which reflects the amount of its capital investment that is supported by customers' revenues, the HCSM, and all other price support mechanisms established by the federal and state governments if the HCSM recipient receives support from such price support mechanisms (i.e., its supported costs); and

(IV) shall be on file at a business location in Colorado and shall be on the HCSM recipient's website, and shall be available for inspection by the public during normal business hours.

(b) Date of application for service.

(I) When a customer orders service and the HCSM recipient is not required to provide a construction charge estimate prior to providing service at the customer's premises, the date of application for service shall be the date of the first oral or written customer contact with the HCSM recipient to request service.

(II) When a customer orders service and the HCSM recipient is required to provide a construction charge estimate prior to providing service at the customer's premises, the date of application for service shall be the date on which the customer makes payment or partial payment of initial construction charges. If no payment is required from the customer, the date of application for service is the date the estimate was provided to the customer.

(c) Information to be provided to residential or small business customers at the time of application for service.

(I) At the time of the first customer contact to apply for service, the HCSM recipient shall provide the customer an order number. If construction charges are, or may be required to provide the customer service, the customer shall be informed during the first customer contact that construction may be required to provide service. The HCSM recipient must subsequently inform the customer within 30 days of the customer's first contact that construction will be required and a construction charge estimate is necessary before the HCSM recipient quotes the estimated construction charge. If the TOS documents of the HCSM recipient require the payment of an engineering fee prior to the provision of a construction charge estimate, the customer shall be informed of the required fee at the time of second customer contact.

(II) The HCSM recipient shall specifically ask customers who contact the HCSM recipient to inquire about service availability if the customer desires to initiate, at that time, a request for service. The HCSM recipient shall not discourage the customer from placing an order at the time of such inquiry and shall use the date offered for service or a date otherwise agreed upon with the customer for service as the due date for installation.

(III) A HCSM recipient shall provide any information and assistance necessary to enable customer to choose from the lowest costbasic service or other alternatives it provides which conform to the customer's or applicant's stated needs.

(d) Construction charge estimate. When a customer orders service and the TOS document of the HCSM recipient requires the provision of a construction charge estimate, the HCSM recipient shall provide to the customer, within 30 days from the date of the customer's request for an estimate, a good faith written cost estimate of the amount of the required payment. If the HCSM recipient's TOS document requires the payment of an engineering fee prior to the provision of a construction charge estimate, the payment of the engineering fee shall be notice to the HCSM recipient that the customer desires a construction charge estimate to be performed within

30 days. For group applications, the 30 days commence after all applicants have paid the required engineering fee. The good faith written cost estimate shall inform the customer that receipt of payment or partial payment is required before the customer's request will be considered an application for service.

(e) Notices to residential and small business customers. All customers who are not provided service within ten days of the date of application for service or by the customer's requested date for service, whichever is later, shall be provided a written notice by the HCSM recipient, stating the order number assigned by the HCSM recipient to the application for service, the general status of the order, and a phone number to call with questions. This notice shall be postmarked on or before the 15th day after the date of application.

(f) Provision of basic local exchange service.

(I) Time frames for providing basic local exchange service and any remedies associated with not providing service by these time frames shall apply to all applications for service for the primary (first) residential and primary (first) business lines.

(II) Time frames for provision of service.

(A) Each HCSM recipient shall provide 95 percent of its customers with primary basic local exchange service no later than ten days from the date of the customer's application for service, except that when the customer requests a later date of service, the service shall be provided by the requested date, unless construction of new facilities is required in which case subparagraph (B) below shall apply. The HCSM recipient shall provide primary basic local exchange service to the remaining five percent of customers within 30 days of the application date for service.

(B) If construction of new facilities is required, the HCSM recipient shall provide that customer with basic local exchange service no later than 90 days from the date of the customer's application for service. When construction is required during the months of October through May, or when construction is required in counties that have construction moratoriums in place, a HCSM recipient shall provide primary basic local exchange service no later than 150 days from the date of the customer’s application for service.

(III) Remedies to customers not receiving basic local exchange service within 30 days.

(A) If a HCSM recipient fails to provide basic local exchange service within the later of 30 days or (if applicable) the deadlines provided pursuant to subparagraph (f)(II)(B) above, the HCSM recipient shall provide a remedy to the customer for the first residential and the first business line. These remedies shall continue to be provided until the customer receives the basic local exchange service.

(B) Remedies shall include a credit that shall be applied to the customer's account no later than the second bill issued for service that has been provided in an amount at least equal to the pro rata monthly local exchange service charge for each day thereafter that service is not provided, a monthly credit up to $40 to reimburse the cost of a temporary alternative to basic local exchange service and an installation charge waiver. These monthly credits shall accrue until the customer receives basic local exchange service.

(IV) The credits and installation charge waivers described in subparagraph (III) shall be offered in addition to, and not in lieu of, any other remedy available to the customer or the Commission, including, but not limited to:

(A) an order by the Commission that the HCSM recipient provide basic local exchange service by a date certain; or

(B) penalties under § 40-7-105, C.R.S.

(g) HCSM recipients may seek a variance of any part of this rule, subject to all the following limitations.

(I) A request by a HCSM recipient for a blanket variance shall not be granted. Requested variances for individual customers, or individual developments or areas, shall be considered.

(II) A variance may be granted only in those instances where the HCSM recipient has demonstrated a good faith effort to comply with the provisions of this rule and the Commission finds that good cause exists to grant the variance.

(III) All HCSM recipients may request a variance from the Commission by application that sets forth in detail the grounds upon which the variance is sought.

2310. Changing Providers of Interexchange Telecommunications Service/Carrier Presubscription

(a) The following definitions apply only in the context of this rule.

(I) "Authorized carrier" means any interexchange telecommunications carrier chosen by the subscriber in accordance with the procedures specified in this rule. Authorized carrier can refer to a POLR, an intraLATA long distance carrier or an interLATA long distance carrier.

(II) "Electronic authorization" means approval for any carrier change that is initiated by a telephone call, either by the subscriber or by an independent third party.

(III) "Executing carrier" means any interexchange telecommunications carrier that implements a request that a subscriber's telecommunications carrier be changed.

(IV) "Slamming" means any change in an end-use subscriber’s presubscription to a telecommunications service that is made without appropriate consent of the customer.

(V) "Submitting carrier" means any interexchange telecommunications carrier that requests that the subscriber's telecommunications carrier be changed.

(VI) "Subscriber" means any one of the following:

(A) the party identified in the account records of an interexchange carrier as responsible for payment of the telephone bill;

(B) any adult person authorized by such party to change interexchange telecommunications services or to charge services to the account; or

(C) any person (e.g., a payphone agent or building owner) who is contractually or otherwise lawfully authorized to represent such party.

(VII) "Unauthorized carrier" means any interexchange telecommunications carrier that is providing telecommunications service to a subscriber without the subscriber's authorization.

(VIII) "Unauthorized change" means a change to a subscriber's carrier of interexchange telecommunications service that is made without the subscriber's authorization in accordance with the procedures specified in this rule.

(b) Verification of orders for service.

(I) No interexchange telecommunications carrier shall submit or execute a change in a subscriber's authorized carrier except in accordance with the procedures in this rule.

(II) No submitting carrier shall request a change in a subscriber's authorized carrier prior to obtaining the subscriber's authorization by one of the following methods:

(A) A written or electronically signed (Internet or e-mail) letter of agency.

(i) A submitting carrier shall obtain a written or electronically signed letter of agency to obtain authorization to change a subscriber's authorized carrier. Any letter of agency that does not conform to this rule is void.

(ii) The letter of agency shall be a separate document or shall be located on a separate screen or web page including only the authorizing language described below. The sole purpose of the letter of agency is to authorize a carrier change. The letter of agency shall be signed and dated by the subscriber. The letter of agency shall not be combined with inducements of any kind on the same document, screen or web page. A letter of agency shall not be valid if it is presented to the customer for signature in connection with a sweepstakes or other game of chance.

(iii) The letter of agency may be combined with checks that include only the required letter of agency language prescribed and the necessary information to make the check a negotiable instrument. The letter of agency check shall not include any promotional language or material. The letter of agency check shall include, in easily readable, bold-faced type on the front of the check, a notice that the subscriber is authorizing a carrier change by signing the check. The letter of agency language also shall be placed near the signature line on the back of the check.

(iv) At a minimum, the letter of agency shall be printed in a sufficiently sized and readable type to be clearly legible and shall include clear and unambiguous language, in separate statements, that confirms: the subscriber's billing name and address, and each telephone number to be covered by the authorized carrier change order; the decision to change the authorized carrier from the current telecommunications carrier to the soliciting carrier; the subscriber's approval for the submitting carrier to act as the subscriber's agent for the respective authorized carrier change; the subscriber's understanding that one carrier can be, but does not have to be, the subscriber's authorized carrier for local exchange, intraLATA toll, and interLATA toll services (or any combination of these services) for

any one telephone number (although a separate letter of agency for each choice is not necessary); and the subscriber's understanding that a change in an authorized carrier may involve a charge to the subscriber.

(v) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the customer's current authorized carrier.

(vi) If any portion of a letter of agency is translated into another language, then all portions of the letter of agency must be translated into that language.

(vii) Letters of agency submitted with an electronically signed authorization must include the customer disclosures required by § 101(c) of the Electronic Signatures in Global and National Commerce Act.

(B) Telephone call initiated by a subscriber. The subscriber must place a telephone call to the carrier of choice. The carrier shall obtain the subscriber's authorization that must confirm the subscriber's billing name and address, the decision to change to the new carrier, and the subscriber's understanding of the executing carrier's change fee. The submitting carrier electing to confirm a change in service electronically shall establish one or more toll free telephone numbers exclusively for that purpose. Calls to the toll free number(s) shall connect a subscriber to a voice response unit or similar mechanism that records the required information regarding the carrier change, including automatically recording the originating number using Automatic Number Identification (ANI).

(C) Third-party verification.

(i) An independent third-party verifier shall not be owned, managed, controlled, or directed by the carrier or the carrier's marketing agent; shall not have any financial incentive to confirm authorized carrier change orders for the carrier or the carrier's marketing agent; and shall operate in a location physically separate from the carrier or carrier's marketing agent.

(ii) Automated third-party verification may be used for verification purposes as long as the requirements of subparagraphs (II)(C)(iii) and (iv) are satisfied.

(iii) A carrier or carrier's sales representative initiating a call through an automated verification system shall drop off the call once the three-way connection has been established.

(iv) All third-party verification methods shall elicit, at a minimum: the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call intends to make the carrier change; the telephone number(s) to be switched; and the types of services involved in the change. Third-party verifiers may not market the carrier's services by providing additional information, including information regarding authorized carrier freeze procedures.

(v) All third-party verifications shall be conducted in the same language that was used in the underlying sales transaction and shall be recorded in their entirety. Automated systems shall provide customers with an option to speak with a live person at any time during the call.

(c) An interexchange telecommunications carrier shall submit an authorized carrier change on behalf of a subscriber within three days of obtaining the subscriber's authorization.

(d) Each HCSM recipient's TOS shall describe the subscribers' options, if any, regarding freezing their authorized carriers.

(e) Enforcement.

(I) A carrier that violates any provision included in these rules is subject to enforcement and penalties as provided in Articles 1-7 and 15 of Title 40, C.R.S.

(II) Upon notification from a subscriber of a change to another interexchange telecommunications carrier without authorization, the executing carrier shall switch the subscriber's line(s) back to the authorized carrier at no charge to the subscriber.

(III) An interexchange telecommunications carrier that initiates an unauthorized change in a subscriber's authorized interexchange telecommunications carrier, i.e., an unauthorized carrier, in violation of this section is liable:

(A) to the subscriber, the subscriber's previously selected carrier, or both, as determined by the Commission, for all intrastate long distance charges, all interstate long distance charges, local exchange charges, carrier switching fees, the value of any premiums to which the customer would have been entitled, and other relevant charges incurred by the subscriber during the period of the unauthorized change; and

(B) to the executing carrier for the change fees associated with the unauthorized change.

(f) Waiver for the sale or transfer of subscribers.

(I) A HCSM recipient or ETC that acquires, through a sale or transfer, part or all of another carrier's subscriber base, shall comply with all the following provisions:

(A) No later than 45 days prior to the planned transfer of the affected subscribers from one carrier to another, the acquiring carrier shall file with the Commission an application for waiver of this rule. The application shall include the names of the parties to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the proposed date of the transfer. This application for waiver shall also include a copy of the notice that will be sent to the affected subscribers.

(B) The notice to subscribers shall be provided at least 45 days prior to the transfer or sale. The acquiring carrier is required to fulfill the obligations set forth in the notice. The notice shall, in addition to the requirements of paragraph 2002(d)(I) – (XII), include:

(i) the proposed date on which the transfer will occur;

(ii) the rates, charges, terms, and conditions of the service(s) to be provided by the acquiring carrier upon the transfer or sale;

(iii) a statement that the acquiring carrier will be responsible for any charges associated with the transfer to the new carrier;

(iv) a statement that reflects the subscriber's right to select a different authorized carrier for the telecommunications service(s), if an alternative carrier is available;

(v) a statement that all subscribers receiving notice, even those with an authorized carrier freeze(s) in place, will be transferred to the acquiring carrier, unless the subscriber selects a different carrier before the transfer date;

(vi) a statement that an existing authorized carrier freeze(s) will be lifted to execute the transfer, and advising the customer to ask the new carrier to institute a freeze after the transfer; and

(vii) the toll free customer service number of the acquiring carrier.

2311. – 2329. [Reserved]

Quality of Services Provided to the Public

2330. Applicability.

Rules 2330 through 2359 apply to providers of switched access service, basic emergency service, and basic service provided by HCSM recipients as provided in each rule.

2331. Definitions [Reserved].

2332. Incorporation by Reference.

References in these rules to Part 68 are references to rules issued by the FCC and have been incorporated by reference as identified in rule 2008.

2333. Construction and Maintenance of Plant and Equipment -- Generally.

The telecommunications plant used to provide services identified in rule 2330 shall be constructed, installed, maintained and operated in accordance with good engineering practice in the telecommunications industry to assure, as far as reasonably possible, uniformity in the quality of service provided and the safety of persons and property.

2334. Construction and Maintenance Practices.

(a) The provider of services identified in rule 2330 shall use, as a minimum standard of accepted good engineering practice, the 2007 National Electric Safety Code, as identified in rule 2008.

(b) For any telecommunications plant constructed or installed prior to February 5, 2001, the minimum standard of accepted good engineering practice shall be the edition of the National Electric Safety Code in effect at the time of beginning construction or installation of the telecommunications plant.

(c) Telecommunications plant that is constructed, installed, maintained, or operated in accordance with the National Electric Safety Code in effect at the time of its construction or installation shall be presumed to comply with accepted good engineering practice in the telecommunications industry and the provisions of this rule.

(d) Providers of the services identified in rule 2330 shall use as a minimum standard of safe practice 47 C.F.R., Part 68, dated August 30, 2013, for the interconnection of new or existing telecommunications plant with terminal equipment of a customer.

(e) The provider shall coordinate with other entities concerning construction work initiated by itself, or other entities, that may affect its facilities used for serving the public. For example, the provider of telecommunications service shall:

(I) economically minimize construction expenditures by coordinating construction with other entities, such as the joint use of trenches for cable, where joint construction is both safe, cost effective, and in the best interest of the provider;

(II) take reasonable action to protect service to the public, such as identifying the location of underground facilities that may be affected by construction work for other entities;

(III) maintain a database or some other form of quickly accessible information at its facilities sufficient to allow facility location coordination and participation in a program on a statewide basis to minimize service interruptions caused by accidental cutting of cables; and

(IV) engage in coordination with electric power utilities in the area prior to constructing new plant or a major rebuild of existing plant that may be impacted by inductive interference from the electric power systems.

(f) Each provider of services identified in rule 2330 shall adopt a program of periodic tests, inspections, and preventative maintenance aimed at achieving efficient operation of its system to permit the rendering of safe, adequate, and continuous service at all times as recognized by general practices within the telecommunications industry. The presence of inductive interference, cut-offs, cross-talk, and excessive noise generation by communication system facilities are symptomatic of inadequate service, and a maintenance program shall be designed to minimize or prevent those occurrences.

(g) Each provider of services identified in rule 2330 shall keep records of the tests and inspections necessary to meet industry and Commission service standards on file in its office for review by the Commission. These records shall show the nature of the equipment tested or inspected, the reason for the test or inspection, the general conditions under which the test or inspection was made, the results of the test or inspection, and any corrections made as a result of the test or inspection.

2335. The Provision of Service During Maintenance or Emergencies.

The following paragraphs describe minimum standards for maintaining service.

(a) Each provider of services identified in rule 2330 shall make reasonable provisions to meet emergencies resulting from: power failures; sudden and prolonged increases in traffic; staff shortages; and fire, storm, or acts of God. Each such provider shall issue instructions to its employees identifying procedures to be followed in the event of an emergency in order to prevent or mitigate interruptions or impairment of telecommunications service.

(b) In the event of a commercial power failure, each provider of services identified in rule 2330 shall furnish a minimum of four hours of backup power or battery reserve rated for peak traffic load requirements from the provider's power source to the network interface in landline (coaxial, fiber, or copper) applications in order to support existing basic service to lines that use a traditional ringer.

(c) All local central offices, toll switching or tandem switching offices, repeater huts, microwave radio sites, and other interoffice facilities requiring supplied power shall have available a minimum of four hours of battery reserve (or backup power) rated for peak traffic load requirements. If the facility is not continuously attended by trained personnel, or does not include a permanent auxiliary power unit, additional battery reserve shall be installed to provide for travel time.

(d) Service interruptions for an extended time due to maintenance requirements shall be performed at a time that causes minimal inconvenience to impacted customers. Each provider of services identified in rule 2330 shall take reasonable steps to notify the customer in advance of extended maintenance requirements. Such providers shall also make emergency service available when the provider knows that the service interruption affects 1,000 or more access lines and when the provider knows, based upon the prior experience of the provider, that the interruption may last more than four hours during the hours of 8 a.m. to 10 p.m. If the provider cannot provide emergency service, it shall file a report of the occurrence as required by paragraph 2143(h).

(e) Each provider of services identified in rule 2330 shall develop a general contingency plan to prevent or minimize any service interruptions due to the catastrophic loss of a central office switch that serves more than 10,000 access lines or is the toll or tandem switching office for 10,000 access lines. The plan shall describe the actions and systems installed to prevent or minimize the probability of such an occurrence as well as describe the actions and systems available to minimize the extent of any incurred service interruption.

2336. Adequacy of Service.

(a) Each provider of services identified in rule 2330 shall employ prudent management and engineering practices so that sufficient equipment and adequate personnel are available at all times, including the average busy hour of the busy season. To meet this objective, each such provider shall conduct traffic studies, employ reasonable procedures for forecasting future service demand and maintain the records necessary to demonstrate to the Commission that sufficient equipment is in use and that an adequate operating force is provided.

(b) The criteria for quality of service define a minimum acceptable standard for the most basic elements of service. The rules do not attempt to define all criteria for all service applications or the most desirable service level for any basic element except for the minimal acceptable standard. In the event this subchapter does not cover a specific service element, each provider of services identified in rule 2330 shall meet generally accepted industry standards for that element and the total service. Organizations that are recognized for establishing standards that may be appropriate for telecommunications services provided in this state include the IEEE, ANSI, the Rural Utility Service (RUS), and the FCC.

(c) The standards within this subchapter establish the minimum acceptable quality of service under normal operating conditions. They do not establish a level of performance to be achieved during the periods of emergency, catastrophe, natural disaster, severe storm, acts of terrorism, acts of negligent or willful misconduct by a customer or third parties including but not limited to outages originating from the introduction of a virus onto the network of a provider of services identified in rule 2330, or other events affecting large numbers of customers nor shall they apply to extraordinary or abnormal conditions of operation, such as those resulting from work stoppage, civil unrest, or other events for which a provider of telecommunications service may not have

been expected to accommodate, or which are outside of the provider's control including but not limited to failure of the customer to permit the provider of telecommunications service reasonable access to its facilities, equipment or customer premise, and delay caused by local, state, federal or tribal government entities in approving easements or access to rights of way. To the extent such conditions affect the measurement records required or the ability of the provider to meet any other service standards, it is the responsibility of the provider to separately document the duration and magnitude or effect of such occurrences in its records.

2337. Standard Performance Characteristics for Customer Access Lines.

Providers of services identified in Rule 2330 shall construct and maintain all basic service local access lines used for individual line service to meet generally accepted industry standards as the specifications evolve and improve over time. Organizations that are recognized for establishing standards that may be appropriate for local access lines include the IEEE, the ANSI and the FCC. Specifications for resale or unbundled network elements may also be appropriate for establishing such standards.

(a) Testing. Each such provider shall, as good utility practice, engage in testing its physical plant for all the following purposes:

(I) identifying potential trouble (routine, preventive, or proactive testing).;

(II) locating or specifying the type of circuit problem or deficiency (diagnostic testing); and

(III) determining the appropriate course of action upon receipt of a customer trouble report to resolve the customer trouble report. Upon receipt of a trouble report pertaining to the provider's network, the provider shall test the local access line. The records of these test results shall be maintained pursuant to subparagraph 2005(c)(V). The test results shall be made available to the customer, upon request. This information shall be provided to the Commission upon request.

2338. Network Call Completion Requirements.

(a) Direct dialed calls.

(I) Each HCSM recipient shall construct and maintain sufficient central office local usage message path capacity, interoffice channel capacity, and other necessary facilities to meet the following minimum requirements during any normal busy hour:

(A) dial tone within three seconds for 98 percent of call attempts on the switched network;

(B) correct termination of 98 percent of properly dialed intraoffice or interoffice calls within an extended service area; and

(C) correct termination of 98 percent of properly dialed intraLATA or interLATA calls when the call is routed entirely over the network of the HCSM recipient.

(II) A dialed call shall be considered properly terminated if:

(A) the calling party receives an indication of ringing, a ringing signal is delivered to the station location of the called party, the called party answers, and a connection is established between the calling and called parties;

(B) if the called number is busy, the calling party receives a busy signal; or

(C) a call to a non-working code or inoperative customer number is directed to the intercept service of the HCSM recipient.

(III) A dialed call shall not be considered properly terminated if a connection cannot be established between the calling and called parties, and the calling party receives an overflow announcement or an overflow signal that is different from the called party busy signal.

2339. – 2399. [Reserved].

* * *

[indicates omission of unaffected rules – (Rules 2400 – 2499 - Costing and Rates)]

PROVIDER OBLIGATIONS TO OTHER PROVIDERS

Basis, Purpose, and Statutory Authority

The basis and purpose of rules 2500-2599 is to: prescribe non-discriminatory access to, and interconnection with, the facilities of providers' networks by other providers; and provide for the unbundling of certain providers' networks. Nothing in these rules affects, modifies, or expands:

(a) an entity's obligations under sections 251 and 252 of the federal "Communications Act of 1934," as amended, and codified in 47 U.S.C. § 251 and 252;

(b) any commission authority over wholesale telecommunications rates, services, agreements, providers, or tariffs; or

(c) any commission authority addressing or affecting the resolution of disputes regarding intercarrier compensation.

The statutory authority for the promulgation of these rules is found at §§ 40-15-109(3); 40-15-401(2)(a), (b) and (c), 40-15-404, 40-15-503(2)(c) and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252.

Interconnection and Unbundling

2500. Applicability.

Rules 2500 through 2529 are applicable to all telecommunications carriers that provide telecommunications exchange services in the State of Colorado.

2501. Definitions.

The following definitions apply only in the context of rules 2500 through 2529:

(a) "Common transport link" means a communications path:

(I) Used by multiple customers; and

(II) Containing one or more circuits connecting two switching systems in a network.

(b) "Customer network interface" or "network interface device" (NID) means the facilities on or near the customer's premises that allow the customer to connect to the network.

(c) "Dedicated transport link" means a communications path:

(I) Used by one customer; and

(II) Containing one or more circuits connecting two switching systems in a network.

(d) "Essential facilities" or "essential functions" mean those network elements that a telecommunications provider is required to offer on an unbundled basis.

(e) "Exchange access" means the offering of access to telephone exchange services or facilities for the purpose of the origination or termination of telephone toll services.

(f) "Interconnection" means the process of providing a seamless connecting link between competing networks for the completion of local traffic that originates in the network of one provider and terminates in the network of another provider.

(g) "Loop" means the facilities that connect a customer network interface to a main distribution frame, or its equivalent.

(h) "Operator systems" means systems that provide for live or mechanized operator functions that assist end users with call completion and directory assistance.

(i) "Originating provider" means the telecommunications provider that serves the end user who originates a local call.

(j) "Service control point" (SCP) means a node in the signaling network to which informational requests for service handling (for example, routing) are directed and processed. The SCP includes both the service logic and the customer specific information necessary to process individual requests.

(k) "Signal transfer point" (STP) means a facility that provides the function of connecting signal links in order to transfer appropriate signals from and between the various elements of a signaling network.

(l) "Signaling links" means transmission facilities in a signaling network which carry all out-of-band signaling traffic between the end office and signal transfer point, the tandem office and signal transfer point, the signal transfer point and service control point, and the signal transfer point and another signal transfer point.

(m) "Switch" means a facility that provides the functionalities required to connect appropriate lines or trunks to a desired communications transmission path. These functionalities may include, but are not limited to, recognizing service requests, obtaining required call specific information, data analysis, route selection, call completion or hand-off, testing, recording, or signaling.

(n) "Tandem switch" means a facility that provides the function of connecting trunks to trunks for the purpose of completing inter-switch calls.

(o) "Telecommunications carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services. This definition includes Commercial Mobile Radio Service (CMRS) providers, interexchange providers, and to the extent they are acting as telecommunications carriers, companies that provide both telecommunications and information services.

(p) "Telecommunications service" means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

(q) "Terminating provider" means the telecommunications provider that serves the end user who receives a local call.

2502. Interconnection.

(a) All telecommunications carriers shall interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.

(b) All LECs shall:

(I) Not prohibit and not impose unreasonable or discriminatory conditions or limitations on the resale of its telecommunications services;

(II) Provide number portability;

(III) Provide dialing parity to competing providers of telephone exchange service and telephone toll service;

(IV) Permit all competing providers to have non-discriminatory access to telephone numbers, operator services, directory assistance, and directory listings, with no unreasonable dialing delays;

(V) Afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, charges, terms, and conditions that are consistent with 47 U.S.C. § 224; and

(VI) Establish reciprocal compensation arrangements for the transport and termination of telecommunications.

(c) In addition to the above obligations, all ILECs shall provide for the interconnection with the facilities and equipment of any requesting telecommunications carrier:

(d) In addition to the above obligations, all ILECs shall provide for the interconnection with the facilities and equipment of any requesting telecommunications carrier:

(I) For the transmission and routing of telephone exchange service and exchange access;

(II) At any technically feasible point within the ILEC's network;

(III) That is at least equal in quality to that provided by the ILEC to itself or to any subsidiary, affiliate, or any other party to which the ILEC interconnects;

(IV) At rates, charges, terms, and conditions that are just, reasonable, and non-discriminatory;

(V) In accordance with the rates, charges, terms, and conditions established by the ILEC pursuant to contract or arbitration, as applicable; and

(VI) Consistent with the Commission's rules regarding the Costing and Pricing of Regulated Telecommunications Services.

(e) Collocation: An ILEC shall provide, for the physical collocation of equipment necessary for interconnection or access to unbundled network elements at the ILEC's premises at rates, charges, terms, and conditions that are just, reasonable, and non-discriminatory. An ILEC may provide virtual collocation if the Commission determines that physical collocation is not practical for technical or space limitation reasons.

(f) Each telecommunications carrier shall be responsible for constructing and maintaining the facilities on its side of the point of interconnection unless the interconnecting carriers agree to some other arrangement.

(g) Each telecommunications carrier shall construct and maintain its interconnection facilities in accordance with accepted telecommunications engineering standards and practices. Each terminating carrier shall make available to all originating providers all technical references to documents that provide the technical specifications of the terminating provider's interconnection interfaces. In no event shall a telecommunications carrier construct or maintain its interconnection facilities under terms and conditions different from the terms and conditions the provider offers to itself, its affiliates, or another telecommunications carrier.

(h) All Commission quality of service rules shall apply to the provision of interconnection facilities, unless the provider has opted into a Performance Assurance Plan mechanism.

(i) Terminating providers shall make all required interconnection facilities available within 90 days of a bona fide written request. No unreasonable refusal or delay, or discriminatory provision of service by a terminating provider shall be allowed.

2503. Compensation for Terminating Local Traffic.

(a) For purposes of this rule, local calls originate at the customer network interface of the calling party's provider and terminate at the customer network interface of the called party's provider.

(b) Except as provided in paragraphs (g) and (h), a terminating provider may charge the originating provider a termination fee for all local calls that originate on the originating provider's network and terminate on the terminating provider's network.

(c) The termination fee shall be based on the costs associated with each network element:

(I) On the terminating provider's side of the point of interconnection; and

(II) Used by the terminating provider to terminate the call.

(d) If the originating provider is either interconnected to the terminating provider through the purchase of one or more unbundled elements owned by the terminating provider or a third provider, or uses one or more unbundled elements owned by the terminating provider or a third provider to originate the call:

(I) The terminating provider shall charge the originating provider a termination fee in accordance with this rule; and

(II) The provider of the unbundled elements shall charge the originating provider for the use of the unbundled elements.

(e) If the terminating provider is either interconnected to the originating provider through the purchase of one or more unbundled elements owned by the originating provider or a third provider, or uses one or more unbundled elements owned by a third provider to terminate the call:

(I) The terminating provider shall charge the originating provider a termination fee in accordance with this rule; and

(II) The provider of the unbundled elements shall charge the terminating provider for the use of the unbundled elements.

(f) The termination fee, subject to Commission approval, may reflect:

(I) A usage-sensitive charge based on, for example, distance, duration, or time of day;

(II) A flat charge based on, for example, capacity port charges based on either the trunk group size or the peak-use of interconnecting capacity; or

(III) Any combination thereof or an alternative mechanism.

(g) The terminating provider's costs associated with the termination of local calls may be recovered, as approved by the Commission, in the rates the terminating provider charges for services provided to its customers.

(h) If the terminating provider provides the originating provider with dial tone, the terminating provider may charge the originating provider with the use of unbundled local switching for the generation of dial tone when the terminating provider terminates calls from the originating provider on the terminating provider's network.

2504. Other Intercompany Arrangements.

(a) Telecommunications carriers shall deal with other telecommunications carriers in a good faith and cooperative manner.

(b) All telecommunications carriers are obligated to serve their customers in accordance with the Commission's rules.

(c) All telecommunications carriers shall provide reasonable access to poles, ducts, conduits, and rights-of-way when feasible and when access is necessary for other telecommunications carriers to provide service. Upon application by a telecommunications carrier, the Commission shall determine any matters concerning reasonable access to poles, ducts, conduits, and rights-of-way, upon which agreement cannot be reached, including but not limited to, matters regarding valuations, space, capacity restraints, and compensation for access.

(d) All LECs shall provide interconnecting telecommunications carriers with both answer and disconnect supervision as well as all available call detail information necessary to enable proper customer billing.

(e) Interconnecting telecommunications carriers shall be required to enter into mutual billing and collection agreements so that each telecommunications carrier can accept other telecommunications carrier's telephone line number and other nonproprietary calling cards and can bill collect or third-party calls to a number served by another provider.

(f) All LECs shall offer the interoperability of non-optional operator services between networks including, but not limited to, the ability of operators on each network to perform such operator functions as completing collect calls, third-party calls, busy line verification calls, and busy line interrupt.

(g) Telecommunications carriers shall develop mutually agreeable and reciprocal arrangements for the protection of their respective customer proprietary network information.

(h) Telecommunications carriers shall cooperate in developing and implementing procedures for repair service referrals so that trouble reports are directed to the correct carrier or carriers.

(i) All LECs shall offer, in a non-discriminatory manner pursuant to contract, the necessary operational support to enable other telecommunications carriers the opportunity to provide their customers quality of service as is available to the LEC's customers, consistent with rules 2330 through 2359. Such contracts shall be approved by the Commission, and available for review pursuant to Commission order.

(j) Telecommunications carriers shall make available access to technically reasonable, non-proprietary, as determined by the Commission, signaling protocols used in the routing of local and interexchange traffic; including signaling protocols used in the query of call processing databases such as 800 Database Service, Alternate Billing Service (ABS), and Line Information Data Base (LIDB); and shall make available the signaling resources and information necessary for the routing of local and interexchange traffic.

(k) Telecommunications carriers shall be prohibited from interfering with the transmission of signaling information between customers and other telecommunications providers in a manner that is injurious to network integrity or that results in fraud. This shall not preclude a telecommunications carrier from blocking specific signaling information to the extent required by the end user's service (e.g., CLASS services).

2505. Unbundling and Resale

(a) As identified in rule 2008, the Commission incorporates by reference the regulations published in 47 C.F.R. 51.307 through 51.319.

(b) Nothing in paragraph (a) shall be construed to limit the Commission’s duties and responsibilities under § 40-15-503, C.R.S., et seq.

(c) A detailed record of all requests for unbundling shall be documented and maintained in accordance with the requirements of the change management process. This information shall include the name of the requesting person, the date of the request, the specific type of unbundling requested, the provider's planned and actual response date, and the provider's response.

(d) ILECs have the duty to provide unbundled access and resale pursuant to 47 U.S.C. § 251(c)(3) and (4).

2506. Process and Imputation.

(a) The LEC shall have the burden of proving that any proposed rates, charges, terms, or conditions are consistent with the following:

(I) rates shall be cost-based, just, and reasonable, and may include a reasonable profit;

(II) rates, charges, terms, and conditions shall be non-discriminatory and competitively neutral;

(III) rates, charges, terms, and conditions shall be established to promote a competitive telecommunications marketplace while protecting and maintaining the wide availability of high quality telecommunications service; and

(IV) rates shall be designed so that products or services that are subject to regulation do not subsidize products and services that have been specifically deregulated by statute, rule, or Commission order.

(b) Imputation.

(I) As applicable, each LEC shall impute its rates for interconnection, the termination of local traffic, unbundled network elements, and directory listings into the rates of its own services in accordance with the Commission's rules on Costing and Pricing.

(II) Imputation of unbundled network elements shall only be required if the unbundled network element is a bottleneck monopoly input. The Commission shall, as necessary, determine if an unbundled network element is a bottleneck monopoly input.

2507. Exemption for Rural Telephone Companies.

(a) Rules 2502, 2503, 2505, and 2506, and paragraphs 2504(d) through (j) and 2504(l) shall not apply to a rural telephone company until:

(I) such company has received a bona fide request for interconnection, services, or the purchase of an unbundled network element; and

(II) such request is deemed by the Commission to be technically feasible and not unduly economically burdensome.

(b) A telecommunications carrier making such a bona fide request shall submit a notice of its request to the Commission.

(I) The Commission shall conduct a hearing for the purpose of determining whether to terminate the rural telecommunications carrier's exemption under paragraph (a).

(II) The Commission shall determine within 120 days after it receives notice of the request if such termination of the exemption is technically feasible, is not unduly economically burdensome, and is consistent with the state and federal universal service requirements.

(III) Upon termination of an exemption, the Commission shall establish an implementation schedule for compliance with the request.

(c) A LEC with fewer than 2 percent of the aggregate nationwide installed subscriber lines may file an application with the Commission for a suspension, modification, or specific exemption of certain telephone exchange service facilities as specified in such application. The Commission grant the application.

(d) The Commission shall act upon such application filed pursuant to paragraph (c) within 180 days after its receipt. Pending such action, the Commission may suspend enforcement of the requirement or requirements to which the application applies with respect to the carrier filing such application.

2508. – 2529. [Reserved].

Interconnection Agreements

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process the Commission uses to review interconnection agreements and any amendments thereto; the criteria for Commission approval or rejection of such agreements; and the timelines for Commission action regarding both negotiated and arbitrated interconnection agreements.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-401(2); 40-15-404; and 40-2-108, C.R.S., and at 47 U.S.C. §§ 252 and 271.

2530. Applicability.

Pursuant to 47 U.S.C. 252(a)(1), rules 2530 through 2549 apply to all agreements, and any amendments thereto, for interconnection, services, or network elements between ILECs and telecommunications carriers negotiated before or after February 8, 1996, the date of enactment of the Telecommunications Act of 1996. Pursuant to 47 U.S.C. 252(e)(1), any interconnection agreements adopted by negotiation or arbitration shall be submitted for approval to the Commission.

2531. Definitions.

The following definitions apply only in the context of rules 2530 through 2579.

(a) "Arbitrated interconnection agreement" means an interconnection agreement or portion thereof, reached through compulsory arbitration.

(b) "Interconnection agreement" (ICA) means, for purposes of § 252(e)(1) of the Telecommunications Act of 1996, a binding contractual agreement or amendment thereto, without regard to form, whether negotiated or arbitrated, between an ILEC and a telecommunications carrier or carriers that includes provisions concerning ongoing obligations pertaining to rates, charges, terms, and/or conditions for interconnection, network elements, resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, or collocation.

(c) "Negotiated interconnection agreement" means an interconnection agreement, or portion thereof, reached through negotiation.

(d) "Party to the agreement" means any telecommunications carrier that is a signatory to an interconnection agreement or any subsequent amendment submitted for approval to the Commission.

(e) "Report of adoption" (report) means a filing with the Commission pursuant to rule 2533 made by a party seeking approval of an interconnection agreement or an amendment to an agreement previously approved by the Commission.

(f) "Statement of generally available terms and conditions" (SGAT) means, pursuant to 47 U.S.C. § 252(f), a statement of the terms and conditions for wholesale products and services, including rates and charges, that an ILEC generally offers within Colorado.

2532. Incorporation by Reference.

References in these rules to Parts 51 and 69 are references to rules issued by the FCC and have been incorporated herein by reference, as identified in rule 2008.

2533. Submission of Agreement and Amendments for Approval.

(a) Pursuant to 47 U.S.C. 252(a)(1) and 47 U.S.C. 252(e)(1), and within 30 days of execution of an interconnection agreement (ICA) or ICA amendment, by all parties, or one of the parties, shall submit the ICA, or ICA amendment, under a cover letter to the Commission for approval. The cover letter shall serve as notice to the Commission and shall include the following:

(I) The names and addresses of the parties;

(II) The name(s) under which the submitting party(ies) are or will be providing telecommunications service(s) in Colorado;

(III) The name(s) address, telephone number, facsimile number and e-mail address of the submitting party(ies) representative to whom all inquiries concerning the submission should be made;

(IV) The caption and proceeding number(s), if applicable, of the proceeding;

(V) The date of the submission of the ICA or ICA amendment;

(VI) A short description of the nature of the ICA, or ICA amendment;

(VII) A statement as to whether the ICA or ICA amendment was the result of negotiation or arbitration or whether it was an opt-in of a previously approved and effective SGAT or another previously approved and effective ICA or ICA amendment;

(VIII) In the case of a new ICA, the cover letter shall describe the primary source documents, if any, that served as the framework for the agreement. In the case of an amendment to an ICA, the cover letter shall list all sections of the ICA that have been amended;

(IX) A statement that intervention and public comment must be filed within ten days of the posting of the notice on the Commission's website for a negotiated ICA or an ICA amendment or within five days of the posting of the notice on the Commission's website for an arbitrated interconnection agreement or an amendment thereto. The statement shall indicate that any such filing(s) may not be accepted by the Commission if not filed in compliance with Commission rules; and

(X) A statement that the Commission Staff intervention shall be filed within 20 days of the posting of the notice on the Commission's website for a negotiated ICA or an ICA amendment or within 15 days of the posting of the notice on the Commission's website

for an arbitrated ICA or ICA amendment. The statement shall indicate that any such filing(s) may not be accepted by the Commission if not filed in compliance with Commission rules.

(b) Filing entity. The Commission prefers that the parties jointly submit the ICA or ICA amendment. However, a single party may make the filing.

(c) Number of copies. Unless filing through the Commission's E-Filings System, parties shall file an original plus two paper copies of the ICA or ICA amendment, an original plus two copies of the cover letter and a copy on disk in an electronic format acceptable to the Commission of the cover letter and the ICA or ICA amendment.

(d) Upon initial receipt of an ICA the Commission will assign a proceeding number to the submission. Any subsequent amendment to the agreement submitted for approval to the Commission shall use the original proceeding number.

2534. Approval of Interconnection Agreements and Amendments to Interconnection Agreements.

(a) Notice and opportunity for public comment.

(I) Notice. The cover letter submitted pursuant to paragraph 2533(a) shall serve as the notice and shall be submitted in an electronic format acceptable to the Commission. The Commission shall give notice of the filing of the ICA or ICA amendment by posting the cover letter on its website within two business days of the submission.

(II) Public review and comment.

(A) The ICA or ICA amendment shall be posted on the Commission's website within two business days of the filing and shall be available for review at the Commission during its normal business hours.

(B) Public comment on the submission seeking approval of a negotiated ICA or ICA amendment or an arbitrated ICA or ICA amendment shall be due within ten days of the posting of the required notice.

(C) The public comment shall include the following information at a minimum:

(i) a detailed statement of the person's interest in the ICA or ICA amendment, including a description of how approval of the agreement may adversely affect those interests;

(ii) specific allegations that the ICA or ICA amendment, or specific portion(s) thereof:

(1) discriminates against a telecommunications carrier that is not a party to the agreement;

(2) is not consistent with the public interest, convenience and necessity; and/or

(3) is not consistent with other requirements of state law.

(iii) The specific facts upon which the allegations are based.

(III) Intervention.

(A) Interventions shall be filed within ten days from posting of the notice of the submission for a negotiated ICA or ICA amendment or within five days from posting of the notice of the submission for an arbitrated ICA or ICA amendment.

(B) Interventions by Commission Staff shall be filed within 20 days from the posting of the notice of the submission for a negotiated ICA or ICA amendment or within five days from posting of the notice of the submission for an arbitrated ICA or ICA amendment.

(IV) Commission review. The Commission will review the ICA or ICA amendment using the standards for review set forth in 47 U.S.C. § 252. Pursuant to 47 U.S.C. § 252(e)(4), if the Commission does not act to approve or reject the ICA or ICA amendment within 90 days after submission by the parties of an ICA adopted by negotiation under 47 U.S.C. § 252(a), or within 30 days after submission by the parties of an ICA adopted by arbitration under 47 U.S.C. § 252(b), the ICA or ICA amendment shall be deemed approved.

2535. Confidentiality.

(a) Information submitted to the Commission is subject to the provisions of §§ 24-72-201, C.R.S., et seq., and rules 1100 through 1102. Under those provisions it is generally presumed that information in Commission files is public information.

(b) An agreement for interconnection services or network elements, including the detailed schedule of itemized charges, and any subsequent amendments shall not be considered confidential and shall, pursuant to the provisions of rule 2540, be made available for public inspection.

2536. – 2549. [Reserved].

Requests for Commission Participation in the Negotiation and Mediation of Interconnection Agreements

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the process to be used and the information required by the Commission when an entity negotiating an interconnection agreement requests that the Commission participate in the negotiation and, mediate any differences arising in the course of the negotiation.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-404; 40-15-401(2); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and 252(a)(1), (a)(2), and (e).

2550. Applicability.

Rules 2550 through 2559 apply to any negotiation of an ICA relating to telecommunications services in Colorado in which any party to the negotiations has requested that the Commission mediate any differences arising during the negotiations.

2551. Definitions.

The following definitions apply only in the context of rules 2550 through 2559:

(a) "Negotiation/mediation request" (request) means a filing made by a telecommunications carrier with the Commission asking the Commission to participate in the negotiation of an interconnection agreement (ICA) and to mediate any differences.

(b) "Party to the negotiation" (party) means a telecommunications carrier negotiating for an agreement with another telecommunications carrier pursuant to 47 U.S.C. § 252(a).

(c) "Telecommunications mediator" (mediator) means the person assigned by the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

2552. Request Process.

(a) Pursuant to 47 U.S.C. 252(a)(2), any party to the negotiation may, at any point in the negotiation, ask the Commission to participate in the negotiation and to mediate any differences arising in the course of the negotiation.

(b) A party shall file a letter with the Director to request negotiation/mediation.

(c) The negotiation/mediation request shall include the following information, either in the request or in appropriately identified, attachments:

(I) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party to the negotiation making the request;

(II) the name(s), address(es), telephone number(s), facsimile number(s), and e-mail address(es), if applicable, of the other parties to the negotiation;

(III) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the party's representative who is participating in the negotiations and to whom all inquiries should be made;

(IV) the negotiation history, meeting times, and locations;

(V) available schedule dates of party representatives; and

(VI) the issues on which the requestor seeks Commission participation and mediation.

2553. Negotiation/Mediation Process.

(a) Pursuant to 47 U.S.C. 252(a)(2), the Commission shall participate in the ICA negotiations and mediate any differences arising in the course of the negotiation.

(I) Upon receipt of a request for Commission negotiation/mediation, the Commission shall assign a proceeding number to the matter.

(II) The Commission will respond to the request within ten days after receipt. The response shall identify the assigned mediator.

(b) The mediator shall promptly schedule negotiation/mediation sessions. These sessions shall continue until:

(I) all outstanding issues are settled;

(II) a party makes a written declaration that the mediation proceedings are terminated; or

(III) the mediator makes a written declaration that further efforts at mediation are no longer worthwhile.

2554. Confidentiality.

The mediator shall not voluntarily disclose nor, through discovery, be required to disclose any oral or written communication prepared or expressed for the purposes of, in the course of, or pursuant to, any mediation or negotiation hereunder.

2555. – 2559. [Reserved].

Commission Arbitration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish a Commission process for arbitration of issues arising in the course of negotiation of interconnection agreements under 47 U.S.C. § 252.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102; 40-15-404; 40-15-401(2); and 40-2-108, C.R.S., and at 47 U.S.C. §§ 251 and at 252(a)(1) and (e).

2560. Applicability.

Pursuant to 47 U.S.C. 252(b), rules 2560 through 2579 apply to any petition filed by any party to the negotiation of an interconnection agreement requesting that the Commission arbitrate any unresolved issues in the negotiations. These provisions apply only to petitions filed during the period from the 135th to the 160th day (inclusive) after the date on which an ILEC receives a request for negotiation under 47 U.S.C. § 251 and 47 U.S.C. § 252.

2561. Definitions.

The following definitions apply only in the context of rules 2560 through 2579.

(a) "Agreement being negotiated" means an interconnection agreement (ICA) being negotiated between or among telecommunications carriers, following a request for negotiation made by a telecommunications carrier to an ILEC.

(b) "Petition for arbitration" means the petition requesting arbitration of any unresolved issues in the interconnection agreement being negotiated.

(c) "Petitioner" means the party to the interconnection agreement being negotiated that files the petition for arbitration.

(d) "Respondent" means a non-petitioning party to the agreement being negotiated.

2562. Petition Process.

(a) Pursuant to 47 U.S.C. § 252(b), any party to an ICA being negotiated may, during the period from the 135th to the 160th day (inclusive) after the date on which an ILEC receives a request for negotiation under 47 U.S.C. § 252, petition the Commission to arbitrate any unresolved issues in the negotiation.

(b) To request Commission arbitration, a party shall file a petition with the Commission. The petition shall include, in the following order and specifically identified, the following information, either in the petition or in appropriately identified attachments:

(I) Identifying information:

(A) the name, address, telephone number, facsimile number, and e-mail address, if applicable of the party to the negotiation making the request;

(B) the names, addresses, telephone number(s), facsimile number(s), and e-mail addresses, if applicable, of the other parties to the negotiation;

(C) the name, address, telephone number, facsimile number, and e-mail address, if applicable, of the petitioner's representative who is participating in the negotiations and to whom all inquiries should be made;

(D) the negotiation history, meeting times, and locations; and

(E) available schedule dates of party representatives.

(F) All other relevant documentation and arguments concerning:

(i) the unresolved issues;

(ii) the position of each of the parties with respect to those issues;

(iii) the specific relief requested by the petitioner with respect to each issue; and

(iv) any other issues discussed and resolved by the parties.

2563. Notice.

(a) Pursuant to 47 U.S.C. § 252(b)(2)(B), a party petitioning the Commission to arbitrate shall deliver by first-class mail, express mail, or by hand delivery a copy of the petition and any attached documents to the other party or parties to the agreement being negotiated no later than the day on which the Commission receives the petition.

(b) The petitioner shall also furnish written notice to:

(I) any telecommunications carrier known to be negotiating an ICA, as included on a list maintained by the Commission; and

(II) any telecommunications carrier with an effective ICA with any of the parties to the petition.

(c) Contents and manner of service. The written notice shall include a statement that a petition for arbitration has been filed with the Commission; the names of the parties; the date that the request for negotiation with the ILEC was made; a summary of the issues; and that interventions must be filed with the Commission within ten days of the filing date. The notice shall be delivered by first-class mail, by express mail, or by hand delivery not later than the day on which the petition for arbitration is filed with the Commission.

(d) Certificate of service. The petition shall include a certificate of service showing that notice was given in accordance with this rule.

2564. Opportunity to Respond to Petition.

(a) Other parties. A respondent shall respond to the petition for arbitration within 25 days after the petition is filed with the Commission. If a respondent seeks to have issues arbitrated that are not set out in the petition, the respondent shall state those issues, the position of each of the parties with respect to those issues, and the specific relief requested with respect to those issues. The respondent to a petition for arbitration shall become a party to arbitration proceedings upon service of the petition in accordance with paragraph 2563(a).

(b) Intervention and public comment or intervention. A person seeking to intervene on the petition shall file a motion to intervene within ten days of the date that the petition for arbitration was filed with the Commission. A person may submit public comment on the petition within 25 days of the date that the petition for arbitration was filed with the Commission.

2565. Role of Commission during Arbitration.

(a) The Commission shall:

(I) review all submitted documentation and written arguments; and

(II) hold a hearing on the petition.

(b) The Commission may require the petitioning and responding parties to provide additional information as may be necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or fails unreasonably to respond on a timely basis to any request from the Commission, the Commission may proceed on the basis of the best information available.

(c) The Commission shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement rule 2566 upon the parties to the arbitrated agreement.

(d) The Commission shall conclude the resolution of any unresolved issues no later than nine months after the date on which the ILEC received the request for negotiation for interconnection under 47 U.S.C. § 252 in accordance with the Commission's own procedures and specified statutes or rules.

(e) The Commission may order the parties to the arbitration to pay for a transcript of the arbitration proceedings. In such case, the Commission will apportion the cost among the parties in an equitable fashion.

2566. Standards for Arbitration.

Pursuant to 47 U.S.C. § 252(c), in resolving any unresolved issues by arbitration under 47 U.S.C. § 252(b) and imposing conditions upon the parties to the agreement, the Commission shall:

(a) ensure that such resolution and conditions meet the requirements of 47 U.S.C. § 251, including the regulations prescribed by the FCC pursuant to 47 U.S.C. § 251;

(b) establish any rates for interconnection, services, or network elements according to 47 U.S.C. § 252(d); and

(c) provide a schedule for implementation of the rates, charges, terms, and conditions of the agreement by the parties.

2567. Duty to Negotiate in Good Faith during Arbitration.

Pursuant to 47 U.S.C. § 251(c)(1), each ILEC has, among other duties, the duty to negotiate in good faith, in accordance with 47 U.S.C. § 252, the particular rates, charges, terms, and conditions of agreements to fulfill the duties described in 47 U.S.C. § 251(b)(1) through (5), and 47 U.S.C. § 251(c). The requesting telecommunications carrier also has the duty to negotiate in good faith the rates, charges, terms, and conditions of such agreements.

2568. Refusals to Negotiate.

Pursuant to 47 U.S.C. § 252(b)(5), the refusal of any party to participate further in the negotiations, to cooperate with the Commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission shall be considered a breach of the duty to negotiate in good faith.

2569. - 2699. [Reserved].

NUMBERING ADMINISTRATION

Efficient Use of Telephone Numbers

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to identify procedures to ensure the efficient use and assignment of telephone numbers.

The statutory authority for the promulgation of these rules is found at §§ 40-2-108, C.R.S. Relevant federal law exists at 47 U.S.C. § 251 (e)(1), 47 C.F.R., Part 52.15 (January 11, 2016) and Part 52.19 (October 1, 2002).

2700. Applicability.

Rules 2700 through 2719 are applicable to all providers who request telephone numbers directly from the numbering administrators and have accepted or make use of numbering resources in the Numbering Plan Areas (NPAs) assigned to Colorado or who assign numbering resources in any NPA assigned to Colorado.

2701. Definitions.

The following definitions apply only in the context of rules 2700 through 2719:

(a) "Central office code" means the second three digits (NXX) of a ten-digit telephone number in the form NPA-NXX-XXXX. A central office code is also called an NXX code. The "N" denotes numbers 2 through 9 and X denotes numbers 0 through 9.

(b) "Central office code administrator" means the entity responsible for the administration of the NXXs within an NPA. The central office code administrator is also known as the North American Numbering Plan Administrator (NANPA).

(c) "Contaminated block" means any thousand block of telephone numbers where at least one telephone number is not available for assignment to end users.

(d) "Numbering Plan Area" (NPA) means the first three digits of a ten-digit telephone number in the North American Numbering Plan. This is also called an area code. NPAs are classified as either geographic or non-geographic.

(e) "NXX code holder" means any telecommunications service provider that has been assigned at least one central office code by the central office code administrator.

(f) "Pooling administrator" means the entity responsible for the administration and assignment of the thousand blocks in a pooling environment.

(g) "Thousand block" means a range of a thousand consecutive telephone numbers within a single NXX code, e.g., numbers NXX-1000 through NXX-1999 constitute a thousand block.

2702. Assignment of Telephone Numbers in Colorado.

(a) All providers with numbers assigned from the NPAs in the Colorado (303, 719, 970, 720, or any future NPAs assigned to Colorado) shall assign numbers from a single opened thousand block within an NXX before assigning telephone numbers from an uncontaminated thousand block.

(b) Notwithstanding paragraph (a), a provider may assign telephone numbers in a thousand block different from the thousand block described in paragraph (a) if the available numbers in the opened thousand block are not sufficient to meet a specific customer request.

(c) The Central Office Code Administrator and Pooling Administrator must perform their central office code administration and thousand block administration functions in such a manner as to support these rules.

(d) Upon implementation of any number pooling between providers in Colorado, providers participating in pooling must make uncontaminated thousand blocks and thousand blocks with less than ten percent contamination available to the Pooling Administrator for possible reassignment to other providers in a number pooling process.

(e) All providers that are required to be local number portability (LNP) capable pursuant to paragraph 2724(c) shall participate in number pooling for a particular geographic area when implemented by the Pooling Administrator.

(f) All providers shall provide services in such a manner as not to encourage the inefficient use or depletion of telephone numbers in any Colorado NPA.

(g) All VoIP providers authorized to request numbering resources directly from the Numbering Administrators must file a notice with the Commission at least 30 days before requesting numbers from the Numbering Administrators on a form provided by the Commission on its website.

(h) All VoIP providers must maintain accuracy of all contact information and certification. If any contact information and certification is no longer accurate, the VoIP provider must file a correction with the Commission within 30 days of the change.

2703. Variance.

Any provider seeking relief from the requirements of rules 2700 through 2719 or pursuant to 47 C.F.R. 52.15(g) shall request a variance by request to Commission staff. The request shall demonstrate and provide (1) a request from an end-user customer detailing the specific need for telephone numbers; and (2) the carrier's inability to meet the customer's request from the carrier's current inventory of numbers. The designated Commission staff shall act on the request within 14 days of receiving the required information. If the provider disagrees with Commission staff's determination, the provider may formally file a petition requesting a Commission ruling.

2704. – 2719. [Reserved].

Local Number Portability and Administration

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish local number portability (LNP) regulations so that end users can choose between providers without losing their telephone numbers; to establish mechanisms supporting LNP; and to identify LNP database network architecture.

The statutory authority for the promulgation of these rules is found at §§ 40-2-108 C.R.S. and 47 C.F.R. § 52 Subpart C.(November 30, 2015)

2720. Applicability.

Rules 2720 through 2739 shall apply to all providers who request telephone numbers directly from the numbering administrators.

2721. Definitions.

The following definitions apply only in the context of rules 2720 through 2739:

(a) "Limited Liability Company" (LLC) means the legal entity given the responsibility of selecting and managing the Number Portability Administration Center (NPAC) in Colorado. This entity is made up of representatives of providers that are or will be porting numbers.

(b) "Number portability administration center" (NPAC) means the independent third-party administrator of the Service Management System (SMS) and LNP database.

(c) "Portable NXX" means an NXX that the public switched telephone network, in doing call routing, recognizes as an address that may require routing on the basis of something other than the dialed digits, and that the telephone company billing system, in determining which provider of serves the billed telephone number, recognizes may involve a provider other than the one to which the NXX is assigned.

(d) "Ported telephone number" means a telephone number (TN) that is served (receives dial tone) from a switch other than the one to which the NXX is assigned.

2722. Incorporation by Reference.

The FCC's LNP First Report and Order, Decision No. FCC 96-286 in CC Docket No. 95-116, released July 2, 1996, is incorporated by reference, as identified in rule 2008.

2723. Customer Number Portability.

If a customer changes basic local exchange providers and remains within the same rate center, the customer shall have the option to retain the customer's telephone number(s).

2724. Provider Number Portability.

(a) Number portability, as described in rule 2723, shall be attained by means of a database network architecture.

(b) The database network architecture employed shall meet the following performance criteria:

(I) supports network services, features, and capabilities existing at the time number portability is implemented, including emergency services, Custom Local Area Signaling System (CLASS) features, operator and directory assistance services, and intercept capabilities;

(II) efficiently uses numbering resources;

(III) does not require customers to change their telephone numbers;

(IV) does not result in unreasonable degradation in service quality or network reliability;

(V) does not result in any degradation in service quality or network reliability when customers switch carriers;

(VI) does not result in a carrier having a proprietary interest in the network architecture;

(VII) is able to migrate to location and service portability; and

(VIII) has no significant adverse impact outside the areas where number portability is deployed.

(c) Implementation. All providers offering service in the top 100 Metropolitan Statistical Areas (MSAs) as defined by the U.S. Bureau of Census, including those listed in the FCC's LNP First Report and Order, Decision No. FCC 96-286 in CC Docket No. 95-116, Appendix D, must provide a long-term database method for number portability upon entry. All providers offering service in areas outside the top 100 MSAs must make number portability available six months after a request from a competing carrier.

(d) NPAC.

(I) The long-term service provider portability database shall be administered by an NPAC. The NPAC shall be the exclusive source of LNP database information for facilities-based Colorado service providers.

(II) The NPAC shall be selected and contracted to perform its duties by the LLC.

2725. – 2739. [Reserved].

N-1-1 Abbreviated Dialing Codes

Basis, Purpose, and Statutory Authority

The basis and purpose for these rules is to establish Colorado N-1-1 regulations so that the use of N-1-1 in Colorado is consistent with the FCC assignments by: identifying the designated uses of N-1-1 codes; identifying the limitations of the N-1-1 code usage; and establishing Commission procedures regarding petitions for N-1-1 use or assignment.

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-15-201, and 40-2-108, C.R.S. These rules are consistent with the FCC's rules found at 47 C.F.R., Part 52 (June 22, 2010).

2740. Applicability.

Rules 2740 through 2799 are applicable to all providers who request telephone numbers directly from the numbering administrators.

2741. Definitions.

(a) ”Abbreviated dialing codes" enable callers to connect to a location in the telephone network that otherwise would be accessible only through the use of a seven or ten-digit telephone number. The network must be pre-programmed to translate the three-digit code into the appropriate seven or ten-digit telephone number, including toll free numbers, and route the call accordingly.

(b) “Affected area” means the geographic area within which a 3-1-1 abbreviated dialing code is sought to be used, will be used, or (after implementation) is used for the purpose of providing non-emergency police and other governmental service information to the public.

(c) “Government entity” or “entity” means a department or agency of the state of Colorado, any county, or any city, municipality or town as those terms are defined in § 31-1-101 C.R.S.; and any Ambulance District, Fire Protection District, Health Service District or Metropolitan District as those terms are defined in § 32-1-103 C.R.S.

(d) "N-1-1" codes are three-digit codes of which the first digit can be any digit other than 1 or 0, and the last two digits are both 1. N-1-1 codes "0-1-1" and "1-1-1" are unavailable because "0" and "1" are used for switching and routing purposes.

2742. Abbreviated Dialing Codes.

(a) The following abbreviated dialing codes have been designated and assigned by the FCC and shall be used for the FCC's stated purpose in Colorado:

(I) 2-1-1 - Community Information and Referral Services;

(II) 3-1-1 - Non-emergency governmental police and other governmental service information;

(III) 5-1-1 - Traffic and Transportation Information;

(IV) 7-1-1 - Telecommunications Relay Service;

(V) 8-1-1 - Advanced Notice of Excavation Activities; and

(VI) 9-1-1 - Emergency Service.

(b) The following abbreviated dialing codes are commonly used for the FCC's stated purpose in Colorado, but may be used for other purposes:

(I) 4-1-1 - Directory Assistance and Directory Assistance Call Completion; and

(II) 6-1-1 - Repair Service.

(c) A provider in Colorado may assign or use N-1-1 dialing codes only as directed by the Commission.

(d) The following limitations apply to a provider's use of N-1-1 dialing codes for internal business and testing purposes:

(I) the provider's use shall not interfere with the assignment of such numbers by the FCC or with the North American Numbering Plan (NANP); and

(II) the provider's use shall be discontinued upon 30-days' notice if the dialing code is reassigned on a statewide or nationwide basis, provided that the code not be reassigned earlier than six months after the provider's use is discontinued in order to allow sufficient time for customer education regarding the discontinuance and reassignment of the dialing code.

(e) An entity submitting a petition for use of an abbreviated dialing code established by the Commission, shall be granted use of that dialing code if it is found to meet a public benefit standard outlined in this rule. Any petitioner that is granted the authority to offer N-1-1 access shall comply with this rule and any provisions set out in the Commission decision granting such authority.

(I) Assignment of N-1-1 abbreviated dialing code. The assignment of N-1-1 abbreviated dialing code will be considered by the Commission upon:

(A) the Commission's own motion; or

(B) the petition of an information and referral organization, governmental organization or other entity, as applicable.

(II) An entity filing a petition to request assignment of a N-1-1 abbreviated dialing code shall present evidence that a public benefit exists. The petition shall include, in the following order and specifically identified, the following information, either in the application or in appropriately identified attachments:

(A) background of the applicant, including composition of any governing board or agency;

(B) demonstration of public need;

(C) comprehensive list of participating agencies including proposed process to add to or delete agencies from the list;

(D) historic volume of calls seeking relevant information;

(E) a description of the affected area including list of cities, towns, counties, and central offices, if known, and any plans for expansion of that initial geographic area;

(F) staffing expectations, including hours and days of operation;

(G) proposed cost recovery solution, including funding or support mechanisms;

(H) letters of support from stakeholders (e.g., community members, government agencies, non-profit organizations);

(I) a statement that the entity agrees to answer all questions propounded by the Commission or its Staff concerning the petition;

(J) proposed plan for community notification and outreach; and

(K) other information demonstrating a public benefit.

(III) Additional requirements for entities filing a petition for 3-1-1 abbreviated dialing code for non-emergency governmental police and other governmental service information:

(A) The proposed method for routing the 3-1-1 calls to the call center.

(B) Estimated cost of implementation and the on-going provisioning of the 3-1-1 abbreviated dialing code. If two or more entities file a petition with the Commission to use the same N-1-1 in the same or overlapping geographic areas, the Commission shall use the criteria in subparagraph (f)(II) to establish one assignee, except petitions for 3-1-1 shall attempt to negotiate a settlement as to which entity shall provide the service in conflict. In the event the entities are not able to resolve a conflicting request for 3-1-1 service, the Commission shall have the final authority to determine which entity shall provide 3-1-1 service.

(IV) When a petition is granted by the Commission under subparagraph (f)(II), all providers that provide service in the geographic area outlined in the petition shall complete the following tasks:

(A) If an affected provider is using N-1-1 code for purposes other than stated in subparagraph 2741(b), that provider shall discontinue use for that non-compliant purpose.

(B) If the affected provider plans to seek recovery of its costs associated with N-1-1 implementation, the affected provider shall calculate the cost for the necessary translations and facilities work and shall file with the Commission.

(C) The affected provider shall estimate the time required to perform the necessary translation and/or facilities work to allow N-1-1 call completion from its subscribers as requested in the petition.

(V) Upon a showing that the public will benefit from the assignment of N-1-1 to a petitioner and factoring in the provider filed information, the Commission will establish a timeline for assignment and use of the N-1-1 abbreviated dialing code in the affected geographic area. All providers serving customers in the affected area shall comply with this assignment date unless a variance is sought and granted.

(f) Discontinuance of offering of N-1-1 access.

(I) Any entity that has been granted the authority to offer N-1-1 access and wishes to discontinue providing the N-1-1 service shall file a notification with the Commission not fewer than 45 days prior to the effective date of the proposed discontinuance. The Commission may give notice of the notification if it determines notice would be in the public interest.

(II) Contents of the notification. The notification shall contain the following information:

(A) the entity's name, complete mailed address (street, city and zip code), telephone number, and e-mail address;

(B) name, mailing address, telephone number and e-mail address of the person to contact for questions regarding the discontinuance;

(C) the proposed effective date, which shall not be sooner than 45 days after the date on which the notification is filed with the Commission;

((D) the reason(s) for the discontinuance;

(E) a detailed description of the affected area, including a map of the affected area; and

(F) the notice to the affected users of the discontinuance of N-1-1 service and a list of all the newspapers of general circulation in which the notice of discontinuance will be published.

(g) Neither an entity granted the use of a N-1-1 abbreviated dialing code nor a provider of telecommunications service may charge end users a fee on a per-call or per-use basis for using the N-1-1 system without the consent of the Commission.

(h) Sale or transfer of N-1-1 codes through private transactions is not allowed.

2743. – 2799. [Reserved].

PROGRAMS

2800. – 2819. [Reserved].

* * *

[indicates omission of unaffected rules (Rules 2820 – 2839 - TRS)]

* * *

[indicates omission of unaffected rules – (Rules 2840 – 2855 - HCSM]

2856. – 2869. [Reserved].

Discount Rate for Eligible Intrastate Services Purchased by Eligible Colorado Schools and Libraries

Basis, Purpose, and Statutory Authority

The basis and purpose of these rules is to establish the discount rate for services that are available to elementary schools, secondary schools, and libraries consistent with 47 U.S.C. § 254(h).

The statutory authority for the promulgation of these rules is found at §§ 40-3-102, 40-3-103, and 40-2-108, C.R.S.

2870. Applicability.

The discounts included in rules 2870 through 2889 shall apply to the rates for all eligible intrastate services.

2871. Definitions.

The meaning of terms used within rules 2870 through 2889 shall be consistent with the definitions in the FCC's Universal Service Support for Schools and Libraries Rules found at 47 C.F.R., Part 54, Subpart F. The following definitions apply only in the context of rules 2870 through 2879:

(a) "Eligible intrastate services" means services eligible for discounts including all commercially available and offered intrastate telecommunications services. In addition to intrastate telecommunications services, special services eligible for discounts include Internet access and installation and maintenance of internal connections.

(b) "Rural or urban schools or libraries" means, pursuant to 47 C.F.R. § 54.505(b)(3)(i), the Administrator shall designate a school or library as urban if the school or library is located in an urbanized area or urban cluster area with a population equal to or greater than 25,000, as determined by the most recent rural-urban classification by the Bureau of the Census. The Administrator shall designate all other schools and libraries as rural.

2872. Incorporation by Reference.

References in rules 2870 through 2879 to Part 54 are references to rules issued by the FCC and have been incorporated by reference, as identified in rule 2008.

2873. Discount for Eligible Intrastate Services for Eligible Schools and Libraries.

After receiving a *bona fide* request from such schools or libraries, a provider of telecommunications service shall apply the specified discount rate to eligible intrastate services. The following matrix shall be used to set a discount rate to be applied to eligible intrastate services purchased by eligible schools, school districts, libraries, or library consortia based upon the institution's level of disadvantage or eligibility and the location in either an "urban" or "rural" area.

Schools & Libraries Discount

Percentage of Students Eligible for National School Lunch Program	Urban Discount Percent	Rural Discount Percent
<1%	20%	25%
1 – 19%	40%	50%
20 – 34%	50%	60%
35 – 49%	60%	70%
50 – 74%	80%	80%
75 – 100%	90%	90%

2874. Rate Disputes.

Pursuant to 47 C.F.R. § 54.504(c), schools, libraries, and consortia including those entities, and providers of telecommunications service may seek a determination from the Commission regarding intrastate rates if they believe that the lowest corresponding price is unfairly high or low.

2875. Discount Administration.

The FCC or its designee, pursuant to 47 C.F.R. § 54.707, shall determine the resolution of disputes dealing with the authority, practice, discount and fund accounting, and administration of the Schools and Libraries Discount Fund.

2876. Response to Request for Services.

A provider of telecommunications service shall respond in writing to a written request for eligible intrastate services within four weeks of the receipt of the request.

2877. – 2889. [Reserved].

* * *

[indicates omission of unaffected rules – (Rules 2890 – 2894 - No Call)]

2895. – 2899. [Reserved].

GLOSSARY OF ACRONYMS

ABS Alternate Billing Service

ALI Automatic Location Identification

AMA Automatic Message Accounting

AML Actual Measured Loss

ANI Automatic Number Identification

ANSI American National Standards Institute

BER Bit Error Rate

BESP Basic Emergency Service Provider

BRI Basic Rate Interface

BSA Basic Serving Arrangement

BSE Basic Service Element

CASB Cost Accounting Standards Board

CCR Code of Colorado Regulations

CEI Comparably Efficient Interconnection

CFR Code of Federal Regulations

CLASS Custom Local Area Signaling System

CLEC Competitive Local Exchange Carrier

CMRS Commercial Mobile Radio Service

CNS Complementary Network Service

CPCN Certificate of Public Convenience and Necessity

CPNI Customer Proprietary Network Information

CRCP Colorado Rules of Civil Procedure

CRS Colorado Revised Statutes

CSR Customer Service Record

dB Decibel

DMS Data Management System

DS0,DS1,DS3 Digital Signaling levels 0, 1 and 3

E9-1-1 Enhanced 911 e-mail Electronic mail

ENS Emergency Notification Service

EP Eligible Provider

ESP Enhanced Service Provider

ETC Eligible Telecommunications Carrier

ETS	Emergency Telephone Service
FCC	Federal Communications Commission
FDC	Fully Distributed Cost
FOC	Firm Order Confirmation
GAAP	Generally Accepted Accounting Principles
HCSM	High Cost Support Mechanism
Hz	Hertz
ICB	Individual Case Basis
IEEE	Institute of Electrical and Electronics Engineers
ILEC	Incumbent Local Exchange Carrier
ISDN	Integrated Services Digital Network kbit/sec kilobit per second (1,000 bits per second)
LATA	Local Access Transport Area
LCA	Local Calling Area
LEC	Local Exchange Carrier
LIDB	Line Identification Database
LLC	Limited Liability Company
LNP	Local Number Portability
LOR	Letter of Registration
LRIC	Long Run Incremental Cost
LSR	Local Service Request
ma	milliamps
Mbps	Megabits per second
MLTS	Multi-line Telephone System
MSA	Metropolitan Statistical Area
MSAG	Master Street Address Guide
MTB	Minimum Transport Bandwidth
MTE	Multi-Tenant Environment

NANP North American Numbering Plan

NANPA North American Numbering Plan Administrator

NECA National Exchange Carrier Association

NENA National Emergency Number Association

NID Network Interface Device

NIIF Network Interconnection Interoperability Forum

NPA Numbering Plan Area

NPAC Number Portability Administration Center

OC1 Optical Carrier-Level 1 Signal

OCC Office of Consumer Counsel

ONA Open Network Architecture

OSS Operational Support Systems

PCS Personal Communications Service

PIN Personal Account Identification Number

POLR Provider of Last Resort

PRI Primary Rate Interface

PSAP Public Safety Answering Point

RBOC Regional Bell Operating Company

RTEZ Rural Technology Enterprise Zone

RTF Rich Text Format

RUS Rural Utility Service

SCP Service Control Point

SGAT Statement of Generally Available Terms and Conditions

SLU Subscriber Line Usage

SS7 Signaling System #7

STP Signal Transfer Point

TDD Telecommunications Device for the Deaf

TRS Telecommunications Relay Services

TSLRIC Total Service Long Run Incremental Cost

UNE Unbundled Network Element

USF Universal Service Fund

USOA Uniform System of Accounts

WATS Wide Area Telephone Service

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Public Utilities Commission

on 07/03/2017

4 CCR 723-2

RULES REGULATING TELECOMMUNICATIONS SERVICES AND PROVIDERS OF TELECOMMUNICATIONS SERVICES

The above-referenced rules were submitted to this office on 07/11/2017 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.

July 13, 2017 15:16:12

Cynthia H. Coffman
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by Frederick R. Yarger
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Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

CCR number

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4 CCR 725-2 RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS 1 - eff 08/30/2017

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

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 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.

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4 CCR 725-2

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

The above-referenced rules were submitted to this office on 07/07/2017 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.

Frederick R. Yarger

Cynthia H. Coffman
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July 19, 2017 10:44:00

Permanent Rules Adopted

Department

Department of Regulatory Agencies

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DIVISION OF REAL ESTATE
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4 CCR 725-2

CHAPTER 10: TEMPORARY PRACTICE IN COLORADO

10.1 Pursuant to section 12-61-711(2) and (3), C.R.S., as amended, 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;

F. The appraiser regulatory program of the jurisdiction where the applicant holds a license or certificate in good standing must be in compliance with 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.

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RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

The above-referenced rules were submitted to this office on 07/07/2017 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.

July 19, 2017 10:44:17

Cynthia H. Coffman
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Permanent Rules Adopted

Department

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

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 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. sections 3331 through 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 relating to 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: A draft appraisal must be identified and labeled as a ªdraftº. 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 have been subject to a stipulation and a final agency order or final agency order, the terms of which were completed 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, 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.

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 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 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.

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RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

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Cynthia H. Coffman
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Permanent Rules Adopted

Department

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DIVISION OF REAL ESTATE
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4 CCR 725-2

CHAPTER 2: REQUIREMENTS FOR LICENSURE AS A REAL ESTATE APPRAISER

2.8 An applicant for licensure as a Colorado 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.

2.9 An applicant for licensure as a Colorado Licensed Ad Valorem 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.

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Tracking number: 2017-00199

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Real Estate

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4 CCR 725-2

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

The above-referenced rules were submitted to this office on 07/07/2017 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.

July 19, 2017 10:42:01

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

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4 CCR 725-2

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4 CCR 725-2 RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS 1 - eff 08/30/2017

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

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 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 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 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 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 who is also a state certified appraiser.

3.22 By offering real estate appraiser qualifying education 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 Applicants are required to provide copies of course completion certificates to the Board upon request.

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4 CCR 725-2

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

The above-referenced rules were submitted to this office on 07/07/2017 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.

Frederick R. Yarger

Cynthia H. Coffman
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by Frederick R. Yarger
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July 19, 2017 10:42:18

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Department

Department of Regulatory Agencies

Agency

Division of Real Estate

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4 CCR 725-2

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4 CCR 725-2 RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS 1 - eff 08/30/2017

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08/30/2017

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

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, 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.

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4 CCR 725-2

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

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July 19, 2017 10:44:32

Cynthia H. Coffman
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Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

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

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.

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4 CCR 725-2

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

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July 19, 2017 10:42:42

Cynthia H. Coffman
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Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

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

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 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 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 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 holder's address of record filed with the Board. Failure to submit a timely written response will be grounds for disciplinary action.

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4 CCR 725-2

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

The above-referenced rules were submitted to this office on 07/07/2017 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.

July 19, 2017 10:44:47

Cynthia H. Coffman
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Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

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

CHAPTER 6: APPLICATION FOR LICENSURE

6.1 Except as provided under Chapter 9 of these Rules, an applicant 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 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 ªLetter of Exam Eligibilityº will be issued.

4. After the issuance of the ªLetter of Exam Eligibilityº, 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 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 purpose 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 documentation and fees are received by the Board.

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

6.9 Repealed.

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RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

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Cynthia H. Coffman
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Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Real Estate

CCR number

4 CCR 725-2

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4 CCR 725-2 RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS 1 - eff 08/30/2017

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

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 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 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 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.

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Division of Real Estate

on 07/06/2017

4 CCR 725-2

RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

The above-referenced rules were submitted to this office on 07/07/2017 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.

Frederick R. Yarger

Cynthia H. Coffman
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July 19, 2017 10:43:28

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Department

Department of Regulatory Agencies

Agency

Division of Real Estate

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

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 with higher qualification requirements than those of the expired license.

8.17 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 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.

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Tracking number: 2017-00204

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RULES OF THE COLORADO BOARD OF REAL ESTATE APPRAISERS

The above-referenced rules were submitted to this office on 07/07/2017 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.

Frederick R. Yarger

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July 19, 2017 10:43:45

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Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1101-1

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7 CCR 1101-1 RULES OF PROCEDURE TO THE COLORADO LABOR PEACE ACT AND INDUSTRIAL RELATIONS ACT 1 - eff 09/01/2017

Effective date

09/01/2017

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.

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 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.

1.7 "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.

1.8 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:

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

1.8.2 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 has the meaning as defined by C.R.S. § 8-3-104.

1.10 Collective Bargaining Agreement 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 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 rules 2.1 and 2.2 cannot reasonably be effectuated, the Director may order any other reasonable manner of giving notice.

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 or at his or her last known address. If none is listed in the files of the Division, 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; 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 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 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 transmission.

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

4.1. 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. § 8-3-104(1) and § 8-3-109 shall:

4.1.1 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.

4.1.2 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.

4.1.3 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.

4.1.4 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.

4.1.5 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.

4.1.6 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 Pursuant to these rules there are four types of elections. They are:

5.1.1 Collective Bargaining Unit Election. An 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. An election to authorize an all-union agreement.

5.1.3 Election to Ratify an All-Union Agreement. An election to ratify an all-union agreement in existence on June 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. 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 remain in an all-union agreement.

5.2 Collective Bargaining Unit Elections

5.2.1 Petitions for the selection of a collective bargaining unit shall be filed with the Division 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.

5.2.2 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.

5.3 Approval of an All-Union Agreement Election

5.3.1 Petitions for the approval of an all-union agreement shall be filed with the Division 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 National Labor Relations Board or the Division, or written evidence of self-certification and such certification must be attached to the petition.

5.3.2 The agreements referred to in rule 5.1.2 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.

5.4 Revocation of an All-Union Agreement Election

5.4.1 Petitions for the revocation of an all-union agreement shall be filed with the Director of the Division 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.

5.4.2 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.

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

5.4.4 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.

5.4.5 The Director shall declare an all-union agreement terminated if, pursuant to the petition filed in accordance with rule 5.4.1, there is 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, whichever is greater in the election conducted under the supervision of the Director.

5.4.6 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.

5.5 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.

5.6 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.

5.7 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. ELECTION PROCEDURES

6.1 Procedures

6.1.1 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.

6.1.2 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. In the event the employer fails or refuses to furnish a list of employees, the Director will accept as a tentative polling list any list the petitioner may be able to supply or the Director may prepare such a list based on his or her own investigation.

6.1.3 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.

6.1.4 Having obtained or prepared a tentative polling list and established a date, the Director shall direct the service upon the employer and labor organization 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.

6.1.5 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.

6.1.6 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.

6.1.7 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.

6.1.8 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.

6.1.9 The Division 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.

6.1.10 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.

6.2 Conduct of Elections

6.2.1 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 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 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 had his or her name 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 rule 6.2.3 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 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 the discretion of the Director.

6.3 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 If any ballot shall be found to have conflicting marks 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 Any ballot challenged under rules 6.2.5 and/or 6.2.6 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 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 The Director or his or her agents shall prepare and certify over their signatures, on a form furnished by the Director, a certificate containing a tabulation of the ballots cast, and shall immediately file such certificate and shall deposit all ballots in a sealed container, with the Director.

6.3.6 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..

Rule 7. UNFAIR LABOR PRACTICES

7.1 Parties and Pleading

7.1.1 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 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.

7.1.3 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.

7.1.4 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

7.2.1 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 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 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 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 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.

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

Rule 8. NOTICE OF INTENT TO STRIKE

8.1 Those bargaining units recognized by the National 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 Rule 8.2.

8.2 Notice of Intent to Strike Employers Other Than Authorities

8.2.1 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 of Intent to Strike no less than thirty (30) days prior to the date contemplated for such strike.

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

8.2.3 All Notices of Intent 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 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 If the parties consent to mediating the dispute the parties shall file with the 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 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

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

9.1 Intervention by the Director

9.1.1 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.

9.1.2 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

9.2.1 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.

9.2.2 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 C.R.S. § 24-4-106, and the final award shall be in writing.

9.3 Relinquishment of Jurisdiction

9.3.1 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.

Annotations

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.

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Tracking number: 2017-00217

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Labor Standards and Statistics (Includes 1103 Series)

on 07/11/2017

7 CCR 1101-1

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

The above-referenced rules were submitted to this office on 07/12/2017 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.

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

July 31, 2017 11:40:01

Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-4

Rule title

7 CCR 1103-4 EMPLOYMENT OPPORTUNITY ACT RULES 1 - eff 09/01/2017

Effective date

09/01/2017

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. These rules are adopted pursuant to the Division of Labor Standards and Statistics' authority in C.R.S. § 8-1-107(2)(p), § 8-1-103(3), § 8-1-111, and § 8-2-126.

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, 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. Determinations and Civil Penalties

8.1 After investigating the complaint and assessing the employer's compliance, the division investigator will issue a determination in writing.

8.1.1 The determination will be provided to the employer and complainant in writing.

8.1.2 The 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 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 determination will contain information on appeal rights and appeal procedures.

Rule 9. Appeals and Hearings

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

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

9.3 A division hearing officer will preside over the hearing.

9.4 The decision issued by the hearing officer is 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. Liability

10.1 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) for providing an employer with consumer credit information.

Rule 11. 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.

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
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Office of the Attorney General

Tracking number: 2017-00212

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Labor Standards and Statistics (Includes 1103 Series)

on 07/11/2017

7 CCR 1103-4

EMPLOYMENT OPPORTUNITY ACT RULES

The above-referenced rules were submitted to this office on 07/12/2017 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.

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

July 31, 2017 11:41:15

Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-5

Rule title

7 CCR 1103-5 SOCIAL MEDIA AND THE WORKPLACE LAW RULES 1 - eff 09/01/2017

Effective date

09/01/2017

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. These rules are adopted pursuant to the Division of Labor Standards and Statistics' authority in C.R.S. § 8-1-107(2)(p), § 8-1-103(3), § 8-1-111, and § 8-2-127.

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. Determinations and Fines

9.1 After investigating the complaint and assessing the employer's compliance, the division investigator will issue a determination in writing.

9.1.1 The determination will be provided to the employer and complainant in writing.

9.1.2 The 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 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 determination will contain information on appeal rights and procedures.

Rule 10. Appeals and Hearings

10.1 The determination issued by the investigator may be appealed to the division.

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

10.3 A division hearing officer will preside over the hearing.

10.4 The decision by the hearing officer is 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.

CYNTHIA H. COFFMAN
Attorney General

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Tracking number: 2017-00209

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Labor Standards and Statistics (Includes 1103 Series)

on 07/11/2017

7 CCR 1103-5

SOCIAL MEDIA AND THE WORKPLACE LAW RULES

The above-referenced rules were submitted to this office on 07/12/2017 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.

July 31, 2017 11:36:57

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-6

Rule title

7 CCR 1103-6 KEEP JOBS IN COLORADO ACT RULES 1 - eff 09/01/2017

Effective date

09/01/2017

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. These rules are adopted pursuant to the Division of Labor Standards and Statistics' authority in C.R.S. § 8-1-107(2)(p), § 8-1-103(3), § 8-1-111, and § 8-17-101, et seq.

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.

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).

i. In accordance with C.R.S. § 8-19-102(2), and C.R.S. § 24-92-102(8), "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), 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.

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 The determination issued by the investigator may be appealed to the division.

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

11.3 A division hearing officer will preside over the hearing.

11.4 The decision issued by the hearing officer is considered the initial decision.

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) 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.

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

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Office of the Attorney General

Tracking number: 2017-00210

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Labor Standards and Statistics (Includes 1103 Series)

on 07/11/2017

7 CCR 1103-6

KEEP JOBS IN COLORADO ACT RULES

The above-referenced rules were submitted to this office on 07/12/2017 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.

July 31, 2017 11:38:56

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Labor Standards and Statistics (Includes 1103 Series)

CCR number

7 CCR 1103-7

Rule title

7 CCR 1103-7 WAGE PROTECTION ACT RULES 1 - eff 09/01/2017

Effective date

09/01/2017

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).

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Office of the Attorney General

Tracking number: 2017-00211

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Labor Standards and Statistics (Includes 1103 Series)

on 07/11/2017

7 CCR 1103-7

WAGE PROTECTION ACT RULES

The above-referenced rules were submitted to this office on 07/12/2017 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.

July 31, 2017 11:38:02

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Division of Rehabilitation (Volume 9)

CCR number

12 CCR 2513-1

Rule title

12 CCR 2513-1 RULE MANUAL VOLUME 9, REHABILITATION SERVICES 1 - eff 09/01/2017

Effective date

09/01/2017

Title of Proposed Rule:	**Repeal of Vocational Rehabilitation Services**	
CDHS Tracking #:	**17-3-13-1**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-5905
OCAI	Eric Johnson	E-Mail: eric.johnson@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 purpose of this action is to delete all rehabilitation services rules (9.100, 9.200, and 9.400) because the Division of Vocational Rehabilitation (DVR) program has been transferred to CDLE pursuant to SB 15-239. CDLE promulgated its own rules related to this program, to be effective 3/7/17.

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
N/A	CDHS' rule-making authority over the DVR program was removed by the passage of SB 15-239.

Does the rule incorporate material by reference? ☐ Yes ☒ No
Does this rule repeat language found in statute? ☐ Yes ☒ No

If yes, please explain.

Document 2

Title of Proposed Rule:	**Repeal of Vocational Rehabilitation Services**	
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OCAI	Eric Johnson	E-Mail: eric.johnson@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?

No groups will be impacted as this action repeals rules over the DVR program that CDHS no longer has the authority to make. CDLE promulgated new rules for the DVR program as of 3/7/17.

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?

N/A

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. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

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 is no impact because this action is repealing rules for the DVR program over which CDHS no longer has authority. CDLE promulgated new rules for the DVR program as of 3/7/17.

County Fiscal Impact

There is no impact because this action is repealing rules for the DVR program over which CDHS no longer has authority. CDLE promulgated new rules for the DVR program as of 3/7/17.

Federal Fiscal Impact

There is no impact because this action is repealing rules for the DVR program over which CDHS no longer has authority. CDLE promulgated new rules for the DVR program as of 3/7/17.

Other Fiscal Impact *(such as providers, local governments, etc.)*

There is no impact because this action is repealing rules for the DVR program over which CDHS no longer has authority. CDLE promulgated new rules for the DVR program as of 3/7/17.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

N/A

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. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

There is no alternative because CDHS no longer oversees or has rule-making authority over DVR, so the existing DVR rules are obsolete.

Title of Proposed Rule:	**Repeal of Vocational Rehabilitation Services**	
CDHS Tracking #:	**17-3-13-1**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-5905
OCAI	Eric Johnson	E-Mail: eric.johnson@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
7.000	*Incorrect Statutory Reference*	*Section 26.5.103 C.R.S.*	*Section 26.5-101(3) C.R.S.*		
	N/A	9.100, 9.200, and 9.400 are to be repealed.			

Title of Proposed Rule:	**Repeal of Vocational Rehabilitation Services**	
CDHS Tracking #:	**17-3-13-1**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-5905
OCAI	Eric Johnson	E-Mail: eric.johnson@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):

N/A because the proposal is to repeal rules for a program that has been transferred to CDLE.

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:

N/A because the proposal is to repeal rules for a program that has been transferred to CDLE.

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 [x] 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 [x] No

Name of Sub-PAC			
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.	This proposal repeals rules for a program transferred to CDLE.		

PAC

Have these rules been approved by PAC?

[ ] Yes [x] No

Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.	This proposal repeals rules for a program transferred to CDLE.		

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [x] 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.

DEPARTMENT OF HUMAN SERVICES
Division of Rehabilitation
REHABILITATION SERVICES (STAFF MANUAL VOLUME 9)
12 CCR 2513-1

Statement of Basis and Purpose, Fiscal Impact, and Specific Statutory Authority of Revisions Made to Rule Manual 9

A rewrite of staff manual Volume 9 (Rehabilitation) was finally adopted at the 12/6/85 State Board meeting, with an effective date of 2/1/86 (Document 10). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections 9.103.2, 9.201.2, were finally adopted at the 6/6/86 State Board meeting, with an effective date of 8/1/86 (Document 1). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of sections 9.300 - 9.305.2 were finally adopted following publication at the 7/10/87 State Board meeting, with an effective date of 9/1/87 (Document 9). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of sections 9.400 - 9.406.1 were finally adopted following publication at the 9/11/87 State Board meeting, with an effective date of 11/1/87 (Document 6). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to section 9.302 were finally adopted following publication at the 12/4/87 State Board meeting, with an effective date of 2/1/88 (Document 16). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to sections 9.400 - 9.406 were finally adopted following publication at the 3/4/88 State Board meeting (CSPR# 88-1-6-1), with an effective date of 5/1/88. Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to section 9.402 were finally adopted following publication at the 11/4/88 State Board meeting (CSPR# 88-8-25-1), with an effective date of 1/1/89. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

Addition of section 9.500 was adopted emergency at the 12/1/89 State Board meeting (CSPR# 89-11-7-2), with an effective date of 1/1/90. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.

~~Addition of section 9.500 was final adoption of emergency at the 1/5/90 State Board meeting (CSPR# 89-11-7-2), with an effective date of 1/1/90. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Reorganization and rewriting of Volume IX, sections 9.100 through 9.600, were finally adopted following publication at the 10/5/90 State Board meeting (CSPR# 90 5 1 1), with an effective date of 12/1/90. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections 9.500 and 9.900, were finally adopted following publication at the 3/8/91 State Board meeting (CSPR# 91-1-8-1), with an effective date of 5/1/91. This is a Rehabilitation Director rule. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Liaison, Department of Social Services.~~

~~Revisions to sections 9.104 through 9.108 were adopted emergency at the 2/5/93 State Board meeting (CSPR# 92-12-22-1), with an effective date of 3/1/93. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the State Board Office, Department of Social Services.~~

~~Revisions to sections 9.104 through 9.108 were final adoption of emergency at the 3/5/93 State Board meeting (CSPR# 92-12-22-1), with an effective date of 3/1/93. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the State Board Office, Department of Social Services.~~

~~Revisions to sections 9.101 through 9.109 were final adoption following publication at the 7/9/93 State Board meeting (CSPR# 93-4-19-2), with an effective date of 9/1/93. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the State Board Office, Department of Social Services.~~

~~Rewrite of section 9.200 was final adoption following publication at the 8/6/99 State Board meeting (CSPR# 99-5-21-1), with an effective date of 10/1/99. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Department of Human Services, Office of External Affairs.~~

~~Revisions to sections 9.200 through 9.252 were final adoption following publication at the 5/5/2000 State Board meeting (CSPR# 00-3-14-1), with an effective date of 7/1/2000. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Department of Human Services, Office of Public Affairs.~~

~~Revisions to section 9.600 - 9.640 were final adoption following publication at the 12/7/2001 State Board meeting (CSPR# 01-5-22-1), with an effective date of 2/1/2002. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revisions to section 9.218 - 9.218.5 were final adoption following publication at the 2/7/2003 State Board meeting (Rule-making# 02-11-25-2), with an effective date of 4/1/2003. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Revision to Section 9.200 "Table of Contents", deletion of Section 9.217.4, and revision to sections 9.218.2 and 9.218.3 were final adoption following publication at the 5/6/2005 State Board meeting (Rule-making# 05-1-21-1), with an effective date of 7/1/2005. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Deletion of Sections 9.600 - 9.640 were final adoption following publication at the 9/7/2007 State Board meeting (Rule-making# 07-6-21-1), with an effective date of 11/1/2007. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Performance Improvement, Boards and Commissions Division, State Board Administration.~~

~~Re-write of Sections 9.400 through 9.414 and deletion of Sections 9.900 - 9.900.3 were adopted as final following publication at the 5/2/2008 State Board meeting, with an effective date of 7/1/2008 (Rule-making# 06-11-28-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rules. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.~~

~~Re-write of Sections 9.100 through 9.110.3 were adopted as final following publication at the 10/3/2008 State Board meeting, with an effective date of 12/1/2008 (Rule-making#08-5-30-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rules. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Boards and Commissions Division, State Board Administration.~~

~~Revisions and repeals of Sections 9.100 through 9.110.3 were final adoption following publication at the 4/6/2012 State Board meeting, with an effective date of 6/1/2012 (Rule-making# 11-9-7-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rules. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions and repeals in Sections 9.200 through 9.221.3 were adopted as final following publication at the 5/4/2012 State Board meeting, with an effective date of 7/1/2012 (Rule-making# 11-9-7-2). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rules. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Division of Boards and Commissions, State Board Administration.~~

~~Revisions to Sections 9.102 through 9.108.1 and 9.203 through 9.209.2 were final adoption following publication at the 2/1/2013 State Board meeting (Rule-making# 12-12-2-1), with an effective date of 4/1/2013. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.~~

Revisions and additions to Sections 9.100 through 9.108.3 were final adoption following publication at the 8/8/2014 State Board meeting (Rule-making# 14-3-10-1), with an effective date of 10/1/2014. Statement of Basis and Purpose and specific statutory authority for these revisions were incorporate by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.

The rule is required by Senate Bill 15-240, which was signed into law on May 1, 2015. Under S.B. 15-240, the Centers for Independent Living (CILs) in Colorado are receiving additional funding allocations within two years. In State Fiscal Year (SFY) 2016 the funding will be increased by $2,000,000. This is distributed with $1,585,000 being allocated and disbursed to the CILs as base building funding, and the remaining $415,000 to be disbursed according to the Funding Formula that the CILs created in October 2015 in accordance with S.B. 15-240. This additional $2,000,000 will be added to the starting amount in SFY 2017 for a beginning amount of $4,831,945; $4,416,945 is base funding and $415,000 is funding formula amount.

In SFY 2017 there will be additional funds allocated to the CILs. An additional $2,000,000 is being appropriated to the CILs: $1,585,000 being allocated and disbursed to the CILs as base building funding and the remaining $415,000 added to the other $415,000 in the funding formula designation. The final CILs appropriation will be $6,831,945.

The rule outlines how the additional $830,000 will be distributed to the CILs under the Funding Formula that the Centers agreed to in October 2015. The Centers agreed to a weighted formula that divides county disability population, plus county population, and land area by population to determine the funding amount for each county. The population data is obtained from the State Demography Office located in the Department of Local Affairs, Division of Local Government, and is updated annually. Data of the disability population comes from the five year estimate of the American Community Survey. This data will next be available for update in 2019.

The program will be meeting its fiduciary requirements by having this rule promulgated.

9.100 VOCATIONAL REHABILITATION PROGRAM

9.101 PERSONNEL STANDARDS [Rev. eff. 8/1/15]

Federal law requires state vocational rehabilitation agencies to establish qualified personnel standards for rehabilitation personnel, including rehabilitation counselors. Since Colorado does not have state-established standards for rehabilitation counselors, the state shall look to the national standards established by the Commission on Rehabilitation Counselor Certification (CRCC). Other positions within the rehabilitation counselor series such as vocational evaluators, orientation and mobility (O&M) specialists, and rehabilitation teachers are also required to meet the standards of appropriate certifying bodies.

9.102 PROTECTION, USE, AND RELEASE OF PERSONAL INFORMATION [Eff. 4/1/13]

9.102.1 Confidential Information [Eff. 4/1/13]

All applicants or their representatives shall be informed about DVR's need to collect personal information and the principal purposes for which DVR will use that information. Any information secured by or made available to DVR and/or its employees or representatives concerning referrals, applicants or eligible individuals of the vocational rehabilitation program is considered confidential. Use of such information, current or stored, is limited to purposes directly connected to the administration of the Vocational Rehabilitation Program as identified in Sections 9.102.2 and 9.102.3 and is not to be otherwise disclosed, directly or indirectly. Individuals shall be notified of the confidential nature of their case records and the conditions for release of such information at the time of application.

9.102.2 Release to Applicants or Eligible Individuals [Rev. eff. 10/1/14]

Information acquired or maintained by the Division of Vocational Rehabilitation (DVR) will be available upon written request, for inspecting and copying by an applicant or eligible individual or, as appropriate, the individual's representative, in accordance with the Colorado Open Records Act (Section 24-72-201, et. seq., C.R.S.), unless release of such information is prohibited by state or federal statutes, case law, or rules and regulations.

Medical, psychological or other information which the counselor determines may be harmful to the individual shall not be released directly to the individual, rather such information shall be provided through a third party chosen by the individual. Any employee of DVR shall not disclose the information listed below to the applicant or eligible individual and/or his or her authorized representative.

A. Social Security Administration (SSA) information except when requested by the Client Assistance Program on behalf of the client;

B. Information from the U.S. Department of Veterans Affairs;

C. Medical or psychological information, when the service provider states in writing that disclosure to the individual is prohibited.

Applicants and eligible individuals requesting such information shall be referred to the originating source of the information.

9.102.3 Release to Other Programs or Authorities [Rev. eff. 10/1/14]

A. Confidential information may be released to other agencies or organizations when necessary for their programs only after receiving informed written consent from the subject of the information and under assurances that the agency or organization shall manage the information in a manner to safeguard its confidentiality in accordance with the confidentiality regulations governing vocational rehabilitation programs.

B. Information may be released to other programs or authorities without an applicant's or eligible individual's written authorization when:

1. The information is directly connected with the administration of the Vocational Rehabilitation Program used only by persons officially connected with an audit or evaluation, and the final report contains no identifying information;

2. Sharing of the information, including pertinent medical and other data received from SSA, is necessary to establish an individual's eligibility for rehabilitation services and/or for the provision of such services under an Individualized Plan for Employment (IPE);

3. The information is required by federal law;

4. The information is necessary to respond to a request from law enforcement, fraud, or abuse (except where expressly prohibited by federal regulations or state statutes or rules), and in response to judicial order;

5. The information is necessary in order to protect the individual or others when the individual poses a threat to his or her own safety or to the safety of others;

6. The information is requested by the Social Security Administration (SSA); or,

7. The Director of the Division of Vocational Rehabilitation approves release to an organization or individual engaged in research.

9.103 RIGHTS TO REVIEW AND APPEAL

9.103.1 Review of DVR Determinations [Rev. eff. 10/1/14]

A. An applicant or eligible individual who is dissatisfied with any determination made by the Division of Vocational Rehabilitation (DVR) that affects the provision of vocational rehabilitation services may request a review of that decision through an informal or formal process. The applicant or eligible individual may also utilize the mediation process to resolve disputes. If appropriate, any request for review or mediation may be made through the individual's authorized representative.

B. An applicant or eligible individual shall be notified, in writing, of his/her appeal rights, established procedures for review of determinations, and the availability of the Client Assistance Program each time the following occur:

1. At the time of application for services;

2. At the time of placement into an Order of Selection (OOS) priority for services category;

3. At the time of Individualized Plan for Employment (IPE) development and any time the IPE is amended;

4. Any time that DVR makes a decision to reduce, suspend or terminate planned services;

5. At the time a case is closed for reasons of ineligibility; and,

6. At the time a case is closed from a deferred services wait list.

C. An applicant or eligible individual shall be responsible for his/her personal costs (including, but not limited to, legal representation and copying fees) associated with his/her review, appeal or mediation unless otherwise ordered.

D. An applicant's or eligible individual's appeal shall not result in suspension, reduction or termination of vocational rehabilitation services pending resolution of his/her appeal unless:

1. An applicant or eligible individual or, if appropriate, the individual's representative requests a suspension, reduction or termination of services; or,

2. There is evidence that fraud has occurred or that the vocational rehabilitation services were obtained through misrepresentation, collusion or criminal conduct by the individual on the part of an applicant, eligible individual or the individual's representative.

9.103.2 Mediation of Disputes [Eff. 10/1/14]

A. An applicant or eligible individual may seek mediation by a qualified and impartial mediator as a means to resolve a dispute with the Division of Vocational Rehabilitation (DVR). The goal of mediation is to achieve consensus between an applicant or eligible individual and DVR. The individual may bring an authorized representative to assist him/her during the mediation process.

1. The request for mediation shall be submitted, in writing, to the DVR administrative office at any time during the review process and no later than the 60th day from the date the formal hearing is requested. The request shall identify the decision or action that is being disputed, why it is being disputed and what solution is requested. A qualified and impartial mediator arranged through the state shall be provided at no cost to the applicant or individual.

2. If the applicant or individual requests mediation, DVR shall participate unless:

a. It is not possible to resolve the dispute without placing the Department in clear violation of state or federal law, rules, policy or the approved State Plan;

b. A mediated outcome is not possible based on documented evidence from previous experience with the individual concerning the issue under dispute;

c. The individual has committed acts of violence, has threatened acts of violence or has engaged in other forms of harassment against Department staff or any other individuals involved in the provision of vocational rehabilitation services; or,

d. The individual has failed to fulfill his or her responsibilities under a previous mediation agreement with DVR concerning the issue under dispute.

B. DVR may seek mediation by a qualified and impartial mediator as a means to resolve a dispute with an applicant or eligible individual before he/she requests an informal review or a formal appeal if the individual agrees to participate.

C. Mediation shall commence within twenty-one (21) days of the request for mediation and shall not delay conduct of the formal appeal unless both parties agree additional time is necessary.

Mediation is limited to a maximum of six (6) hours of mediation session(s) unless both parties and the mediator agree that additional hours may provide a resolution. Mediation shall be completed within one (1) calendar month of the initial request unless both parties and the impartial mediator agree that additional time is necessary.

D. If mediation is successful, the consensus reached by both parties shall be documented in writing by the mediator and provided to both parties within seven (7) calendar days. Each party shall sign the agreement, which indicates agreement with its terms and a commitment to fulfill each party's respective responsibilities. If agreement on all issues is reached, the parties shall withdraw any pending informal review or formal appeal request. DVR shall not agree to any provision that it believes is contrary to state and federal law, rules, and policy or the approved State Plan.

E. If mediation is not successful, the client may initiate, or proceed with, an informal review or a formal appeal of the issue under dispute.

F. Failure of the applicant or eligible individual to honor his /her commitment under the terms of the mediation agreement shall void the mediation agreement.

9.103.3 Informal Review [Eff. 10/1/14]

The applicant or eligible individual may request an informal review to resolve the issue(s) under dispute without mediation or conduct of a formal appeal. The informal resolution process will result in a decision by DVR regarding the issue under dispute. An individual shall not be required to go through an informal review prior to or instead of a formal appeal. Informal review shall be conducted within thirty (30) calendar days of the initial request unless both parties agree that additional time is necessary. Informal review shall not delay a formal appeal if one has been requested. If the informal review does not resolve the issue(s), and the formal appeal process has not been requested, the individual may request a formal appeal.

A. Informal review begins with a request for the applicable DVR Supervisor I to review a decision concerning the provision of vocational rehabilitation services.

B. If the applicant or eligible individual is not satisfied with the decision made by the Supervisor I, the applicant or eligible individual may take the next step and submit a written request for review to the Deputy of Field Services (or designee) to review the decision.

9.103.4 Formal Appeal Process [Rev. eff. 10/1/14]

An applicant or eligible individual may initiate a formal appeal regarding a determination to resolve the issue(s) under dispute without mediation or conduct of an informal review.

A. A written request for a formal appeal must be submitted to the Colorado Department of Personnel and Administration, Office of Administrative Courts (OAC), within ninety (90) calendar days of the subject determination made by the DVR counselor or other DVR staff that affects a provision of vocational rehabilitation services.

B. The written request must be a statement detailing the basis of appeal, including a description of the determination made by DVR staff that the individual is appealing. The statement should include a description of what the individual wants from the appeal.

C. An applicant or eligible individual and DVR may voluntarily participate in mediation through the OAC. Mediation may not be used to deny or delay an applicant's or eligible individual's right to pursue resolution of the dispute through the formal appeal process unless both parties agree that additional time is necessary for mediation.

9.103.5 Formal Appeal Before the Office of Administrative Courts [Rev. eff. 10/1/14]

A. When the OAC receives a request for a formal appeal, the OAC shall notify DVR and the Attorney General's Office, Human Services Unit, that the request has been docketed and send a copy of the formal appeal request to DVR and the Attorney General's Office.

B. DVR shall serve a notice to set an informal pre-hearing conference within ten (10) calendar days of receipt of the formal appeal request from the OAC. The purpose of the informal pre-hearing conference shall be to:

1. Identify the issues for appeal.

2. Set a date for DVR to provide a written statement summarizing the background and history of client services for the appeal.

3. Set a date for a response from the appellant to respond to the summary and identify specific issues for the appeal. The appellant should identify specific remedies being sought, if known.

4. Set the date for hearing within sixty (60) days, unless both parties agree that more time is needed and agree to extend beyond the sixty days.

5. Set dates for an exchange of witness and exhibit list, as well as exchanging exhibits or other evidence.

C. The Administrative Law Judge shall conduct the hearing within sixty (60) calendar days of an applicant's or eligible individual's request for formal appeal unless both parties agree additional time is necessary.

D. The Administrative Law Judge shall conduct the hearing on formal appeal in accordance with the Administrative Procedure Act, Section 24-4-105, C.R.S. The rights of the parties include:

1. Each party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination.

2. Subject to these rights and requirements, where a hearing will be expedited and the interest of the parties will not be subsequently prejudiced thereby, the Administrative Law Judge may receive all or part of the evidence in written form or by oral stipulations.

3. Hearings will be conducted at a site convenient to the appellant. A telephonic hearing may be conducted as an alternative to a face-to-face hearing if requested by either party. If either party requests a face-to-face hearing, the written request for a face-to-face hearing must be filed with the OAC and the other party at least ten (10) calendar days before the scheduled hearing.

E. At the conclusion of the hearing, unless the Administrative Law Judge allows additional time to submit documentation, the Administrative Law Judge shall take the matter under advisement. After considering all the relevant evidence presented by the parties, the Administrative Law Judge shall render an Initial Decision for review by the Colorado Department of Human Services, Office of Appeals.

F. The Initial Decision shall uphold, modify or reverse DVR's determination affecting a provision of vocational rehabilitation services of an applicant or eligible individual or the eligibility for services.

G. The initial decision shall be rendered within thirty (30) calendar days of the completion of the hearing.

H. When an appellant fails to appear at a duly scheduled hearing, having been given proper notice, without having given timely advance notice to the Administrative Law Judge of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned and the Administrative Law Judge shall enter an Initial Decision dismissing appeal. In accordance with the procedures set forth in Section 9.103.6, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

9.103.6 State Department Office of Appeals Functions [Rev. eff. 10/1/14]

A. Review of the Initial Decision and hearing record and entry of the final agency decision shall be pursuant to State rules at Sections 3.850.72 - 3.850.73 (9 CCR 2503-8).

B. Review shall be conducted by a state adjudicator in the Office of Appeals not directly involved in any prior review of DVR's determination affecting a provision of vocational rehabilitation services of an applicant or eligible individual.

C. The Final Agency Decision shall advise an applicant or eligible individual of his/her right to seek judicial review in the State District Court, City and County of Denver, if the appellant had timely filed exceptions to the Initial Decision.

D. If an applicant or eligible individual seeks judicial review of the Final Agency Decision, DVR shall be responsible for defending the final agency decision on judicial review.

9.104 ELIGIBILITY

9.104.1 Determination of Eligibility [Rev. eff. 10/1/14]

A. An assessment shall be conducted with each applicant to determine eligibility.

Eligibility criteria for vocational rehabilitation services requires that:

1. The individual has a physical or mental impairment documented by qualified personnel. For purposes of this eligibility criteria, DVR considers “qualified personnel” to be individuals, practitioners or organizations that are licensed and regulated by the Colorado Department of Regulatory Agencies to determine the existence of an impairment for their specific area of medical or psychological practice, or who otherwise meet established state or national licensing and certification requirements for that area of practice. In addition, the Social Security Administration and education officials responsible for the public education of students with disabilities are considered by DVR to be qualified personnel for this eligibility criterion;

2. The impairment constitutes or results in a substantial impediment to employment that is consistent with the individual's abilities and capabilities;

3. The individual requires vocational rehabilitation services to prepare for, secure, retain or regain employment consistent with his/her unique strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice; and,

4. The Division of Vocational Rehabilitation (DVR) presumes that an applicant who meets all other eligibility criteria can benefit in terms of an employment outcome from the provision of vocational rehabilitation services. If DVR questions whether the individual's disability is too severe for him/her to benefit from services, clear and convincing evidence shall be obtained through the provision of trial work experiences and/or extended evaluation. Evidence shall be documents and used to determine eligibility or ineligibility.

B. The length of time between application and eligibility shall not exceed sixty (60) calendar days unless a period of trial work experience and/or extended evaluation is required or unless the counselor and applicant agree that exceptional circumstances beyond the agency's control preclude determining eligibility within sixty calendar days. Once eligibility is determined, the client shall be provided with an agency-approved letter to document his/her eligibility and assigned priority for services.

9.104.2 Presumptive Eligibility [Rev. eff. 10/1/14]

An applicant who is determined to be eligible for Supplemental Security Income (SSI) and/or Social Security Disability Insurance (SSDI) benefits (based on his/her own disability including blindness) is presumed to meet the eligibility requirements. Verification of eligibility for SSI/SSDI benefits is sufficient to establish that DVR eligibility criteria are met unless the presumption of benefit in terms of an employment outcome is questionable due to the severity of the disability(ies), which may require trial work experiences and/or extended evaluation.

9.104.3 Trial Work Experiences [Rev. eff. 10/1/14]

Prior to determining that an individual is ineligible because he/she does not meet the eligibility criteria at 9.104.1, A, 4, trial work experiences shall be provided. Trial work experiences shall provide an exploration of the individual's abilities, capabilities and capacity to perform in realistic work settings to determine whether or not there is clear and convincing evidence that an employment outcome is precluded by the severity of an individual's disability and an ineligibility decision is appropriate.

DVR shall develop a written plan to periodically assess the individual's abilities, capabilities, and capacity to perform in work situations through the use of trial work experiences, which shall be provided in the most integrated setting(s) possible, consistent with the informed choice and rehabilitation needs of the individual. The counselor and the individual shall jointly develop the plan for the trial work experiences.

Trial work experiences must be of sufficient variety and over a sufficient period of time to determine that:

A. There is sufficient evidence to conclude that the individual can benefit from the provision of vocational rehabilitation services in terms of an employment outcome; or,

B. There is clear and convincing evidence that the individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome due to the severity of the individual's disability.

9.104.4 Extended Evaluation [Rev. eff. 10/1/14]

If an individual with a significant disability cannot take advantage of trial work experiences or if options for trial work experiences have been exhausted before the DVR counselor is able to determine eligibility or ineligibility, an extended evaluation shall be provided under a written extended evaluation plan. The service record must document the need for extended evaluation.

9.105 SEVERITY OF DISABILITY [Rev. eff. 10/1/14]

The assessment for determining eligibility and identifying vocational rehabilitation needs shall establish an individual's priority for services, based upon whether the individual's disability is most significant, significant, or neither.

A. An individual with a most significant disability is one:

1. Who has been verified to be presumptively eligible and who has a severe physical or mental impairment that seriously limits three or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and, whose vocational rehabilitation can be expected to require the provision of two or more vocational rehabilitation services for at least five months; or,

2. Who has a severe physical or mental impairment that seriously limits three or more functional capacities (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and, whose vocational rehabilitation can be expected to require the provision of two or more vocational rehabilitation services for at least five months.

B. An individual with a significant disability is one:

1. Who has been verified to be presumptively eligible; and/or,

2. Who has a severe physical or mental impairment that seriously limits one or two functional capacity areas (mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome; and, whose vocational rehabilitation can be expected to require the provision of two or more vocational rehabilitation services for at least five months.

9.106 PROVISION OF VOCATIONAL REHABILITATION SERVICES [Rev. eff. 10/1/14]

Services shall be provided to:

A. Applicants and eligible individuals to determine eligibility and severity of disability.

B. Eligible individuals to determine a vocational goal and identify the nature and scope of the services necessary to reach that vocational goal.

C. Under an Individualized Plan for Employment (IPE) to assist an individual in preparing for, securing, retaining, or regaining an employment outcome.

Services that are provided to applicants and eligible individuals shall be necessary, appropriate, and purchased at least possible cost. A service is considered necessary only if it is essential to assess an individual's eligibility and severity of disability, to establish his/her vocational rehabilitation needs, to overcome or circumvent an identified vocational impediment(s), and to attain the individual's chosen employment outcome. Once an IPE has been developed, services shall be provided in the most integrated settings as outlined on the IPE. A service is considered appropriate if it is of sufficient quality to fully meet the individual's particular needs and circumstances.

9.106.1 Contact [Eff. 10/1/14]

Every applicant and client shall be contacted by a DVR staff member at least once every thirty (30) days. The purpose of this contact is to promote an interactive process and ongoing case progress. A summary of the nature of this interaction shall be documented in the client record.

9.107 UTILIZATION OF REHABILITATION FUNDS

9.107.1 Expenditure of Rehabilitation Funds [Rev. eff. 10/1/14]

A. Payment for Services

Necessary and appropriate services provided to applicants and eligible individuals shall be procured at the least possible cost to the Division of Vocational Rehabilitation (DVR). All services and goods shall be

authorized prior to, or at the initiation of, the delivery of the service or good unless the service record documents that prior written authorization is not possible. All issued authorizations shall be printed and contained in the client record. All goods shall be procured in compliance with state purchasing procedures.

B. Estimation of Costs

All completed Individualized Plans for Employment (IPE) shall contain estimates of anticipated agency costs and/or contributions for goods and services listed.

C. Regardless of the vocation chosen, DVR excludes supporting a business that does not comply with all relevant state, federal, and local laws and regulations.

D. Fee Schedule

Services must be authorized and payments approved in accordance with current agency fee schedules. Fees exceeding the established maximum may be authorized and paid only when the specific service is not available at the established rate or when the service available at the established rate is not adequate to meet the individual's rehabilitation needs.

E. Maintenance Payments

Maintenance is monetary support provided to an individual for expenses, such as food and shelter, that are in excess of the individual's normal expenses that are created by participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of services under an IPE.

F. Payment for Transportation

Transportation is provided to an individual if necessary to participate in DVR services. Public transportation is encouraged unless the individual's impairment-related limitations prevent use of public transportation. If the individual chooses to use his/her own vehicle when public transportation is available and accessible, reimbursement for mileage may be provided up to the cost of public transportation.

To receive reimbursement, the individual or his/her driver shall have a valid driver's license, possess an active insurance policy to drive the automobile, and use an automobile that is appropriately licensed and registered. Appropriate documentation shall be provided to DVR to support the reimbursement is related to services necessary for eligibility determination or in connection with the provision of services.

G. Purchase of Technological Aids and Devices

Purchase of telecommunications, sensory, and other technological or assistive aids and devices requiring individualized prescriptions and fittings shall be allowable only when the prescriptions and fittings are performed by individuals licensed or certified in accordance with state laws.

H. Use of Supported Employment (Title VI-B) Funds

Supported employment funds may only be used for the implementation of rehabilitation programs for individuals with the most significant disabilities eligible for supported employment.

I. State Property

Goods purchased for use by an eligible individual in a training program, trade or business remain the property of the State of Colorado until successful closure from DVR occurs.

1. Issue of State Property. When such item(s) are issued to a client, written acknowledgment of receipt of the equipment, indicating state ownership, shall be obtained from the client.

2. Recovery of State Property. State property shall be recovered from clients upon termination of programs that do not result in successfully rehabilitated closures.

3. Re-Issue of State Property. Items recovered in accordance with this policy shall be retained in the field office to be re-issued to other individuals who may have need of such items.

9.107.2 Applicant or Eligible Individual Financial Participation [Rev. eff. 10/1/14]

Payment for most services or goods for individuals other than SSI/SSDI recipients is based upon the economic need of the individual and the finances of the family unit. DVR shall conduct a determination of the individual's economic need prior to the preparation and approval of an Individualized Plan for Employment, a Business Exploration Agreement, Trial Work Experience Plan or Extended Evaluation Plan whenever the plan contains a vocational rehabilitation service that is not specifically exempted from financial participation. An individual who receives Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) is exempt from the determination of economic need and from participating financially in his/her rehabilitation plan.

A. Re-determinations of the individual's economic need shall be conducted at least annually and within forty-five (45) days after any other time when the individual's financial circumstances change.

B. All economic need determinations shall be documented and require an individual’s proof of financial status. Documentation accepted as proof of financial status shall be defined in writing by DVR. The applicant or eligible individual shall provide proof of financial status unless the service record documents that there is no proof of financial status available and/or it cannot be obtained. If proof of financial status cannot be obtained, the statement of the applicant or eligible individual and/or member of his/her family shall establish data used to complete economic need determinations.

C. The family unit consists of the applicant or eligible individual, the spouse of the individual, and any other persons whom the individual claims as a dependent for income tax purposes. When the individual is dependent upon his/her parents, the parents and persons for whom the parents are financially responsible shall be considered part of the family unit. An individual who is living with his/her parents is considered a dependent unless the parents have not claimed the individual as a dependent for income tax purposes for the tax year previous to the financial need determination and do not intend to claim the individual as a dependent in current and future years.

Exception to the family unit may occur if the service record documents a clear indication that the individual is not receiving financial support from the family unit. When this occurs, he/she may be considered his/her own family unit regardless of dependent status for income tax purposes.

D. The financial need analysis shall determine economic need and consider income and net resources as well as the allowable monthly deductions of the entire family unit. Standardized allowances for normal living costs are determined by the size of the family unit.

E. Financial participation of the individual or completion of a financial need analysis is not required for the following vocational rehabilitation services:

1. Assessment services to determine eligibility and vocational rehabilitation needs, except for services that are considered supportive and goods and services which are provided under a Trial Work Experience Plan or an Extended Evaluation Plan;

2. Vocational rehabilitation counseling and guidance;

3. Referral services;

4. Professional fees to providers of vocational adjustment and personal adjustment training, independent living skills training, job coaching, on-the-job training and job seeking skills training;

5. Interpreter services and note-taking services for individuals who are deaf;

6. Reader services and note-taking services for individuals who are blind;

7. Personal assistance services;

8. Auxiliary aids needed for an individual with a disability to participate in the vocational rehabilitation program;

9. Job-related services; and,

10. Any service or good furnished to an individual for whom the DVR counselor has evidence of current eligibility for SSI and/or SSDI benefits for disability or blindness.

9.108 CASE CLOSURE [Rev. eff. 10/1/14]

The DVR counselor may close a service record for an applicant or eligible individual for any of the reasons found in Sections 9.108.1 through 9.108.3.

9.108.1 Successful Closure Criteria [Eff. 10/1/14]

The case record of an individual who receives services that lead to an employment outcome shall be closed when the individual achieves the criteria for successful closure.

9.108.2 Ineligibility Closure Reasons [Eff. 10/1/14]

If it is determined that an applicant is ineligible for services or the individual receiving services is no longer eligible for services, the case record shall be closed.

9.108.3 Other Closure [Eff. 10/1/14]

Case records may be closed for other reasons, in accordance with 34 CFR Part 361.43 (January 2001). No amendments or later editions are incorporated. Copies are available for purchase at the Government Bookstore, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294. A copy is available for inspection during regular business hours at the Colorado Department of Human Services, Division of Vocational Rehabilitation, Office of the Director, 1575 Sherman Street, Denver, Colorado 80203-1714; or any state publications depository library.

Other reasons include, but are not limited to, when the individual:

A. Is no longer interested in services;

B. Is unavailable for services;

C. Violates an agency safety or service delivery policy;

D. Is employed in a non-integrated setting; or,

E. Is employed and receiving less than minimum wage.

9.200 INDEPENDENT LIVING (IL) SERVICES

9.201 GENERAL PROVISIONS [Rev. eff. 7/1/12]

The purpose of the program authorized by Title 26. Article 8.1, Colorado Revised Statutes, is to promote a philosophy of independent living (IL), including consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, to maximize the leadership, empowerment, independence, and productivity of individuals with significant disabilities, and to promote and maximize the integration and full inclusion of individuals with significant disabilities into the mainstream of American society.

9.202 DEFINITIONS [Rev. eff. 7/1/12]

"CIL" means a Center for Independent Living.

"ConsumerService Record (CSR)" means a complete record which includes eligibility determination, intake information, a signed Independent Living Plan (ILP) or waiver, specific goals, a description of services, Client Assistance Program (CAP) information, a confidentiality agreement, a grievance policy, and a record of whether goals were achieved.

"Director" means the Director of the Division of Vocational Rehabilitation. "DVR" means the Division of Vocational Rehabilitation.
EDGAR means the federal Education Department General Administrative Regulations found in 34 C.F.R. Parts 74. 75, 76. 77, 79, 80. 81, 82. 85 and 86. This rule does not contain any later editions of those Parts. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203, or at any State Publication Depository Library.

"Federal Act" means Title VII of the Federal Rehabilitation Act of 1973, as amended and codified in 29 U.S.C. 71 1(c) and Section 796. This rule does not contain any later editions of those parts. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

"Provider association" means the Association of Colorado Centers for Independent Living (ACCIL).
"Service area" means the community, county, or groups of counties a center serves.
"SILC" means Statewide Independent Living Council.

"SILS" means State Independent Living Services Program, in accordance with 34 CFR 365.1. No later editions are incorporated. Copies of these federal regulations are available from the Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

"State" means the State of Colorado.

"Verification team" means a team designated by the director, which consists of DVR staff and other persons, including representatives of the SILC and the provider association.

9.203 SERVICES PROVIDED

A. Independent living services includes the independent living core services which consist of information and referral services, IL skills training, peer counseling, (including cross-disability peer counseling), and individual and systems advocacy; and,

B. Other services, such as:

1. Counseling services, including psychological, psychotherapeutic, and related services;

2. Services related to securing housing or shelter, including services related to community group living, that are supportive of the purposes of the federal Act, and adaptive housing services, including

appropriate accommodations to and modifications of any space used to serve, or to be occupied by, individuals with significant disabilities;

3. Rehabilitation technology;

4. Mobility training;

5. Services and training for individuals with cognitive and sensory disabilities, including life skills training and interpreter and reader services;

6. Personal assistance services, including attendant care and the training of personnel providing these services;

7. Surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

8. Consumer information programs on rehabilitation and IL services available under the federal Act, especially for minorities and other individual with significant disabilities who have traditionally been unserved or underserved by programs under the federal Act;

9. Education and training necessary for living in a community and participation in community activities;

10. Supported living;

11. Transportation, including referral and assistance for transportation;

12. Physical rehabilitation;

13. Therapeutic treatment;

14. Provision of needed prostheses and other appliances and devices;

15. Individual and group social and recreational services;

16. Training to develop skills specifically designed for youths who are individuals with significant disabilities to promote self-awareness and esteem, develop advocacy and self- empowerment skills, and explore career options;

17. Services for children;

18. Services under other federal, state, or local programs designed to provide resources, training, counseling, or other assistance of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with significant disabilities:

19. Appropriate preventive services to decrease the need of individuals with significant disabilities assisted under the Federal Act for similar services in the future;

20. Community awareness programs to enhance the understanding and integration into society of individuals with significant disabilities; and,

21. Any other services that may be necessary to improve the ability of an individual with a significant disability to function, continue functioning, or move toward functioning independently in the family or community or to continue in employment and that are not inconsistent with any other provisions of the Federal Act.

9.203.1 DISCONTINUATION OF SERVICES [Eff. 4/1/13]

Section 51 of 34 CFR 364 under the authority of 29 U.S.C. 796-796f-5 which do not include amendments to or editions of said regulations later than August 15, 1994, provides requirements for determinations of eligibility or ineligibility, in accordance with all parts, incorporated herein by reference. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

A center shall discontinue Independent Living (IL) services to an individual if the individual is no longer eligible to receive IL services. An individual is no longer eligible to receive IL services when the delivery of IL services will no longer improve the individual's ability to function, ability to continue functioning, or move toward functioning independently in the community. If the center intends to discontinue services to an individual receiving IL services under an IL plan or an individual receiving services after they have waived their right to a plan, the center shall follow the requirements that apply to determinations of ineligibility and review of ineligibility determinations.

9.203.2 APPEAL PROCEDURES [Eff. 4/1/13]

Section 58 of 34 CFR 364 requires each center to establish consumer appeal procedures; Section 30 of CFR 364 requires each center to provide notice of the Client Assistance Project in accordance with all parts, under the authority of 29 U.S.C. 796-796f-5 which do not include amendments to or editions of said regulations later than August 15, 1994 of those parts and incorporated herein by reference. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library

A. Each center must establish policies and procedures that an individual may use to obtain review of decisions made by the center concerning the individual's request for IL services or the provision of IL services to the individuals; and,

B. Use formats that are accessible to inform each individual who seeks or is receiving IL services from the center about the procedures required by paragraph A of this section;

C. Establish policies and procedures that require that the individual is notified of the Client Assistance Program (CAP);

D. Establish a policy that the center shall continue services to the consumer while the decision is being reviewed, unless continuation of services is deemed harmful to the consumer or otherwise.

9.203.3 APPLICATION, CERTIFICATION AND RE-CERTIFICATION OF CENTERS [Eff. 4/1/13]

A. Application Process

An organization that intends to become an Independent Living Center must apply to the Director of the Division of Vocational Rehabilitation to become certified as a center and eligible for funding under the SILS program.

B. For an organization that DVR previously certified to operate as a certified center or was de-certified, the organization must provide to DVR evidence that it is currently operating in accordance with all parts, incorporated herein by reference, of Title VII, Section 725 of the Federal Act, as defined in 34 CFR 366.60 under the authority of 20 U.S.C. 796f-4 and 34 CFR
366.63 under the authority of 29 U.S.C. 711(c), 796d-1(b), and 796f-4, which do not include amendments to or editions of said regulations later than August 1, 1995 of those parts and incorporated herein by reference. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

C. Requirements of Certification and Re-Certification

The organization must comply with the standards and assurances for independent living in accordance with all parts, incorporated herein by reference, of Title VII, Section 725 of the Federal Act, the center evaluation standards in accordance with all parts, incorporated herein by reference of 34 CFR 366.60, under the authority of 20 U.S.C. 796f-4 and 34 CFR 366.63 under the authority of 29 U.S.C. 711(c), 796d-1(b), and 796f-4, which do not include amendments to or editions of said regulations later than August 1, 1995 of those parts. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library. Prior to certifying an organization as a center, DVR may conduct on-site verification procedures based on the evaluation standards previously cited and may include verifying the accuracy of the information in the organization's annual report. If DVR determines that the organization qualifies to operate as a center, DVR shall provide written certification for up to thirty-six months from the date of the on-site verification.

9.203.4 CERTIFICATION OF CENTERS AND VERIFICATION OF INFORMATION [Eff. 4/1/13]

A. DVR shall verify the accuracy of the information in the center's annual performance report through information obtained by a Verification Team during an onsite review in locations that a CIL operates. A Verification Team will evaluate a center at least once every thirty-six months to determine certification status.

B. The Verification Team will notify the center at least ten working days prior to the verification team's onsite evaluation. DVR reserves the right to monitor all or part of the evaluation standards. Included in the notification to CILS will be a list of evaluation standards.

C. Minimal compliance means that the center provides at least one type of evidence for each evaluation standard. The DVR Verification Team obtains evidence to verify the accuracy of the information in the annual performance report and establish minimal compliance, as outlined in 34 CFR 366.60 under the authority of 20 U.S.C. 796f-4 which does not include amendments to or editions of said regulations later than August 15, 1994, and incorporated herein by reference, and with DVR contracts and procedures. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

D. The CIL must comply with the evaluation standards defined in 34 CFR 366.60 to 366.63 under the authority of and all parts, incorporated herein by reference incorporated herein by reference of 34 CFR 366.60, under the authority of 20 U.S.C. 796f-4 and 34 CFR 366.63 under the authority of 29 U.S.C. 711(c), 796d-1(b), and 796f-4. which do not include amendments to or editions of said regulations later than August 1, 1995 of those parts. Copies of these federal regulations are available from the Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

Prior to certifying an organization as a center, DVR may verify the accuracy of the information in the organization's annual performance report following the on-site verification process outlined in this section and a DVR procedural. If DVR determines that the organization qualifies to operate as a center, DVR shall provide a written certification. DVR may certify an organization for up to thirty-six months from the date of the on-site verification. Specific application information can be found in (whatever number is assigned to the Application and Certification of Centers Section).

E. DVR may conduct additional on site evaluation visits, without prior notification, if the Verification Team needs additional documentation or information in regards to compliance indicators.

9.204 (NONE) [Rev. eff. 4/1/13]

9.205 ASSURANCE TO RECEIVE FUNDING UNDER THE SILS PROGRAM [Rev. eff. 4/1/13]

A. To be eligible for funding under the SILS program, an eligible agency shall comply with all parts, incorporated herein by reference, of Title VII, Section 725, 34 CFR 366.60, under the authority of 20 U.S.C. 796f-4 and 34 CFR 366.63 under the authority of 29 U.S.C. 711(C), 796D-1(B), and 796F-4, which do not include amendments to or later editions of regulations later than August 1, 1995 of those parts. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

B. A CIL must obtain an annual independent fiscal audit conducted by a certified public accountant and provide documentation that demonstrates the centers' board of directors' review of the CILs monthly financial statements.

C. A CIL must comply with all state and federal contract requirements in terms of proper financial reporting, accountability, transparency and documentation; and agree to the terms and conditions of such contract. Funds allocated under the SILS program must only be used to provide Independent Living services or to pay associated costs, as described in the contract exhibits.

9.206 PAYMENT TO CILS [Rev. eff. 4/1/13]

A. A CIL may invoice DVR according to specific requirements in a contract or procedures set forth by DVR. To receive payment, a CIL must have all supporting documentation for services and allowable costs and be able to provide documentation of such record if requested.

B. A CIL must adhere to contract requirements in order to receive payment for services provided.

9.207 ALLOCATION OF FUNDS FOR SILS [Rev. eff. 4/1/13]

9.207.1 STATE ALLOCATION [Rev. eff. 4/1/13]

The State shall allocate funds to centers that participate in the SILS program. Funds to be allocated include funds appropriated in both federal and state appropriations. The allocation represents the maximum amount of funds that a center may be reimbursed under the SILS program. DVR shall set forth specific procedures that allocate funds to all eligible CILs.

The allocation of funding to CILs is subject to periodic review by the Independent Living Allocations Committee. A review of allocations will:

A. Align with the State Plan for Independent Living (SPIL); or,

B. Occur if there is a change in the number of CILs eligible to receive funding.

C. DVR reserves the right to evaluate and/or change the allocation of funding if special, unforeseen, circumstances occur.

9.207.2 INDEPENDENT LIVING ALLOCATIONS COMMITTEE [Rev. eff. 4/1/13]

A. The SILC, provider association, and DVR shall participate in an Independent Living Allocation Committee. The Chairperson of the SILC shall make the appointment of two members who are advocates for individuals with disabilities and are not affiliated with CILs. The provider association shall appoint two individuals and the Director of DVR will appoint two individuals. The total number of allocation committee members shall equal six, two from each group.

B. The Independent Living Allocations Committee will work to establish criteria for allocating funds from the State General Fund for Independent Living and federal funds.

C. All funding formulas submitted by the allocation committee shall be in compliance with State fiscal rules and regulations, current Federal and State laws and regulations, including annotations and footnotes in appropriations, and the State Plan for Independent Living.

D. DVR will ensure that the Independent Living Allocations Committee participates in any change of funding allocation that is in DVR procedures. The final decision of how to allocate funds is the responsibility of DVR.

9.207.3 STATE ALLOCATION FOR DELIVERY OF INDEPENDENT LIVING SERVICES

Certified Centers for Independent Living will be allocated General Funds in addition to their base amount of General Funds with a weighted formula that divides County disability population, plus County population, and Land Area by population to determine for each County. The resulting figure is the amount which each CIL will receive.

Specific calculations of the formula are:

A. 1st assign each Colorado County a score of: 40% x (County 16-64 Disability Population/State 16-64 Disability Population)

B. 2nd add the weighted score of: 20% x (County 65+ Population/State 65+ Population)

C. 3rd add the weighted score of: 40% x (County Quantile Average of Land Area/Population)

D. 4th multiply this score of each County by the available funds;

E. 5th divide it by 100.

F. 6th sum up all the County scores from within each CIL's catchment area.

CILS whose catchment areas share a County shall report to the Department, how they will allocate County scores between them. If these CILS do not reach an agreement, the Department shall determine and document the allocation of County scores between the CILS.

9.208 RECORDS [Rev. eff. 4/1/13]

In addition to complying with applicable EDGAR record keeping requirements, centers that receive financial assistance from the SILS program will maintain records that fully disclose and document:

A. The amount and disposition by the center of that funding;

B. The total cost of the IL services;

C. The amount of that portion of the cost of the IL services supplied by other sources; and,

D. Compliance with regulations pertaining to the SILS program; and,

1. Records that the Director, Division of Vocational Rehabilitation or the Secretary of the federal Department of Education determines to be appropriate to facilitate an effective audit.

2. Access to Records

For the purpose of conducting audits, examinations, compliance reviews and verification of information in the annual performance report, centers that receive funding from the SILS program will provide access to the Director, the Secretary of the federal Department of Education, and the Comptroller General, or any of their duly authorized representatives, to these records; and,

a. Any other books, documents, papers, and records of the recipients that are pertinent to the financial assistance received to provide IL services; and,

b. All consumer service records for individuals served with funds received from the SILS program, including names, addresses, and records of evaluation included in those consumer service records.

9.209 EVALUATION OF CENTERS: ENFORCEMENT PROCEEDINGS [Rev. eff. 7/1/12]

With regards to enforcement proceedings, DVR shall comply with all federal rules and regulations, incorporated herein by reference, including 34 CFR 366.40, 366.41, 366.42, and 366.43. Any appeal will follow CFR 366.44, 366.45, and 366.46. This rule does not contain any later editions of those parts. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publications Depository Library.

9.209.1 Modification of Enforcement Proceedings [Rev. eff. 7/1/12]

If the funds received by the center under the SILS program include federal funds administered by the Colorado Department of Human Services in accordance with, and incorporated herein by reference, Section 723 Title VII of the Federal Act, as defined in Section 9.202, the enforcement procedures required by 34 C.F.R. 366.40 through 366.46 under the authority of 29 U.S.C. Section 711(c) and 796F-2 (g) and (i), as defined in Section 9.202, will be included in enforcement proceedings with respect to the Section 723 federal funds only, as defined in Section 9.202 (Federal Act). This rule does not contain any later editions of those parts. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

9.209.2 TERMINATION OF FUNDS [Rev. eff. 4/1/13]

A center's funds may be terminated for:

A. Failure to meet the requirements of 34 CFR 366.40 through 366.46. This rule does not contain any later editions of those parts. Copies of these regulations are available from: Colorado Department of Human Services, Division of Vocational Rehabilitation, 1575 Sherman Street, Denver, Colorado 80203; or at any State Publication Depository Library.

B. Failure to meet contract requirements within the statement of work and its exhibits including, but not limited to, general and special provisions.

C. A decision to terminate funding will also terminate the organization's certification as a center. Refer to Section 9.203.3 for clarification on re-certification.

9.400 BUSINESS ENTERPRISE PROGRAM (BEP) [Rev. eff. 7/1/08]

The purpose of the Business Enterprise Program is to provide individuals who are blind with remunerative employment, ever enlarging business opportunities, and ongoing empowerment with a greater effort toward self sufficiency, and a commitment to cooperation, excellence, and a positive public image.

9.400.1 Definitions [Rev. eff. 7/1/08]

Terms, unless otherwise indicated in these BEP rules, are defined as follows:

"Active participation" means an ongoing process of negotiations between the State licensing agency and the Committee of Licensed Blind Vendors to achieve joint planning and approval of program policies, standards and procedures affecting the overall operation of the vending facilities program, prior to their implementation by the State licensing agency. The implementation of agreed-upon policies, standards and procedures affecting the overall operation of the vending facilities program, shall be subject to review

by the Committee of Licensed Blind Vendors. The State licensing agency bears final authority and responsibility for the administration and operation of the Business Enterprise Program including final approval of program policies, standards, and procedures affecting the program.

"Business enterprise" means the automatic vending machines, cafeterias, snack bars, car service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind vendors and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and includes the vending or exchange of changes for any lottery authorized by State law and conducted by an agency of the State within such State, including like locations being operated by operators in a training status prior to licensure.

"Cafeteria" means a food dispensing facility capable of providing a broad variety of prepared foods and beverages, including hot meals, primarily through the use of a line where the customer serves himself from displayed selections. A cafeteria may be fully automatic or some limited waiter or waitress service may be available and provided within a cafeteria and table or booth seating facilities are always provided.

"Debt" means an obligation or liability to pay when due.

"Direct competition" means the presence and operation of a vending machine or another business which is on the same premises or in close proximity to a business enterprise, especially if it vends or sells anything normally sold by a business enterprise, and if it is so located that it attracts customers who would otherwise patronize the business enterprise.

"Individual location" means identities and parameters that are established by the State licensing agency, and may be defined and redefined at the State licensing agency's discretion when it is in the best interest of the program.

A. "Business enterprise", "location", "site", and "vending facility" may be used interchangeably within this document.

B. A vending route is considered to be a location for the purposes of this document.

C. In the case of a contracting arrangement, wherein the contract encompasses an entire campus, base or installation, the State licensing agency will change the definition of the location as defined in the Federal or State contract.

D. An individual location may only be assigned to one blind vendor, unless the State licensing agency approves another written arrangement. Only the assigned blind vendor may have a financial interest in a location.

"Licensed blind vendor" means a blind person licensed by the State licensing agency to operate a vending facility on federal, state or other property.

"Management services" means oversight, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services provided on a systematic basis.

"Operate a vending facility" means managing a business enterprise on Federal, State or other property. "Operate" and "manage" shall be used interchangeably.

"State Licensing Agency" means the Business Enterprise Program in the Division of Vocational Rehabilitation Services, which administers the Program and issues licenses to blind persons for the operation of business enterprises on Federal, State or other property.

"Trainee" means a blind person who is participating in the formal Business Enterprise Program training course or has successfully completed the formal Business Enterprise Program training course and has been certified to operate a business enterprise in a training status prior to licensure.

~~"Unassigned vending machine income" means income that accrues to the State licensing agency from commissions that vending companies pay on proceeds from vending machines on Federal, State and other property in which there is no on-site blind vendor.~~

~~"Vending facility" means automatic vending machines, cafeterias, snack bars, cart services, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State within such State.~~

~~"Vending machine" means, for the purpose of assigning vending machine income, a coin, currency, or credit card operated machine which dispenses articles or provides recreational or other services.~~

~~"Vending machine income" means receipts, other than those of a blind operator, from vending machines operated on Federal, State or other property, after deduction of the cost of goods sold, including reasonable service and maintenance costs in accordance with customary business practices of commercial vending concerns, where the machines are operated, serviced, or maintained by or with the approval of a department, agency, or instrumentality of the United States or the State of Colorado; or commissions paid, other than to a blind operator, by a commercial vending concern which operates, services, and maintains vending machines on Federal, State or other property, for, or with the approval of a department, agency, or instrumentality of the United States or State of Colorado.~~

~~9.401 ELIGIBILITY [Rev. eff. 7/1/08]~~

~~In selecting persons to be operators of the Business Enterprise Program, preference shall be given to persons who are in need of employment and who have been determined to be:~~

~~A. Blind as defined by Section 26-8.5-101(1), C.R.S.;~~

~~B. Citizens of the United States;~~

~~C. Able to successfully pass all State and Federal background investigations;~~

~~D. Free from infectious diseases as defined by the Department of Public Health and Environment for food handling (6 CCR 1010-2, Section 2-201);~~

~~E. Free from any felony conviction or pattern of misdemeanor convictions;~~

~~F. Successful in the completion of Business Enterprise Program Training Program;~~

~~G. Qualified to operate a business enterprise, either as a blind vendor in a training status or as a licensed blind vendor, as deemed by the State licensing agency;~~

~~H. Eighteen (18) years of age or older; and,~~

~~I. In possession of a high school diploma or GED.~~

~~9.402 LICENSURE OF BLIND OPERATORS [Rev. eff. 7/1/08]~~

~~The State licensing agency shall be free to develop levels of distinction or classes of licensing. Issuance and conditions of licenses:~~

~~A. The State licensing agency shall provide for the issuance of licenses for an indefinite period but subject to suspension or termination.~~

B. The State licensing agency shall further establish in writing and maintain policies which have been developed with the active participation of the State Committee of Blind Vendors and which govern the duties, supervision, transfer, promotion, and financial participation of the vendors. The State licensing agency shall also establish procedures to assure that such policies have been explained to each blind vendor.

C. Licensing is also contingent upon stabilized employment for a minimum of ninety (90) calendar days and determined to be successful jointly by the State licensing agency and the Division of Vocational Rehabilitation counselor. Upon completion of ninety (90) calendar days, an evaluation will be conducted by the State licensing agency to determine if the applicant is eligible for a license or must continue training.

9.402.1 Property Right [Rev. eff. 7/1/08]

A license shall not create any property right for the licensee to whom it is issued and shall be deemed only to inform the public and other interested parties that the licensee has successfully completed the required Program training and is qualified and authorized to operate a business enterprise in the State of Colorado.

9.402.2 Termination of a License [Rev. eff. 7/1/08]

Any license issued to a blind vendor for the operation of a business enterprise may be terminated when:

A. The State licensing agency finds that the business enterprise is not being operated in accordance with the rules and regulations, the terms and conditions governing the facility agreement, contract or Federal permit for the particular location, or the written agreement with the licensed blind vendor.

B. There is proof of improvement of vision so that the operator no longer meets the definition of blindness, for which the State licensing agency may require proof at any time.

C. There is an extended illness with medically-documented diagnosis of prolonged incapacity of the licensed blind vendor to operate the business enterprise in a manner consistent with the needs of the location or other available locations in the Business Enterprise Program. The blind vendor may return to the program if he/she provides documentation that his/her physician deems improved physical condition that he/she may return to work and the State licensing agency is in agreement.

D. The licensed blind operator withdraws from the program by notice to the program; the blind vendor cannot return to the program until all debt have been satisfied and his/her return has been evaluated and approved by the State licensing agency. He/she may regain a license upon the application for and review by the State licensing agency.

E. The licensed blind vendor fails to appear and manage, or arrange for management of, the location without prior written notification to the State licensing agency and approved by the State licensing agency.

F. If the licensed blind vendor does not abide by provisions covered by Operator Agreement, including all obligations and debt.

G. The Operator Agreement is no longer in effect.

H. A licensed blind vendor elects not to submit for or operate any available location. He/she will be considered to have lost the license after ninety (90) calendar days and be evaluated by the State licensing agency and the Business Enterprise Program trainer before a license may be reinstated as a licensed blind vendor.

I. The licensed blind vendor is convicted of a felony or pattern of misdemeanors and/or fails to self-report a felony or misdemeanor arrest or charge.

J. The licensed blind vendor displays violence, threats, harassment, intimidation, or other disruptive behavior. Individuals committing such acts may also be subject to criminal penalties.

9.403 ELECTION, ORGANIZATION, AND FUNCTIONS OF A COMMITTEE OF LICENSED BLIND VENDORS

9.403.1 Elections [Rev. eff. 7/1/08]

The State licensing agency shall provide for an election among the licensed blind vendors to establish a committee that will be representative of licensed blind vendors/trainees in all areas of the State. Members shall be elected to serve a two-year term. The election shall be to replace or re-elect those members who have served for two years.

The State licensing agency shall provide for the election of a State Committee of Licensed Blind Vendors which, to the extent possible, shall be fully representative of all blind vendors in the State of Colorado Business Enterprise Program on the basis of such factors as geography and vending facility type with a goal of providing for proportional representation of licensed blind vendors/trainees on Federal, State, and other property. Participation by any licensed blind vendor/trainee in any election shall not be conditioned upon the payment of dues or any other fees.

9.403.2 Purpose of the Committee of Licensed Blind Vendors [Rev. eff. 7/1/08]

The State Committee of Licensed Blind Vendors shall perform the following functions:

A. Actively participate with the State licensing agency in major administrative decisions and policy and program development decisions affecting the overall administration of the State's vending facility program;

B. Receive and transmit to the State licensing agency grievances at the request of blind vendors and serve as advocates for such vendors in connection with such grievances;

C. Actively participate with the State licensing agency in the development and administration of a State system for the transfer and promotion of blind vendors;

D. Actively participate with the State licensing agency in the development of training and retraining programs for blind vendors; and,

E. Sponsor, with the assistance of the State licensing agency, meetings and instructional conferences for blind vendors within the State.

9.404 STATE LICENSING AGENCY RESPONSIBILITY [Rev. eff. 7/1/08]

The State licensing agency shall have the ultimate responsibility for the Business Enterprise Program. If the State licensing agency does not adopt written positions of the Committee of Licensed Blind Vendors, it shall notify the Committee of Licensed Blind Vendors. The State licensing agency will maintain operational procedures to secure the day to day function of the State licensing agency.

The following are responsibilities of the State licensing agency: The State licensing agency shall:

A. Cooperate with the Secretary of Education in applying the requirements of the Randolph-Sheppard Act in a uniform manner (20 USC 107 – no amendments or later editions are incorporated. A copy is available for inspection at the Colorado Department of Human Services, Division of Vocational Rehabilitation, Office of the Director, 1575 Sherman Street, Denver, Colorado 80203; or any state publications depository library);

B. Take effective action, including the termination of licenses, to carry out full responsibility for the supervision and management of each vending facility in its program in accordance with its established rules and regulations, this part, and the terms and conditions governing the permit;

C. Submit promptly to the Secretary of Education for approval a description of any changes in the legal authority of the State licensing agency, its rules and regulations, blind vendor agreements, schedules for the setting aside of funds, contractual arrangements for the furnishing of services by a nominee, arrangements for carrying general liability and product liability insurance, and any other matters which form a part of the application;

D. If it intends to set aside, or cause to be set aside, funds from the net proceeds of the operation of vending facilities, obtain a prior determination by the Secretary of Education that the amount of such funds to be set aside is reasonable;

E. Establish policies against discrimination of any licensed blind vendor/trainee on the basis of sex, age, physical or mental impairment, creed, color, national origin, or political affiliation;

F. Furnish each licensed blind vendor/trainee a copy of the rules and regulations and a description of the arrangements for providing services, and take adequate steps to assure that each vendor understands the provisions of the permit and any agreement under which he/she operates, as evidenced by his/her signature;

G. Submit to an arbitration panel those grievances of any licensed blind vendor unresolved after a full evidentiary hearing;

H. Adopt accounting procedures and maintain financial records in a manner necessary to provide for each vending facility and for the State's vending facility program a classification of financial transactions in such detail as is sufficient to enable evaluation of performance; and,

I. Maintain records and make reports in such form and containing such information as the Secretary of Education may require, make such records available for audit purposes, and comply with such provisions as the Secretary of Education may find necessary to assure the correctness and verification of such reports.

9.405 SET-ASIDE FUND [Rev. eff. 7/1/08]

A set-aside fund shall be established. Set-aside may also be used in the State of Colorado for suitable site development.

A. The State licensing agency shall establish in writing the extent to which funds are to be set aside or caused to be set aside from the net proceeds of the operation of the vending facilities and, to the extent applicable, from vending machine income in an amount determined by the Secretary of Education to be reasonable pursuant to 34 CFR 395.3(a)(11)(iv). No amendments or later editions are incorporated. A copy is available for inspection at the Colorado Department of Human Services, Division of Vocational Rehabilitation, Office of the Director, 1575 Sherman Street, Denver, Colorado 80203; or any state publications depository library.

B. Funds may be set aside under paragraph A, above, of this section only for the purposes of:

1. Maintenance and replacement of equipment;

2. The purchase of new equipment;

3. Management services;

4. Assuring a fair minimum of return to vendors; or,

5. The establishment and maintenance of retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is so determined by a majority vote of blind vendors licensed by the State licensing agency, after such agency provides to each such vendor information on all matters relevant to such proposed purposes.

C. The State licensing agency shall:

1. Further set out the method of determining the charge for each of the above purposes listed in this section, which will be determined with the active participation of the State Committee of Licensed Blind Vendors and which will be designed to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required for that purpose.

2. Maintain adequate records to support the reasonableness of the charges for each of the purposes listed in this section, including any reserves necessary to assure that such purposes can be achieved on a consistent basis.

9.405.1 Set-Aside Assessment [Rev. eff. 7/1/08]

A. The set-aside assessment (or administrative fee) is a charge levied against the net proceeds of each vending facility, which represents a certain percentage of the net proceeds realized as a result of the facility's operation.

The blind vendor is responsible for the payment to the agency of this assessment each month.

B. Net proceeds are determined from net sales, less merchandise cost and other allowable business expenses, plus commissions, vending machine income remitted to the licensed blind vendor, and rebates and bonuses paid to the licensed blind vendor.

The amount of set-aside assessment may not be deducted as an expense in computing net proceeds.

C. The percentage of net proceeds to be paid to the agency by each blind vendor is predicated upon a schedule negotiated between the State licensing agency and the Committee of Licensed Blind Vendors, determined to be sufficient for the operation of the Business Enterprise Program, while at the same time allowing for the retention of reasonable reserves by the State licensing agency. In no event shall any negotiated schedule exceed a maximum of thirteen percent (13%), nor shall any new schedule be implemented without the approval of the U.S. Rehabilitation Services Administration.

9.405.2 Schedule [Rev. eff. 7/1/08]

In accordance with current accounting schedule, operators shall remit payments plus business expenses determined reasonable at the discretion of the State licensing agency.

9.406 FINANCIAL REPORTING [Rev. eff. 7/1/08]

A. Each vending facility blind operator must file with the agency a monthly financial report of his/her business operation.

1. The report (turn-in) and the payment of set-aside assessments currently due the State licensing agency shall be determined according to the Operator Agreement.

2. If the State licensing agency's technology permits, the blind vendor may be afforded the opportunity to file his/her reports and pay fees on-line according to the deadline provided in the Operator Agreement.

3. Each blind vendor must maintain and provide itemization and documentation according to the Operator Agreement.

B. Falsification of records by the blind vendor, as validated by the State licensing agency or other State entity, will result in the termination of a blind vendor license without placing the blind vendor on probation.

C. Only the assigned licensed blind vendor/trainee for a location may have an economic interest in that location. No employee of the State licensing agency, it's contractors or subcontractors, or other licensed blind vendor/trainee shall have any personal or economic interest whatsoever in the location, unless covered of superseded by a separate written agreement with the State licensing agency.

D. Each licensed blind vendor/trainee shall be permitted access to all financial data of the State licensing agency relevant to the operation of the Business Enterprise Program, including alternative formats and media acceptable to the licensed blind vendor/trainee and in compliance with current HIPAA and Division of Vocational Rehabilitation rules.

9.407 VENDING MACHINE INCOME [Rev. eff. 7/1/08]

The State licensing agency will have the right to negotiate with other State agencies regarding the sharing of commission proceeds from vending machines on State property (Section 26-8.5-100 through 26-8.5-107, C.R.S.). Unassigned vending machine income will be disbursed only after determined by the State licensing agency that the licensed blind vendor/trainee is debt free to the program. All unassigned vending machine income disbursement will be applied to past due or existing debt. Distribution and use of income from vending machines on Federal, State, and other property is as follows:

A. Vending machine income from vending machines on Federal, State, or other property, which has been disbursed to the State licensing agency by a property managing department, agency, or instrumentality of the United States shall accrue to each licensed blind vendor/trainee operating a vending facility on such Federal property in each State in an amount not to exceed the average net income of the total number of licensed blind vendor/trainees within such State, as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind vendor in any amount exceeding the average net income of the total number of licensed blind vendor/trainees in the United States.

B. No licensed blind vendor/trainee shall receive less vending machine income than he/she was receiving during the calendar year prior to January 1, 1974, as a direct result of any limitation imposed on such income under this paragraph. No limitation shall be imposed on income from vending machines, combined to create a vending facility, when such facility is maintained, serviced, or operated by a licensed blind vendor/trainee. Vending machine income disbursed by a property managing department, agency or instrumentality of the United States to a State licensing agency in excess of the amounts eligible to accrue to licensed blind vendor/trainees in accordance with this paragraph shall be retained by the appropriate State licensing agency.

C. The State licensing agency shall disburse vending machine income to licensed blind vendor/trainees within the State on at least a quarterly basis. Vending machine income which is retained under paragraph A of this section by a State licensing agency shall be used by such agency for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for blind vendors in such State, if it is so determined by a majority vote of blind vendors licensed by the State licensing agency, after such agency has provided to each such vendor information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes shall be used by the State licensing agency for the maintenance and replacement of equipment, the purchase of new equipment, management services, and assuring a fair minimum return to vendors. Any assessment charged to blind vendors by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

9.408 POLICY AND PROCEDURES [Rev. eff. 7/1/08]

The State licensing agency determines procedures through an internal policy manual.

9.409 LICENSED BLIND AGREEMENTS, RESPONSIBILITIES, AND LOCATION

9.409.1 Operator Agreement [Rev. eff. 7/1/08]

A. The licensed blind vendor and the State licensing agency shall enter into an agreement concerning operation of a vending facility.

B. The Operator Agreement will:

1. Identify the individual location/vending facility;

2. Define the nature, scope and, responsibilities of the licensed blind vendor concerning operation of a specified vending facility;

3. Define management services offered by the State licensing agency;

4. Identify allowable business expenses.

C. Execution of the Operator Agreement

The Operator Agreement must be signed prior to the blind vendor's acceptance of an individual location/vending facility. A blind vendor's failure to execute the operator's agreement, within the allotted time period designated by the State licensing agency, shall result in the blind vendor surrendering his/her opportunity to manage the individual location/vending facility for which the agreement was prepared. A new agreement must be signed each time the blind vendor accepts the opportunity to manage an individual location/vending facility, whether permanent or temporary.

D. Expiration of Operator Agreement

The Operator Agreement will expire annually. The Operator Agreement may be renegotiated prior to expiration.

9.409.2 Location Transfer and Promotion [Rev. eff. 7/1/08]

The promotion of a blind vendor to a new location will be through a selection procedure established by the State licensing agency with participation of the Committee of Blind Vendors.

A blind vendor shall be transferred from his/her assigned location only when the transfer will directly benefit the blind vendor or will be in the best interest of the Business Enterprise Program, giving preference to the blind vendor having demonstrated the most ability in management of a business enterprise. If there should be two or more blind vendors with equal qualifications, then the blind vendor with the greater amount of seniority shall be awarded the location.

A. A location may be temporarily transferred for ninety (90) days or until such time that the location is made available. The 90 days can be extended with good cause at the discretion of the State licensing agency when the transfer is in the best interest of the Business Enterprise Program. The State licensing agency will establish policies and procedures for temporary locations. The State licensing agency will adopt and use as criteria the transfer and promotion policies established by the State licensing agency with the participation of blind vendors.

B. Unless otherwise determined by the State licensing agency, when a new location has been awarded to a blind vendor, he/she may not maintain their former location beyond ninety (90) calendar days. If the previous location is put out for the selection process and no qualified operators respond, the blind vendor may assume it thereafter in increments of ninety (90) calendar days. After each ninety (90) calendar days, the location may be reviewed to be put out for the selection process.

9.410 BLIND VENDOR INDEBTEDNESS TO THE BUSINESS ENTERPRISE PROGRAM [Rev. eff. 7/1/08]

A present or past blind vendor's indebtedness to the Business Enterprise Program, which becomes past due, shall include any and all collection charges, attorney fees, court costs and all expenditures directly or indirectly incurred due to that debt. The blind vendor agrees to pay any and all debt on time. If a debt to the State licensing agency is thirty (30) days past due, the State licensing agency may refer the past due amount to collections in accordance with Colorado Department of Personnel and Administration, Office of the Executive Director, Accounts Receivable Collections Administrative Rule 1.37. If an account is referred to collections, the State licensing agency will have the right to immediately remove the blind vendor from the assigned location(s). Failure to meet payment deadlines allows the State licensing agency to offset monies due to blind vendor against existing debt without the prior approval of the blind vendor.

Unassigned vending machine income is disbursed only after it has been determined that the blind vendor is in good standing, not in arrears to the program. Otherwise, all unassigned vending machine income will be applied to debt.

9.411 EQUIPMENT AND INITIAL MERCHANDISE INVENTORY

9.411.1 Furnishing Equipment and Initial Merchandise Inventory [Rev. eff. 7/1/08]

All furnishing of equipment and initial merchandise inventory will be subject to availability of funds.

A. The State licensing agency will furnish an adequate initial stock of merchandise for resale, and other related inventory items for the successful initial operation of the business enterprise for trainees or newly established locations.

B. The State licensing agency shall purchase or cause to be furnished suitable equipment, utensils, and supplies for initial operation, and shall provide for the maintenance and repair of such equipment for each particular business enterprise. The State licensing agency shall replace (or cause to be replaced) worn-out or obsolete equipment as required to assure the continued successful operation of the business enterprise.

C. The blind vendor shall be responsible for routine day to day care of the equipment and items considered disposable by the State licensing agency.

D. The State licensing agency is solely authorized to initiate repair calls. Any expenses incurred due to blind vendor origination of repair calls will be the responsibility of that blind vendor, unless individual negotiations have been made.

E. The State licensing agency may require the blind vendor to conduct a physical inventory of all merchandise and supplies; schedule to be determined by the State licensing agency.

9.411.2 Right, Title to, and Interest in Business Enterprise Equipment and Merchandise Inventory [Rev. eff. 7/1/08]

The right, title to, and interest in all Business Enterprise equipment shall be held by the Business Enterprise Program of the State of Colorado with the exception of operator ownership. The State licensing agency shall also retain equity in the merchandise inventory of each business enterprise equal to the value of the merchandise inventory initially furnished by the State licensing agency.

Each fiscal year, upon receiving funding, the State licensing agency shall notify the Committee of Licensed Blind Vendors in order to designate a representative subcommittee to collaborate with the State licensing agency in order to establish the amount of equipment expenditures. No blind vendor on the committee may advocate for his/her own location.

9.412 TRAINING PROGRAM [Rev. eff. 7/1/08]

A training program shall be afforded to prospective blind vendors to qualify them to operate a business enterprise in accordance with accepted business practices. Furthermore, additional training or retraining for improving management abilities for all blind vendors shall be provided by the State licensing agency with the cooperation of the Division of Rehabilitation Services.

All training programs for the Business Enterprise Program will be in accordance with Federal rules and regulations. Trainees must complete established training programs within a twelve (12) month period, unless special circumstances are approved by the State licensing agency. Upon completion of the training program, the State licensing agency may assign the trainee any location deemed to be suitable to the abilities of the trainee. The State licensing agency, in collaboration with the elected Committee of Licensed Blind Vendors, shall establish and make available mandatory continuing education.

9.413 RIGHTS OF APPEAL AND FORMAL APPEAL PROCESS

9.413.1 RIGHT OF APPEAL [Rev. eff. 7/1/08]

A. A licensed blind vendor who is dissatisfied with any determination made by the Business Enterprise Program staff that affects a provision of Business Enterprise Program services may request a formal appeal.

B. A licensed blind vendor, upon successful completion of Business Enterprise Program training, shall be notified of his/her appeal rights.

C. A licensed blind vendor is responsible for costs associated with his/her appeal unless otherwise ordered.

9.413.2 Formal Appeal Process [Rev. eff. 7/1/08]

A. A written request for a formal appeal must be submitted to the Colorado Department of Personnel and Administration, Office of Administrative Courts (OAC) within ninety (90) calendar days of the subject determination made by the Business Enterprise Program staff that affects a provision of Business Enterprise Program services.

B. The written request must be a statement detailing the basis of appeal, including a description of the subject determination made by the Business Enterprise Program staff that affects a provision of Business Enterprise Program services and specify what relief is requested.

C. When a licensed blind vendor requests a formal appeal, the Business Enterprise Program is authorized to enter into settlement negotiations with the appellant as part of the litigation process in the interest of making every effort to resolve disputes at the lowest possible level.

D. A licensed blind vendor and the Business Enterprise Program may voluntarily participate in mediation through the OAC. Mediation may not be used to deny or delay a licensed blind vendor's right to pursue resolution of the dispute through the formal appeal process unless both parties agree that additional time is necessary for mediation.

9.413.3 FORMAL APPEAL BEFORE THE OFFICE OF ADMINISTRATIVE COURTS [Rev. eff. 7/1/08]

A. When the OAC receives a request for a formal appeal, the OAC shall notify the business enterprise program that the request has been docketed and send a copy of the formal appeal request to the Business Enterprise Program.

B. The Business Enterprise Program shall serve a Notice to Set an Informal Pre-hearing Conference within ten (10) calendar days of receipt of the formal appeal request from the OAC. The purpose of the informal pre-hearing conference shall be to:

1. Set the date by which the Business Enterprise Program shall provide to the licensed blind vendor and to the OAC the specific incidents supporting Business Enterprise Program's determination that affects a provision of business enterprise program services;

2. Set the date by which the licensed blind vendor shall provide a response to Business Enterprise Program's notice of specific incidents supporting the Business Enterprise Program's determination;

3. Set within the time period specified in paragraph D of this section, the case for hearing on the merits; and,

4. Arrange for expedited discovery schedules, motion dates, and pre-hearing conferences as necessary.

C. If a licensed blind vendor fails to provide, within the prescribed time, a response to the Business Enterprise Program's notice of specific incidents supporting the Business Enterprise Program's determination, the OAC shall deem the formal appeal to have been abandoned by a licensed blind vendor and render an initial decision dismissing the formal appeal. In accordance with the procedures set forth in Section 9.413.4, the Office of Appeals may reinstate the formal appeal for good cause shown by a licensed blind vendor.

D. The Administrative Law Judge shall conduct the hearing within sixty (60) calendar days of a licensed blind vendor's request for formal appeal unless both parties agree additional time is necessary.

E. The Administrative Law Judge shall conduct the hearing on formal appeal in accordance with the Administrative Procedure Act, Section 24-4-105, C.R.S. The rights of the parties include:

1. Each party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct cross-examination.

2. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be subsequently prejudiced thereby, the Administrative Law Judge may receive all or part of the evidence in written form or by oral stipulations.

3. A telephonic hearing may be conducted as an alternative to a face-to-face hearing unless either party requests a face-to-face hearing in writing. The written request for a face-to- face hearing must be filed with the OAC and the other party at least ten (10) calendar days before the scheduled hearing.

F. At the conclusion of the hearing, unless the Administrative Law Judge allows additional time to submit documentation, the Administrative Law Judge shall take the matter under advisement. After considering all the relevant evidence presented by the parties, the Administrative Law Judge shall render an Initial Decision for review by the Colorado Department of Human Services, Office of Appeals.

G. The Initial Decision shall uphold, modify or reverse the Business Enterprise Program's determination affecting a provision of Business Enterprise Program services of a licensed blind vendor.

H. The Initial Decision shall be rendered within thirty (30) calendar days of the completion of the hearing.

I. When an appellant fails to appear at a duly scheduled hearing, having been given proper notice, without having given timely advance notice to the Administrative Law Judge of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned and the Administrative Law Judge shall enter an Initial Decision Dismissing Appeal. In accordance with the procedures set forth below, the Office of Appeals may reinstate the appeal for good cause shown by the Appellant.

9.413.4 STATE DEPARTMENT, OFFICE OF APPEALS FUNCTIONS [Rev. eff. 7/1/08]

A. Review of the Initial Decision and hearing record, and entry of the Final Agency Decision, shall be pursuant to State rules at Sections 3.850.72 - 3.850.73 (9 CCR 2503-1).

B. Review shall be conducted by a State adjudicator in the Office of Appeals not directly involved in any prior review of the Business Enterprise Program's determination affecting a provision of Business Enterprise Program services of a licensed blind vendor.

C. If a licensed blind vendor is dissatisfied with the decision rendered after a full evidentiary hearing, he/she may request, within thirty (30) work days of his or her receipt of such decision, that an arbitration panel be convened by filing a complaint with the Secretary of the Department of Education, authorized by Section 5(a) of the Randolph-Sheppard Act and 34 CFR, Section 395.13(a). No amendments or later editions are incorporated. A copy is available for inspection at the Colorado Department of Human Services, Division of Vocational Rehabilitation, Office of the Director, 1575 Sherman Street, Denver, Colorado 80203; or any state publications library.

D. The Final Agency Decision shall advise a licensed blind vendor of his/her right to seek judicial review in the State District Court, City and County of Denver, if the appellant had timely filed exceptions to the Initial Decision.

E. If a licensed blind vendor seeks judicial review of the Final Agency Decision, the Business Enterprise Program shall be responsible for defending the Final Agency Decision on judicial review.

9.414 CONFIDENTIALITY [Rev. eff. 7/1/08]

All information concerning licensed blind vendors/trainees given or made available to the State licensing agency, its representatives, or its employees shall be held to be confidential in accordance with Vocational Rehabilitation services and HIPAA rules and regulations.

9.500 - 9.900 (None)

Editor's Notes

History
Section 9.600 repealed eff. 11/01/2007.
Section 9.400 eff. 07/01/2008; Repealed 9.900 eff. 07/01/2008. Section 9.100 eff. 12/01/2008.
Sections SB&P, 9.100 eff. 06/01/2012. Sections SB&P, 9.200 eff. 07/01/2012.
Sections SB&P, 9.102-9.108, 9.203.1-9.208, 9.209.2 eff. 04/01/2013.
Sections SB&P, 9.100 eff. 10/01/2014. Sections SB&P, 9.207.3 eff. 05/01/2016.

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Office of the Attorney General

Tracking number: 2017-00159

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Rehabilitation (Volume 9)

on 07/07/2017

12 CCR 2513-1

RULE MANUAL VOLUME 9, REHABILITATION SERVICES

The above-referenced rules were submitted to this office on 07/13/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

July 25, 2017 14:32:16

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Terminated Rulemaking

Department

Department of Regulatory Agencies

Agency

Public Utilities Commission

CCR number

4 CCR 723-2

Tracking number

2016-00288

Termination date

07/24/2017

Reason for termination

Tracking Number 2016-00288 is no longer needed because the rulemaking process continues and will be concluding in Tracking Number 2016-00322.

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 07/21/2017

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 204-10 Rule 11
Emergency Vehicle Authorization

There will be a public workshop held for discussion of the above rule on:

Date: **Monday, September 11, 2017**

Time: **9:30-10:30a.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
Code 514-270-390

We look forward to seeing you at this workshop.

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 08/03/2017

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 8
Driver Testing and Education Program Rules and Regulations

There will be a public workshop held for discussion of the above rule on:

Date: **Thursday, August 31, 2017**

Time: **2:30-3:30 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:

Please join my meeting from your computer, tablet or smartphone.
https://global.gotomeeting.com/join/383155405

You can also dial in using your phone.
United States: +1 (872) 240-3412

Access Code: 383-155-405

We look forward to seeing you at this workshop.

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 08/08/2017

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 9
Motorcycle Rules and Regulations for RST Organizations

There will be a public workshop held for discussion of the above rule on:

Date: **Wednesday, August 16, 2017**

Time: **12:00-1:00 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:

Please join my meeting from your computer, tablet or smartphone.
https://global.gotomeeting.com/join/383155405

You can also dial in using your phone.
United States: +1 (872) 240-3412

Access Code: 383-155-405

We look forward to seeing you at this workshop.

Calendar of Hearings

Hearing Date/Time	Agency	Location
09/25/2017 09:00 AM	Division of Motor Vehicles	1881 Pierce Street, Lakewood CO 80214: Rm 110 (Board/Commission Meeting Room)
09/07/2017 08:30 AM	Colorado Parks and Wildlife (405 Series, Parks)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
09/07/2017 08:30 AM	Colorado Parks and Wildlife (405 Series, Parks)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
09/07/2017 08:30 AM	Colorado Parks and Wildlife (405 Series, Parks)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
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09/07/2017 08:30 AM	Colorado Parks and Wildlife (405 Series, Parks)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
09/07/2017 08:30 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
09/07/2017 08:30 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
09/07/2017 08:30 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
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09/07/2017 08:30 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
09/07/2017 08:30 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	the Steamboat Grand, 2300 Mount Werner Circle, Steamboat Springs, CO 80487
09/01/2017 10:00 AM	Division of Insurance	1560 Broadway, Ste 110 D, Denver CO 80202
09/21/2017 10:00 AM	Division of Professions and Occupations - State Board of Pharmacy	1560 Broadway, Ste. 110 D, Denver, CO 80202
09/18/2017 09:00 AM	Public Utilities Commission	Colorado Public Utilities Commission Hearing Room, 1560 Broadway Suite 250 Denver, Colorado 80202
09/11/2017 09:00 AM	Public Utilities Commission	Colorado Public Utilities Commission Hearing Room, 1560 Broadway Suite 250 Denver, Colorado 80202
10/19/2017 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
09/20/2017 10:00 AM	Hazardous Materials and Waste Management Division	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246
09/20/2017 10:00 AM	Hazardous Materials and Waste Management Division	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive South, Denver, CO 80246
09/20/2017 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
09/13/2017 09:30 AM	Division of Workers' Compensation	633 17th St. Denver CO 80202
09/13/2017 09:30 AM	Division of Workers' Compensation	633 17th St. Denver CO 80202
09/13/2017 09:30 AM	Division of Workers' Compensation	633 17th St. Denver CO 80202
09/05/2017 03:00 PM	Division of Homeland Security and Emergency Management	9195 E. Mineral Ave., Centennial, CO 80112, Glasow N3 Room
09/01/2017 10:00 AM	Income Maintenance (Volume 3)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
09/01/2017 10:00 AM	Child Support Enforcement (Volume 6)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
09/08/2017 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	303 East 17th Avenue, 11th Floor, Denver, CO 80203
09/08/2017 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	303 East 17th Avenue, 11th Floor, Denver, CO 80203
09/01/2017 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
09/01/2017 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
09/01/2017 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203
09/01/2017 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203

Calendar of Hearings

Hearing Date/Time	Agency	Location
09/01/2017 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	CDHS, 1575 Sherman Street, 8th Floor, Denver, CO 80203