

Colorado Register



40 CR 5

Volume 40 , No. 5

March 10, 2017

Introduction

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

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

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

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

Notice of Proposed Rulemaking

Tracking number

2017-00094

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-47

Rule title

RULES FOR THE ADMINISTRATION OF THE READ TO ACHIEVE GRANT PROGRAM

Rulemaking Hearing**Date**

04/13/2017

Time

11:45 AM

Location

Colorado Department of Education, State Board Room 101

Subjects and issues involved

Section 24-4-103.3, C.R.S. requires each state agency to review each of its rules for effectiveness and efficiency. The result of this review is a recommendation to repeal, amend, or leave the rule as is. Based on CDE's Administrative Rule Review, it is recommended that the State Board repeal 1 CCR 301-47 as the rules are no longer necessary.

Statutory authority

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

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DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE READ TO ACHIEVE GRANT PROGRAM

1 CCR 301-47

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

2207-R-1.00

Statement of Basis and Purpose. The statutory basis for these rules adopted on August 8, 2007 is found in 22-2-106(1)(a) and (c), State Board Duties; 22-2-107(1)(c), State Board Powers; and 22-7-901 through 22-7-909, the Read to Achieve Grant Program, C.R.S.

The Read to Achieve Grant Program, 22-7-901 through 22-7-909, C.R.S., requires the State Board of Education to promulgate rules which include, but are not limited to: application procedures by which a school may apply for grant funds through this program; criteria for selecting those schools that shall receive grants; the criteria for determining the amount to be granted to the selected schools; procedures for reviewing the effectiveness of the intensive literacy programs operated by schools that receive grants; designation of a valid, reliable read to achieve assessment for schools to use in assessing students' reading proficiency; designation of a date by which the read to achieve board shall annually submit to the department a list of grant recipients and the amount to be awarded to each grant recipient pursuant to section 22-7-905 (4) C.R.S.; and a method for tracking progress of students who move from one school to another school within the state while participating in Read to Achieve programs.

2207-R-2.00

2.01 **Definitions.**

2.01 (1) **Program:** The Read to Achieve Grant Program created in the Department of Education pursuant to 22-7-902, C.R.S., allowing an eligible applicant to apply for a grant to fund intensive , research-based reading programs for kindergarten, first, second and third-grade pupils and pupils between third and fourth grades whose reading readiness or literacy and reading comprehension skills are below the level established by the State Board of Education, pursuant to 22-7-504 C.R.S. and the Rules for the Administration for the Colorado Basic Literacy Act 1 CCR 301-42, for pupils at each grade level.

2.01 (2) **Read to Achieve Board:** A board created pursuant to 22-7-904, C.R.S., which shall consist of eleven members, no more than six of whom are from the same political party, that have been appointed by the Governor, the President of the Senate, the Speaker of the House of Representatives and the State Board of Education. The Commissioner of Education or his or her designee shall also serve on the Read to Achieve Board. The Read to Achieve Board's major duties consist of the solicitation and review of applications for grants under this program and the awarding of grants, including the duration and amount of each grant, pursuant to these Rules.

2.01 (3) **State Board:** The State Board of Education created pursuant to Section 1, Article IX of the State Constitution.

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

- ~~2.01 (5) Eligible Applicant: An eligible public school that applies for a grant or a collaborative group of eligible public schools applying jointly for a grant pursuant to these Rules.~~
- ~~2.01 (6) Eligible Public School: A public school, including a charter school or an Institute Charter School as those schools are described in Article 30.5 of Title 22. The Department shall prepare a list of eligible public schools including a charter schools or an Institute Charter Schools as determined by the Department pursuant to section 22-7-903 C.R.S.~~
- ~~2.01 (7) Read to Achieve Assessment: The assessment that is designated by the State Board as the Read to Achieve Assessment pursuant to 22-7-504 (1) C.R.S. The assessment must be used to assess the reading readiness or literacy and reading comprehension levels of kindergarten through third grade pupils participating in the Read to Achieve Program.~~
- ~~2.01 (8) State Assessment: A statewide assessment adopted by the State Board to measure reading pursuant to section 22-7-406 C.R.S. and administered by the Department as described in 22-7-409 C.R.S.~~
- ~~2.01 (9) Levels of Reading Readiness or Literacy and Reading Comprehension Skills: The proficiency levels established in the Rules for the Administration of the Colorado Basic Literacy Act, adopted in May of 1997 and amended on May 13, 2004 by the State Board of Education in compliance with 22-7-501—505, C.R.S.~~
- ~~2.01 (10) Colorado Department of Education (CDE) — Request for Proposal (RFP) Development Process: The processes and procedures developed by CDE to ensure that all RFP's are consistent with the appropriate funding source, adhere to appropriate statutory requirements, and support the organizational commitment of CDE.~~

2207-R-2.02

2.02 Implementation Procedures.

- ~~2.02 (1) Determination of Eligible Schools. On an annual basis, the Department and the Read to Achieve Board shall prepare and submit to the State Board a list of all eligible schools. Criteria to determine eligible schools, shall include but not be limited to: (a) the percentage of students over time whose reading readiness and reading comprehension levels are less than proficient; and (b) geographic location.~~
- ~~2.02 (2) Application and RFP Procedures. The Department will be the responsible agency for implementing the Read to Achieve Grant Program. The Department, in consultation with the Read to Achieve Board, will develop a Request for Proposal (RFP), pursuant to the Department's RFP process and pursuant to the requirements and timelines found in 22-7-905, C.R.S. The application must include, but need not be limited to:~~
- ~~2.02 (2) (a) The number of kindergarten, first, second, and third grade pupils enrolled at the eligible applicant's school whose reading readiness or literacy and reading comprehension skills are below grade level;~~
- ~~2.02 (2) (b) Evidence that the proposed program is based on a research model that has been proven to be successful in other public schools in the nation to enhance the reading readiness or literacy and reading comprehension skills of kindergarten through third grade students at the school; and~~
- ~~2.02 (2) (c) The cost of the program.~~

- ~~2.02 (3) **Duration and Amount of Grant Awards.** On or before July 1, 2007 and each year thereafter, the Read to Achieve Board shall submit to the Department a list of grant recipients and the amount to be awarded to each grant recipient based upon the criteria outlined in the RFP. The Read to Achieve Board must state the duration (between one and three years) and amount of each grant.~~
- ~~2.02 (4) **Supplement, not Supplant.** Each grant awarded shall be used to supplement not supplant any moneys currently being used on intensive literacy programs already provided for eligible students.~~
- ~~2.02 (5) **Eligible Programs for K-3 Pupils.** Eligible programs for eligible kindergarten through third grade pupils may include, but need not be limited to:~~
- ~~2.02 (5) (a) reading academies operated as schools within schools for intensive reading instruction;~~
- ~~2.02 (5) (b) after-school literacy programs;~~
- ~~2.02 (5) (c) summer school clinics;~~
- ~~2.02 (5) (d) one-on-one or group tutoring services; and~~
- ~~2.02 (5) (e) extended day reading programs.~~
- ~~2.02 (6) **Eligible Programs for Pupils in Between the Third and Fourth Grades.** Any intensive literacy program funded through the program for fourth grade pupils may be offered only between third and fourth grade and shall be designed to raise the participating pupils' literacy and reading comprehension skills to at least the proficiency level on the third grade Read to Achieve Assessment prior to beginning fourth grade classes in the fall semester.~~
- ~~2.02 (7) **Data Collection and Reporting.** Procedures by which grant recipients shall collect and report data for the purpose of determining the effectiveness of the Read to Achieve Grant Program shall be specified in the RFP. The RFP shall include high, but attainable levels of reading readiness and literacy and reading comprehension skills for each eligible grade, pursuant to the Colorado Basic Literacy Act, section 22-7-504 C.R.S. Each school that receives a Read to Achieve grant shall use the Read to Achieve Assessment adopted by the State Board of Education, to assess participating students' reading proficiency and will report this student data to the Department at specified times. Both eligibility for initial funding and continued funding of grants will be based on levels of reading readiness or literacy and reading comprehension skills using the Read to Achieve Assessment adopted by the State Board of Education, and the State Assessment (CSAP) results for the third grade pupils as defined in section 22-7-905 (5) (b) C.R.S.~~
- ~~2.02 (8) **Year Two and Three Funding.** If a school or collaborative group of schools receives a grant pursuant to this section for more than one year, the school(s) shall be eligible for moneys in the second and/or third year of the grant only if the school(s) meets the goals established in its application including the demonstration that at least sixty-five percent of the pupils who completed a one-year instructional cycle of the intensive reading program the prior year reached their achievement goals or otherwise demonstrated that they are on pace to achieve grade level proficiency on the state assessment in reading for their grade level. The Department will establish specific goals and benchmarks for the Read to Achieve Assessment.~~

2.02 (9) **Evaluation of Program.** The Colorado Department of Education will contract with an independent evaluator to conduct an annual evaluation of the program. Individual student achievement data will be collected so progress may be tracked by student identification numbers as students move from one school to another within the state while participating in a Read to Achieve program. Results will be disseminated on or before November 30, 2007 and each year thereafter to the State Board of Education, the Read to Achieve Board, the Governor, the education committees of the Senate and the House of Representatives, or any successor committees, and all Colorado school districts and BOCES as well as other interested parties on the effectiveness of the Read to Achieve Grant Program.

Editor's Notes

History

Entire rule emer. rule eff. 05/10/2007.

Entire rule eff. 09/30/2007.

Notice of Proposed Rulemaking

Tracking number

2017-00095

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-48

Rule title

AMENDED RULES FOR THE ADMINISTRATION OF THE TEACHER DEVELOPMENT
GRANT PROGRAM

Rulemaking Hearing**Date**

04/13/2017

Time

01:00 PM

Location

Colorado Department of Education, State Board Room 101

Subjects and issues involved

Section 24-4-103.3, C.R.S. requires each state agency to review each of its rules for effectiveness and efficiency. The result of this review is a recommendation to repeal, amend, or leave the rule as is. Based on CDE's Administrative Rule Review, it is recommended that the State Board repeal 1 CCR 301-48 as the rules are no longer necessary.

Statutory authority

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

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DEPARTMENT OF EDUCATION

Colorado State Board of Education

AMENDED RULES FOR THE ADMINISTRATION OF THE TEACHER DEVELOPMENT GRANT PROGRAM

1 CCR 301-48

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

2207-R-1.00 Statement of Basis and Purpose.

The statutory basis for these Rules adopted September 14, 2000, is found in 22-2-106(1)(a) and (c), State Board Duties; 22-2-107(1)(c), State Board Powers; and 22-7-701 through 708, the Teacher Development Grant Program, C.R.S.

The Teacher Development Grant Program, 22-7-701 through 708, C.R.S., requires the State Board of Education to promulgate rules which include, but are not limited to: application procedures by which a school may apply for grant funds through this program, criteria for selecting those schools that shall receive grants, the criteria for determining the amount to be granted to the selected schools, and procedures for reviewing the success of the teacher development programs operated by schools that receive grants.

2207-R-1.01 Statement of Basis and Purpose.

The statutory basis for the amendments to these rules adopted on December 12, 2002, is based on the actions of the Committee on Legal Services on August 21, 2001, which has advised the Colorado Department of Education that Section 2.02(3) exceeds the statutory provisions of 22-7-701 through 708, the Teacher Development Grant Program, C.R.S.

2207-R-2.00 Definitions.

2.01 (1) Teacher Development Grant Program.

A grant program created in the Department of Education pursuant to 22-7-701 through 708, C.R.S., allowing any public school to apply for grants to fund teacher development programs which are: research-based; proven to be effective in improving teachers' skills, especially in teaching reading, writing, mathematics, and science; school-based; and collegial.

2.01 (2) Teacher Development Advisory Council.

An advisory board to the State Board of Education created pursuant to 22-7-706, C.R.S. The advisory board's membership and terms of office are defined in 22-7-706, C.R.S. The teacher development council's major duties include the review of applications for grants under this program and recommending to the State Board of Education those public schools that should receive grants under this program and the duration and amount of each grant pursuant to these Rules and the Teacher Development Grant Program Act, 22-7-701 through 708, C.R.S.

2.01 (3) State Board of Education.

An elected board established pursuant to Section 1, Article IX of the State Constitution.

~~2.01 (4) Public School.~~

~~A school that receives a majority of its funding from moneys raised by a general state, county, or district tax, including charter schools, and whose property is owned and operated by a political subdivision of the state.~~

~~2.01 (5) Colorado Department of Education (CDE) – Request for Proposal (RFP) Development Process.~~

~~The processes and procedures developed by CDE to ensure that all RFP's are consistent with the appropriate funding source, adhere to appropriate statutory requirements, and support the organizational commitment of CDE.~~

2207-R-2.02 Implementation Procedures.

~~2.02 (1) Application Procedures.~~

~~CDE will be the responsible agency for implementing the Teacher Development Grant Program. CDE will develop a Request for Proposal (RFP), pursuant to CDE's RFP development procedures and pursuant to the requirements and timelines found in 22-7-701 through 708, C.R.S.~~

~~2.02 (2) Funding Period.~~

~~Grants shall be awarded for a two-year period and may not exceed \$20,000. Grantees may be required to forfeit year two funds if the Teacher Development Advisory Council determines that adequate progress has not been achieved relative to the goals established in the grantee's original application. On expiration of a grant, a school may reapply for a grant by submitting a new proposal pursuant to 2.02(1) of these Rules.~~

~~2.02 (3) Evaluation of Teacher Development Grant Program.~~

~~The Colorado Department of Education will contract with an independent evaluator to conduct periodic evaluations of the program. The first evaluation will be completed prior to January 15, 2002 pursuant to 22-7-707(3), C.R.S. Results will be disseminated to the Governor, the education committees of the Senate and the House of Representatives, the Teacher Development Advisory Council, the State Board of Education, and all Colorado school districts, BOCES, participating schools, as well as other interested parties.~~

Editor's Notes

History

Notice of Proposed Rulemaking

Tracking number

2017-00096

Department

300 - Department of Education

Agency

301 - Colorado State Board of Education

CCR number

1 CCR 301-49

Rule title

RULES FOR THE ADMINISTRATION OF THE SCIENCE AND TECHNOLOGY
EDUCATION CENTER GRANT PROGRAM

Rulemaking Hearing**Date**

04/13/2017

Time

02:45 PM

Location

Colorado Dept of Education, State Board Room 101

Subjects and issues involved

Section 24-4-103.3, C.R.S. requires each state agency to review each of its rules for effectiveness and efficiency. The result of this review is a recommendation to repeal, amend, or leave the rule as is. Based on CDE's Administrative Rule Review, it is recommended that the State Board repeal 1 CCR 301-49 as the rules are no longer necessary.

Statutory authority

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

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DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE SCIENCE AND TECHNOLOGY EDUCATION CENTER GRANT PROGRAM

1 CCR 301-49

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

2281-R-1.00 Statement Of Basis And Purpose

The statutory basis for these rules, adopted on November 8, 2001, is found in Section 22-81-205(1).

The Science and Technology Education Center Grant Program requires the State Board of Education to promulgate rules which include, but are not limited to, application procedures by which a not-for-profit organization may apply for grant funds through this program and criteria for selecting the successful applicants. The statute allows the State Board of Education to add to the statutory criteria.

2281-R-2.00 Definitions

2.01 "Advisory board" means the Science and Technology Education Center Grants Advisory Board created in section 22-81-204, C.R.S.

2.02 "Department" means the state department of education created in section 24-1-115, C.R.S.

2.03 "Grant program" means the Science and Technology Education Center Grant Program created in section 22-81-203, C.R.S.

2.04 "Science and technology education" means educational activities that integrate and stimulate learning, particularly in the areas of mathematics and science, through space flight simulations or through other simulations related to astronomy or space exploration.

2.05 "Science and technology education center" or "center" means a nonprofit center operated by any person or entity or group of persons or entities, including but not limited to, any nonprofit corporation that promotes aviation and aerospace education and provides science and technology education activities, materials, and educational workshops for students and their teachers.

2.06 "Grants" means the funds awarded under the grant program for development and/or operation of the science and technology education center(s).

2.07 "State Board" means the State Board of Education created in section 1 of article six of the State Constitution.

2.08 "Matching funds" means the sum of money (in the form of cash or in-kind contributions) that the entity or group receiving a science and technology education center grant must obtain from other public or private sources. This amount must be equal to or greater than the amount of the grant received through the grant program for development, expansion or improvement, and/or operation of a center. Matching funds relating to capital expenses (e.g., hardware and facilities) are eligible if spent within the year prior to the grant award or after the grant award. Matching

funds relating to operational expenses (e.g., salaries, supplies, software and telecommunications) must be spent after the award is made.

2.09 "In-kind contributions" are calculated at the verifiable fair market value of integral and necessary goods and services directly benefiting and specifically identifiable to the proposed activity.

2.10 "The fund" means the science and technology education fund established in Section 22-81-206, C.R.S.

2.11 "Endorsement" means having a letter or other document indicating that an external, nationally-recognized science and technology education program approves of the program(s) of the center. This may be in the form of a letter of endorsement, a certificate of accreditation, or any like indicator.

2.12 "Fiscal year" means the twelve months from July 1st to June 30th.

2281-R-3.00 Implementation Procedures

3.01 The grant program will be in effect until July 1, 2011, unless repealed by an act of the Colorado general assembly, as long as funds are available through appropriation by the general assembly or from gifts to the fund.

3.02 Beginning on or before January 2, 2002, the State Board of Education, based on the recommendations of the advisory board shall, subject to available appropriations, annually award one or more grants for the development of new projects, expansion and improvement of existing projects and/or for the operations of science and technology education centers.

3.02.1 Awards will be based on recommendations from the advisory committee in the form of a competitive grant program (2281-R-4.00 of these rules).

3.02.2 Beginning in 2003 and subject to the availability of appropriated or gifted funds in the science and technology education fund, the state board will annually award grants, based on advisory committee recommendations, on or before April 15 for the following fiscal year.

3.03 Grants awards for developing a science and technology education center shall not exceed \$500,000 for start-up expenses and may not be renewed.

3.04 Grants awards for operating a center shall not exceed \$200,000 per year subject to the availability of funds in the fund.

3.05 Each center receiving a grant shall provide science and technology education activities to Colorado public school students and materials and educational workshops to Colorado public school teachers.

3.06 The department will expend up to two percent of monies appropriated to the fund to offset the costs incurred in implementing the grant program. Expenses shall include, but not be limited to:

3.06.1 Expenses relative to the development and dissemination of the request for proposal (RFP) and the grant review process, including: staff time, printing, publicity, and other information dissemination efforts.

3.06.2 Advisory committee member expenses, including travel, food and lodging.

2281-R-4.00 The Competitive Grant Program

~~4.01 Applications must include:~~

- ~~4.01.1 Evidence that the actual or proposed location of the science and technology education center in an area of the state that is easily accessible to large numbers of public school students;~~
- ~~4.01.2 Evidence that establishment and ongoing operation of the science and technology education center has the support of the education providers and businesses within the community in which the science and technology education center is or will be located;~~
- ~~4.01.3 Evidence that the proposed or operating science and technology education center has the endorsement of a national science and technology education program that has been in operation in the United States for at least five years;~~
- ~~4.01.4 Evidence that the proposed or operating science and technology education center has secured the use of a facility and a description of that facility and the equipment and other technology to be used;~~
- ~~4.01.5 A description of the equipment and technology that is or will be provided and the activities and range of programs that are or will be offered by the science and technology education center;~~
- ~~4.01.6 Evidence of the receipt of, or a commitment for, the matching funds necessary to obtain moneys through the grant program under the applicant's plan to obtain such matching funds;~~
- ~~4.01.7 Evidence that the activities of the center are closely linked to Colorado school reform by addressing the Colorado performance-based standards for Colorado teachers, the state model content standards and the Colorado grade-level expectations;~~
- ~~4.01.8 Evidence that the activities of the center provide in-service training to Colorado public school teachers and that the curriculum activities complement the grade-level expectations and are not in addition to them.~~
- ~~4.01.9 Evidence that the centers have an effective plan to provide instruction and professional development activities to rural students and teachers.~~
- ~~4.01.10 Evidence of acceptable management techniques, including but not limited to, a sound budget, realistic timeline, and sound operational methodologies; including, effective goals and objectives tied to a needs assessment and an annual evaluation of the center's activities, including its effectiveness in improving math and science instruction and in increasing student participation in mathematics and science courses, especially among traditionally underserved groups, identification of key personnel, and a realistic sustainability plan;~~
- ~~4.01.11 Evidence that each center's personnel are qualified and capable;~~

~~4.02 Each center must complete an annual report in order to qualify for subsequent years' allocations.~~

~~4.03 Department staff will develop the request for proposal and will assist the advisory committee in reviewing grant applications and preparing the list of recommended recipients and grant amounts.~~

~~4.04 The State Board of Education will announce award recipients per section 3.02 of these rules.~~

2281-R-5.00 Gifts, Grants, and Donations

5.01 ~~The department shall solicit such public and private gifts, grants and donations as may be available to fund the grant program. Any moneys so received shall be credited to the fund.~~

Editor's Notes

History

Notice of Proposed Rulemaking

Tracking number

2017-00103

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-2

Rule title

CORPORATE ISSUES

Rulemaking Hearing**Date**

04/03/2017

Time

02:00 PM

Location

1560 Broadway, Ste 850, Denver CO 80202

Subjects and issues involved

2-1-10 MOTOR VEHICLE SELF-INSURANCE Section 10-4-624 C.R.S., provides that any person in whose name more than twenty-five (25) motor vehicles are registered may qualify for self-insurance. This provision affords owners of fleets of motor vehicles a cost effective method of complying with Colorado's motor vehicle financial responsibility requirements while affording coverage and protection to the general public. The purpose of this regulation is to set the filing requirements and standards for certification as a self-insurer under § 10-4-624, C.R.S. It is the opinion of the Commissioner that any owner of motor vehicles which must be registered should either obtain complying motor vehicle insurance or comply with this regulation.

Statutory authority

10-1-109, 42-7-501, 10-4-601.5, 10-4-624, and 42-7-201, and 42-7-501

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DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-2

CORPORATE ISSUES

Proposed Amended Regulation 2-1-10

MOTOR VEHICLE SELF-INSURANCE

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Filing Requirements
Section 6	Standards
Section 7	Examination of Records
Section 8	Cancellation
Section 89	Modifications to the Plan of Operation
Section 910	Confidentiality
Section 101	Severability
Section 112	Enforcement
Section 123	Effective Date
Section 134	History

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, ~~42-7-501~~, 10-4-601.5, ~~10-4-624~~, and ~~42-7-201~~, and 42-7-501, C.R.S.

Section 2 Scope and Purpose

Section 10-4-624 C.R.S., provides that any person in whose name more than twenty-five (25) motor vehicles are registered may qualify for self-insurance. This provision affords owners of fleets of motor vehicles a cost effective method of complying with Colorado's motor vehicle financial responsibility requirements while affording coverage and protection to the general public. The purpose of this regulation is to set the filing requirements and standards for certification as a self-insurer under § 10-4-624, C.R.S. It is the opinion of the Commissioner that any owner of motor vehicles which must be registered should either obtain complying motor vehicle insurance or comply with this regulation.

Section 3 Applicability

This regulation shall apply to any person that either currently has, or is seeking to obtain, a motor vehicle certificate self-insurance issued by the Colorado Division of Insurance.

Section 4 Definitions

As used in this regulation, and unless the context requires otherwise:

- A. "Applicant" shall mean ~~s, for the purposes of this regulation, the any~~ person in whose name ~~more than twenty-five (25) the~~ motor vehicles ~~to be self-insured~~ are registered ~~who wishes to qualify as a self-insurer~~.

- B. "Holding company system" means for the purposes of this regulation a structure whereby a parent company directly or indirectly owns or controls more than 50% of the issued and outstanding voting securities of the applicant.
- C. "Registered" or "Registration" means for the purposes of this regulation a motor vehicle registered in the state of Colorado in the name of the applicant.

Section 5 Filing Requirements

- A. Initial and renewal certificates of self-insurance shall be valid for one year after issuance for private entities and for three years after issuance for government entities. Initial and renewal filings shall be submitted to the Division's Corporate Affairs-Financial Section.
- B. Each initial filing shall include the following:
1. Name, address, phone number and email address of the applicant, and a detailed description of the nature of the applicant's business. The information should include any trade names or d/b/a's of the applicant.
 2. Detailed explanation of the plan of operation including administrative procedures, risk management, risk retention, reinsurance, actuarial and claims handling procedures process and a description of the qualifications and expertise of the personnel providing actuarial and claims handling services.
 3. List of motor vehicles owned registered by in the name of the applicant with the year, make, model, and vehicle identification number (VIN) and registration number for each vehicle. The applicant must demonstrate that it will maintain registration of more than at least 25 motor vehicles throughout the certification period.
 4. If the An applicant intends to shall not self-insure a motor vehicle not registered in its name, ; it shall cite the Colorado statute or regulation requiring it to maintain a complying policy of insurance upon said vehicle. The applicant shall affirm that it is in compliance with all provisions of said statute or regulation.
 5. In the case of an applicant owned that is part of by a holding company system, a guarantee from the parent company, or an affiliate which files a consolidated financial statement with the applicant, guaranteeing to pay all claims or judgments arising from the operation of the self-insured motor vehicles.
 6. Applicant's audited financial statements from its date of formation to the present, not to exceed the prior three years, or consolidated audited financial statements for the prior three (3) years for the entire organization holding company system when the applicant is part of a holding company system, for the prior three years.
 7. A qualified actuarial analysis and opinion estimating the reserves necessary to pay anticipated claims and costs for the next twelve months.
 8. A copy of the applicant's prior three years' claim registers which must include each incident, the date incurred of occurrence, initial estimate of the claim, the date and amount of settlement, a statement of the number of claims in litigation and the amount of said claims, investigations of claims extending more than thirty days after receipt and claim denials or partial payments. Prior to approval of the initial application, the applicant shall immediately amend the application to include any material change in the number or amount of current claims.

9. An affidavit acknowledging that the provisions of § 10-3-1104(1)(h), C.R.S. shall apply to the applicant.
 10. A description of any reinsurance or insurance program, including a copy of any insurance contract which would be available to pay motor vehicle claims and judgments.
 11. Any other information which the Commissioner deems necessary to evaluate the application.
- C. Renewal applications shall be submitted at least sixty (60) days prior to the expiration of the applicant's current certificate of self-insurance. Each filing shall include the following:
1. List of motor vehicles **owned-registered by in the name of** the applicant with the **year, make, model, and vehicle identification number** (VIN) and registration number for each vehicle. The applicant must demonstrate that it **will maintain registration of intends to operate more than at least** 25 motor vehicles throughout the certification period.
 2. The applicant's most recent audited financial statement or most recent consolidated audited financial statement if part of a holding company system.
 3. A qualified actuarial analysis and opinion estimating the reserves necessary to pay anticipated claims and costs, **in the state of Colorado and nationally.**
 - a. **The contents of the report shall set forth the underlying methods and assumptions used.**
 - b. **The report shall be prepared to reconcile with the most recent audited financial statement or most recent consolidated audited financial statement.**
 4. A description and copy of any amendments to any reinsurance or insurance program.
- D. Within thirty (30) days of receipt of the renewal application the Commissioner will either issue a new certificate of self insurance or notify the applicant of deficiencies with the renewal application or with the applicant's future ability to pay its self insurance obligations. Depending upon the nature of the deficiency, the applicant may be given two weeks from the date of receipt of notification from the Division to correct the deficiency. **Applications that are deficient and not accepted for filing will be returned to the applicant.**
- E. An applicant may request a waiver of the requirements to file some or all of the information to be filed with the renewal application. The request must affirm that there have been no material adverse changes in the self-insurance plan, current ratio, net worth, or motor vehicle claims history since the date of the most recent audited financial statement filed with the Division. In granting or denying an application for waiver, the Commissioner shall consider all pertinent facts and information regarding an applicant's operations and financial condition, applicant's general compliance with this regulation and any complaints received by the Division regarding an applicant's self-insurance program. A request for waiver must be made at least 90 days prior to the expiration of the current certificate of self-insurance.

Section 6 Standards

- A. A certified self-insurer shall operate as if it were a licensed insurer. It shall comply with all statutes and regulations governing the prompt investigation and payment or denial of claims.
- B. In determining financial responsibility, the applicant's financial status will be reviewed to determine its ability to make payments when due and its current financial soundness. The

information submitted will be reviewed to determine the acceptability of underlying assumptions used in determining plan obligations. The applicant's obligations will be valued in accordance with commonly accepted actuarial practices. The applicant's assets will be valued in accordance with generally accepted accounting principles.

- C. A private entity's financial information will be reviewed to ensure that the necessary funding levels and reserves have been established for the applicant's current and future motor vehicle self-insured obligations.
- D. An applicant's net worth will be determined without considering its intangible assets.
- E. Private entities must demonstrate two (2) years of profitable operations out of the most recent three (3) fiscal years.
- F. In determining the amount of a surety bond allowed under § 10-4-624(3), C.R.S., the Commissioner shall rely on a qualified actuarial analysis and opinion provided by the motor vehicle carrier as defined in § 40-1-101(10), C.R.S., or contract carrier as defined in § 40-1-101(6), C.R.S., by motor vehicle estimating the reserves necessary to pay anticipated claims and costs.
- G. The Division shall will not accept new applications for self-insurance certification utilizing cash deposits or other trusts to secure payment of self-insured obligations. Self-insurers certified as of January 31, 1998, may continue to use any existing trust or cash deposits to secure its self-insurance obligations if the Division is otherwise reasonably satisfied that the self-insurer can pay its self-insured obligations as they become due.

Section 7 Examination of Records

- A. Certified self-insurers shall maintain and make the following records available to the Commissioner for inspection either at the Division, or another location acceptable to the Division, upon seven days notice:
 - 1. Claim file for each incident.
 - 2. A claims register which must include each incident, the date of occurrence incurred, initial estimate of the claim, the date and amount of settlement, a statement of the number of claims in litigation and the amount of said claims, investigations of claims extending more than thirty days after receipt and claim denials or partial payments.
 - 3. Separate general ledger account to track claim payments.
 - 4. A detailed listing of all claimants in rehabilitation with information regarding the estimated monthly payments and anticipated duration.
 - 5. A detailed listing of all structured settlements including those amounts transferred to an insurer or other third party and those retained by the applicant.
 - 6. Subrogation claims and payments.
 - 7. Evidence of compliance with any Colorado statute or regulation requiring the applicant to maintain a complying policy of insurance on a motor vehicle not registered in its name.
- B. If an examination or renewal application reveals that a self-insurer: (1) is operating in a manner which renders it hazardous to the public; (2) misstated or misrepresented its financial condition; or, (3) is in violation of § 10-3-1104(1)(h), C.R.S., the Commissioner shall provide written notice to

the self-insurer of those requirements necessary to abate the condition. Failure to abate the condition in the time allowed by the Commissioner may be grounds ~~to for cancellation of modify or revoke~~ the certificate of self-insurance ~~upon five days' notice and after a hearing pursuant to § 10-4-624(2), C.R.S.~~

Section 8 Cancellation

~~The Commissioner may cancel a certificate of self-insurance upon five days' notice and after a hearing pursuant to § 10-4-624(2), C.R.S., for the following reasons:~~

- ~~A. Any of the reasons delineated in Section 7.B. of this regulation;~~
- ~~B. Failure to continue to possess the ability to pay all judgments that may be obtained against the self insurer;~~
- ~~C. Failure to pay any benefit under as defined in § 10-4-620;~~
- ~~D. Failure to pay any judgment within thirty days after such judgment has become final; or~~
- ~~E. Any other reasonable grounds as determined by the Commissioner.~~

Section 89 Modifications to the Plan of Operation

A certified self-insurer may modify its plan of operation only after approval by the Commissioner. The request shall be made in writing at least thirty (30) days prior to the effective date of the modification.

Section 910 Confidentiality

Documentation requested by the Division of Insurance and submitted in compliance herewith shall generally be considered a public record under the Public Records Act, § 24-72-201 through 206, C.R.S. In the event any requested documentation is considered by the applicant to be confidential in nature, the applicant must submit the requested information under separate cover or in a sealed envelope or file clearly labeled "CONFIDENTIAL". Attached to the documents submitted under confidential cover should be an explanation of why they are to be considered confidential. Documentation so submitted, if found to be confidential in nature by the Division of Insurance, will be maintained in a separate, confidential file and will not be released to the general public for inspection or copying.

Section 101 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 112 Enforcement

Noncompliance with this ~~R~~regulation or any applicable statute may result, ~~after notice and hearing pursuant to §10-4-624(2), C.R.S. in the cancellation of a self insurer's certification. 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 123 Effective Date

This regulation shall become effective ~~April~~June 1, 200917.

Section 134 History

Hearing date: December 1, 1997; New regulation Effective: January 31, 1998.
Amended regulation and Effective May 1, 2000.
Amended regulation effective February 1, 2004.
Amended regulation effective April 1, 2009.
Amended regulation effective June 1, 2017.

Notice of Proposed Rulemaking

Tracking number

2017-00101

Department

700 - Department of Regulatory Agencies

Agency

702 - Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

LIFE, ACCIDENT AND HEALTH, Series 4-2

Rulemaking Hearing**Date**

04/03/2017

Time

02:00 PM

Location

1560 Broadway, Ste 850, Denver CO 80202

Subjects and issues involved

4-2-34 SECTION NAMES AND THE PLACEMENT OF THOSE SECTIONS IN POLICY FORMS BY HEALTH CARRIERS

The purpose of this regulation is to set forth the standardized format for section names and placement of those section names in policy forms issued by all health carriers.

Statutory authority

10-1-109, and 10-16-137(1)

Contact information**Name**

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DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Proposed Amended Regulation 4-2-34

SECTION NAMES AND THE PLACEMENT OF THOSE SECTIONS IN POLICY FORMS BY HEALTH CARRIERS

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

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, and 10-16-137(1), C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to set forth the standardized format for section names and placement of those section names in policy forms issued by **all health** carriers.

Section 3 Applicability

The requirements and provisions of this regulation apply to health benefit plans, limited benefit health insurance, dental and vision policies issued or delivered on or after January 1, 2012.

This regulation does not apply to Medicare Supplement or disability income insurance.

Section 4 Definitions

- A. "Health benefit plans" **for the purposes of this regulation,** shall have the same meaning as found at § 10-16-102(32), C.R.S.
- B. "**Health eCarrier**s" **for the purposes of this regulation,** shall have the same meaning as found at § 10-16-102(8), C.R.S.
- C. "Limited benefit health coverage" means, for the purposes 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.

Section 5 Rules

A. Health eCarriers shall use the following section names in subsection 5.B., in the listed order, for health benefit plans, limited benefit health insurance, dental and vision policy forms:

AB. Section Names

1. Schedule of Benefits (Who Pays What);
2. Title Page (Cover Page);
3. Contact Us;
4. Table of Contents;
5. Eligibility;
6. How to Access Your Services and Obtain Approval of Benefits (Applicable to managed care plans);
7. Benefits/Coverage (What is Covered);
8. Regarding Limitations and Exclusions;
 - a. For health benefit plans: Limitations/Exclusions (What is Not Covered and Pre-Existing Conditions); or
 - b. For all other plan types: Limitations/Exclusions (What is Not Covered and Pre-Existing Conditions);
9. Member Payment Responsibility;
10. Claims Procedure (How to File a Claim);
11. General Policy Provisions;
12. Termination/Nonrenewal/Continuation;
13. Appeals and Complaints;
14. Information on Policy and Rate Changes; and
15. Definitions.

CB. Carriers may continue to use existing forms and instead publish a table of contents or directory which cross-references the proposed standards section names with those used in carrier's current forms for those policies issued prior to January 1, 2012.

Section 6 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of this regulation shall not be affected.

Section 7 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition

of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 8 Effective Date

This regulation is effective ~~January 1, 2014~~June 1, 2017.

Section 9 History

New Regulation effective October 1, 2011.

Amended Regulation effective January 1, 2014.

~~Amended Regulation effective June 1, 2017.~~

Notice of Proposed Rulemaking

Tracking number

2017-00093

Department

700 - Department of Regulatory Agencies

Agency

718 - Passenger Tramway Safety Board

CCR number

3 CCR 718-1

Rule title

PASSENGER TRAMWAYS

Rulemaking Hearing**Date**

05/10/2017

Time

10:15 AM

Location

202 Main Street, 2nd Floor, Grand Junction, CO 81501

Subjects and issues involved

Adoption of Rule 3.1.4.3.4.3

Statutory authority

25-5-704 (1)(a)

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3.1.4.3.4.3 Incorrect attachment (Previously 3.1.4.3.7 in ANSI 1992)

May 2, 2011 to Present:

The designer shall incorporate provisions to stop the grip and carrier in a controlled fashion when a grip is incorrectly attached to the rope.

a) monocable systems

The path of the rope from the terminal where passengers are loaded shall be approximately level or inclined upward for a length at least equal to:

$$\underline{L \text{ (feet)}} = \frac{\underline{V^2 \text{ (ft/minute)}}}{\underline{14,400}} \quad \text{or}$$

$$\underline{L \text{ (meters)}} = \frac{\underline{V^2 \text{ (meter/sec)}}}{\underline{1.22}}$$

L = Length of level or inclined upward rope

V = rope speed during passenger loading at that station

An incorrectly attached grip tripping the last checking switch shall cause the rope to stop in a distance not greater than the calculated length “L” or in the case where a greater length of level or inclined upward rope is provided, in a distance not greater than the length provided.

b) bicable systems

On bicable systems terminals, the designer shall incorporate provisions to stop in a controlled fashion an incorrectly attached carrier after the grip attachment point.

A sign, visible to the operating personnel in the station requiring the reduced rope speed, is required. It shall state the “maximum rope speed during loading” (see table D-1(s)) if the aerial lift must be slowed below the designed speed to comply with 3.1.4.3.4.3(a).

May 15, 2000 to May 2, 2011:

The designer shall incorporate provisions to stop the grip and carrier in a controlled fashion when a grip is incorrectly attached to the rope. The path of the rope from the terminal where passengers are loaded shall be approximately level or inclined upward for a length at least equal to:

$$\underline{L \text{ (feet)}} = \frac{\underline{V^2 \text{ (ft/minute)}}}{\underline{14,400}} \quad \text{or}$$

$$\underline{L \text{ (meters)}} = \frac{\underline{V^2 \text{ (meter/sec)}}}{\underline{1.22}}$$

L = Length of level or inclined upward rope

V = rope speed during passenger loading at that station

An incorrectly attached grip tripping the last checking switch shall cause the rope to stop in a distance not greater than the calculated length “L” or in the case where a greater length of level or inclined upward rope is provided, in a distance not greater than the length provided.

Nov. 1, 1991 to May 15, 2000

At each carrier launching position (any area where a grip is designed to attach to the haul rope), devices shall be installed that will stop the aerial lift if any grip incorrectly attaches to the haul rope.

When a grip is detected to be incorrectly attached to the rope, the designer shall incorporate provisions to stop the grip and carrier so that it will come to a stop in a controlled fashion, or the path of the rope from the

terminal where passengers are loaded shall be approximately level or inclined upward for a length at least equal to the calculated stopping distance. The level or sloping length of rope shall be measured from the last switch where the grip is checked for attachment to the rope. Calculated stopping distance for this subsection is equal to:

$$\underline{D} = \frac{V^2(\text{ft/minute})}{14,400} \quad \text{or} \quad \underline{D} = \frac{V^2(\text{meter/sec})}{1.22}$$

$$\underline{D} = \frac{\text{stopping distance}}{\text{rope speed during passenger loading at that station}}$$

Upon clamping to the haul rope or haul-carrying rope, the carrier velocity and rope speed shall not vary sufficiently to introduce unduly either passenger discomfort or mechanical wear.



COLORADO

Department of
Regulatory Agencies

Division of Professions and Occupations

Business and Inspections Branch
Passenger Tramway Safety Board

NOTICE OF RULE MAKING HEARING

Pursuant to section 25-5-704 (1) (a) of the Colorado Revised Statutes, you are hereby advised that the Colorado Passenger Tramway Safety Board will be holding a public rule making hearing on Wednesday, May 10, 2017, commencing at 10:15 a.m. at the Colorado State Employee Credit Union, 2nd Floor, located at 202 Main Street, Grand Junction, Colorado for the purpose of considering the following.

The Board will consider the adoption of the following rules and regulations:


Rule 3.1.4.3.4.3 Incorrect attachment

Please be advised that the adoption of this rule may be changed after public comment and formal hearing.

At the time and place stated in this notice, the Colorado Passenger Tramway Safety Board will afford interested parties an opportunity to submit written data, views, or arguments, and to submit briefly (3 minutes per item) the same orally if they so desire. **It is requested that written testimony be submitted to the Colorado Passenger Tramway Safety Board at least ten (10) days prior to the rule making hearing.** All submissions will be considered.

Dated this 24th day of February, 2017.

BY ORDER OF THE COLORADO PASSENGER TRAMWAY SAFETY BOARD



Joyce J. Young, Program Director



Notice of Proposed Rulemaking

Tracking number

2017-00102

Department

700 - Department of Regulatory Agencies

Agency

721 - Division of Professions and Occupations - Board of Psychologists Examiners

CCR number

3 CCR 721-1

Rule title

COLORADO STATE BOARD OF PSYCHOLOGIST EXAMINERS RULES

Rulemaking Hearing**Date**

04/07/2017

Time

09:00 AM

Location

1560 Broadway, Suite 1250C, Denver, CO 80202

Subjects and issues involved

Modification to Board Rule 13; Addition of Board Rules 20 and 21

Statutory authority

12-43-203(3)(a), C.R.S.

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Rule 20 – CONTINUING PROFESSIONAL DEVELOPMENT (pursuant to section 12-43-307, C.R.S.)

(a) Terms/Definitions.

- (1) Continuing Education Units (CEU)/ Continuing Medical Education (CME) means learning activities approved and/or accredited by the American Psychological Association, state medical association or Accreditation Council for Continuing Medical Education or by a regionally accredited institution of higher education.
- (2) Continuing Professional Development (CPD) is the Board's program through which a licensed psychologist satisfies the requirements set forth in section 12-43-307, C.R.S. and ensures the ongoing ability of a licensed psychologist to learn, integrate, and apply the knowledge, skill, and judgement to practice psychology according to generally accepted industry standards and professional ethical standards.
- (3) Continuing Professional Development Manual (CPD Manual) is an instructional guide and workbook for the CPD program.
- (4) Learning Plan is the Board approved form used to develop, execute, and document PDH for each cycle in the CPD Program as set forth in section 12-43-307(2)(a), C.R.S.
- (5) Military Exemption is a method to satisfy continuing professional development requirements. A licensed psychologist who has been approved for this exemption will not be required to meet continuing professional development requirements during the renewal period in which the military exemption was approved by the Division of Professions and Occupations (DPO).
- (6) Professional Development Hours (PDH) are the units of measurement of active learning used to accrue credit in the CPD program. PDH are equivalent to clock hours.
- (7) Reflective Self-Assessment Tool (RSAT) is an optional self-reflective practice tool that can be used to assist a licensed psychologist in developing a Learning Plan.

(b) Continuing Professional Development Requirements.

- (1) A licensed psychologist shall complete continuing professional development requirements in order to renew a license to practice psychology in the state of Colorado by:

- (A) Successfully participating in the CPD program; or
 - (B) Receiving an exemption for military service as defined in section 12-70-102, C.R.S., and section (e) of this Rule.
- (2) A licensed psychologist shall attest at the time of the renewal of a license to compliance with continuing professional development requirements.
- (c) Continuing Professional Development (CPD) Program.
- (1) In accordance with section 12-43-307(2), C.R.S., and the current CPD Manual, the CPD program consists of the following elements:
- (A) Development, execution, and documentation of a Learning Plan:
 - 1. A licensed psychologist shall develop a Learning Plan consisting of PDH as set forth in section 12-43-307(2)(b), C.R.S., and this Rule.
 - 2. A licensed psychologist shall execute this Learning Plan by completing and documenting all PDH before the date upon which the licensed psychologist renews his/her license. Changes to the Learning Plan shall not be allowed after a license is renewed.
 - 3. A licensed psychologist can choose to use the optional Reflective Self-Assessment Tool (RSAT) when creating a Learning Plan.
 - (B) Completion of 40 hours of PDH through a combination of allowed activities as described in section 12-43-307(2)(b), C.R.S., and as chosen by the licensed psychologist; and
 - (C) Maintaining documentation of completed PDH as described in sections 12-43-307(2)(b) and (c), C.R.S.
- (2) A licensed psychologist shall complete forty (40) PDH each renewal cycle before renewing a license.

- (A) PDH must be relevant to the licensed psychologist's Learning Plan and maintain or enhance competence as a licensed psychologist. The licensed psychologist should be able to describe how learning activities sharpened existing and/or provided new knowledge or skills.
 - (B) PDH credit can only be earned for activities as specifically described in section 12-43-307(2), C.R.S., and section (e) of this Rule.
 - (C) The Board will not pre-approve courses or providers and has sole discretion to accept or reject PDH that do not meet the criteria established in section 12-43-307(2)(b), C.R.S., and the CPD Manual.
 - (D) A licensed psychologist who receives an original, reinstated, or reactivated license during the renewal cycle must accrue 1.67 PDH for each month or portion thereof he/she is licensed prior to the end of the renewal cycle.
 - (E) A licensed psychologist shall document completion of PDH according to the guidelines set forth in section 12-43-307(2), C.R.S., and the current CPD Manual and must be prepared to submit documentation of compliance upon request by the Board.
 - (F) A maximum of ten (10) PDH may be carried from the last renewal cycle to the next renewal cycle if the PDH were earned within three (3) months of license expiration and are in excess of the forty (40) PDH required for the current renewal cycle.
- (3) To qualify for PDH credit, a psychologist must select learning activities as defined in section 12-43-307(2)(b), C.R.S. PDH must include one or more of the following activities, in any combination:
- (A) Attending workshops, seminars, symposia, colloquia, invited speaker sessions, postdoctoral institutes, or scientific or professional programs offered at meetings of local, state, regional, national, or international professional or scientific organizations.
 - 1. With the exception of five (5) PDH, activities must qualify as continuing education units or continuing medical education credit as approved and/or accredited by the American Psychological Association, state

medical association, Accreditation Council for Continuing Medical Education, or by a regionally accredited institution of higher education.

2. Activities may include online continuing education.
 3. One continuing education hour is equivalent to one PDH.
 4. Documentation of learning activities shall include a transcript or certificate of attendance with a statement of the credits earned, which includes the name of the participant, the date(s) of attendance, the name of provider(s), the number of hours earned, etc.
- (B) Completing an ethics course offered by the American Psychological Association, state medical association, Accreditation Council for Continuing Medical Education, or a regionally accredited institution of higher education.
1. One (1) continuing education hour is equivalent to one PDH.
 2. Documentation of completion of an ethics course shall include a transcript or certificate of attendance with a statement of the credits earned, which includes the name of the participant, the date(s) of attendance, the name of the provider(s), the number of hours earned, etc.
- (C) Developing and teaching an academic course in psychology at an institution accredited by a regional accrediting association.
1. Credit can be earned for the first time within a given licensure cycle that the licensed psychologist develops and teaches the course.
 2. One (1) academic credit, unit, or hour is equivalent to ten (10) PDH.
 3. Documentation of the development and teaching of an academic course shall include written verification by the dean or head of the department of the institution in which the course was taught.
- (D) Successfully completing a graduate course in psychology offered by an institution accredited by a regional accrediting association.

1. One (1) academic credit, unit, or hour is equivalent to ten (10) PDH.
 2. Documentation shall include an academic transcript showing the graduate credits earned.
- (E) Developing and presenting a workshop, seminar, symposium, colloquium, or invited speaking session, at a meeting of a professional or a scientific organization or a postdoctoral institute.
1. Credit can be earned for the first time within a given licensure cycle that the workshop, seminar, symposium, colloquium, or invited speaking session is developed and presented.
 2. One (1) hour of workshop, seminar, symposium, colloquial presentation, or invited speaking session is equivalent to three (3) PDH.
 3. Documentation shall include a printed program or agenda showing the name of the licensed psychologist, the date(s) of the presentation, the name of the organization, the total number of hours presented, etc.
- (F) Authoring or editing a psychology publication, maximum hours earned as following:
1. Authoring a professional or scientific book is equivalent to forty (40) PDH.
 2. Authoring a professional or scientific book chapter or journal article is equivalent to twenty (20) PDH.
 3. Editing a professional or scientific book or journal is equivalent to thirty (30) PDH.
 4. Documentation shall include a coversheet, masthead, or table of contents from the publication showing the name of the licensed psychologist, the date of authoring or editing, etc.
- (G) Providing editorial review of a professional psychological or scientific journal article at the request of the journal's editorial staff.

1. Completion of activity is equivalent to one (1) PDH.
 2. Documentation shall include the acknowledgment of the completed review by the editorial staff with the name of the licensed psychologist, date of review, etc.
- (d) Audit of Compliance. As set forth in section 12-43-307(4), C.R.S., the Board may audit up to 5% of licensed psychologists each two-year cycle to determine compliance with continuing professional development requirements.
- (1) The following documentation is required for an audit of compliance:
 - (A) A finalized and signed Learning Plan that contains the licensed psychologist's completed PDH in the manner set forth in the current CPD Manual;
 - (B) Documentation of the required PDH in compliance with statute, this Rule, and the current CPD Manual; and
 - (C) The Board has sole discretion to accept or reject PDH that do not meet the criteria established as defined in section 12-43-307(2), C.R.S., this Rule, and the current CPD Manual.
 - (2) As set forth in section 12-43-307(5)(a), C.R.S., records of assessment or other documentation developed or submitted in connection with the continuing professional development program are confidential and not subject to inspection by the public or discovery in connection with a civil action against a licensed psychologist. The records or documents shall be used only by the Board for the purpose of determining whether a licensed psychologist is maintaining continuing professional development necessary to engage in the profession.
 - (3) The current CPD Manual will set forth the documentation methods and standards for compliance with this Rule.
- (e) Military Exemption. Pursuant to section 12-70-102, C.R.S., a licensed psychologist who has been called to federally funded active duty for more than 120 days for the purpose of serving in a war, emergency, or contingency may request an exemption from continuing professional development requirements for the renewal, reinstatement, or reactivation of his/her license for

the two-year renewal period that falls within the period of service or within six (6) months following the completion of service.

- (1) Military exemptions must be approved by the DPO. A licensed psychologist seeking a military exemption shall submit a request in writing with evidence that his/her military service meets the criteria established in section 12-70-102, C.R.S.
 - (2) After being granted a military exemption, in order to complete the renewal process, the licensed psychologist shall attest to his/her military exemption.
- (f) Records Retention. A licensed psychologist shall retain documentation of compliance for a minimum of five (5) years from the license expiration date for the renewal cycle during which PDH were accrued.
- (g) Non-Compliance. Falsifying an attestation or other documentation regarding a licensed psychologist's compliance with continuing professional development requirements constitutes the falsification of information in an application and may be grounds for discipline pursuant to section 12-43-222(1)(s), C.R.S.
- (h) Reinstatement and Reactivation. A licensed psychologist seeking to reinstate or reactivate a license shall meet continuing professional development requirements detailed in Rule 13 and Rule 21.

RULE 13- REINSTATEMENT OF A LICENSE (~~C.R.S.~~section 12-43-204, C.R.S.)

(a) General. A license that has expired is subject to the following reinstatement provisions.

(b) Application Requirements. To be considered for licensure reinstatement, an applicant must submit a completed reinstatement application form, and the reinstatement fee.

(c) Required statements. Each applicant for reinstatement shall certify the following:

(1) Every license, certificate, listing or registration to practice psychology held by applicant is in good standing;

(2) Applicant has reported to the Board any injunction or disciplinary action completed or pending against her/his license, certificate, registration, or listing to practice psychology or psychotherapy;

(3) Applicant has reported to the Board any malpractice judgment against her/him, any settlement of a malpractice action or claim against her/him, and any malpractice action or claim pending against her/him in which the malpractice alleged relates to her/his practice of psychology or psychotherapy;

(4) Applicant has reported to the Board any inquiry/complaint pending, investigation being conducted by, or disciplinary proceeding pending before the licensing, grievance, or disciplinary board of any jurisdiction in which s/he is licensed, certified, registered, or listed to practice psychology or psychotherapy in which the complaint, investigation, or proceeding concerns her/his practice of psychology or psychotherapy.

(d) Pending discipline or complaints. The Board may decline to issue a license to an applicant for reinstatement if disciplinary action is pending or if there is an unresolved complaint.

(e) Continuing Professional Competence. Pursuant to section 12-43-307, C.R.S., effective September 1, 2017, ~~DATE~~ a licensed psychologist shall complete continuing professional development in order to reinstate a license.

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(1) An applicant for reinstatement must comply with all continuing professional development requirements pursuant to Rule 20 within the two (2) years immediately preceding the application receipt date.

(f) Criteria. The Board has established the following criteria for determining whether an applicant for reinstatement has demonstrated her/his continued professional competence as required by

C.R.S. section 12-43-204(3), C.R.S.. An applicant must meet all applicable criteria to establish her/his continued professional competence.

(1) License expired more than two (2) years. An applicant whose license has been expired more than two (2) years shall pass a Board developed jurisprudence examination and demonstrate her/his continued professional competence by either:

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(A) A written statement detailing work experience related to the practice of psychology during the time the license has been expired. If work experience was in another jurisdiction(s), verification of licensure from each jurisdiction(s) is required; or

(B) Completion of an average of twenty (20) Professional Development Hours (PDH) pursuant to section 12-43-307(2)(b), C.R.S., and Rule 20 for each year the license has been expired (1.67 for each month); or.

Documenting that the applicant has ten (10) hours of continuing education acceptable to the Board for each year or portion thereof the license has been expired; or

(C) Retaking and passing the Examination for Professional Practice in Psychology (EPPP) national examination; or.

(D) Any other means approved by the Board.

Rule 21 – INACTIVE LICENSE STATUS AND REACTIVATION OF A LICENSE

(a) Inactive status. Pursuant to section 12-70-101, C.R.S., a licensed psychologist may apply to the Board to be transferred to an inactive status. The holder of an inactive license shall not be required to comply with the continuing professional development requirements for renewal so long as he/she remains inactive.

(1) During such time as a licensed psychologist remains in an inactive status, he/she shall not perform those acts restricted to active licensed psychologists pursuant to section 12-43-303, C.R.S. The Board shall retain jurisdiction over inactive psychologists for the purposes of disciplinary action pursuant to section 12-43-221(1)(d), C.R.S.

(2) Practicing with an inactive license shall constitute unlicensed practice and, therefore, may be grounds for disciplinary or injunctive action, up to and including revocation.

(b) Application Requirements. To be considered for licensure reactivation, an applicant must submit a completed reactivation application form; and the reactivation fee.

(c) Required statements. Each applicant for reinstatement shall certify the following:

- (1) Every license, certificate, listing, or registration to practice psychology held by applicant is in good standing;
- (2) Applicant has reported to the Board any injunction or disciplinary action completed or pending against her/his license, certificate, registration, or listing to practice psychology or psychotherapy;
- (3) Applicant has reported to the Board any malpractice judgment against her/him, any settlement of a malpractice action or claim against her/him, and any malpractice action or claim pending against her/him in which the malpractice alleged relates to her/his practice of psychology or psychotherapy;
- (4) Applicant has reported to the Board any inquiry/complaint pending, investigation being conducted by, or disciplinary proceeding pending before the licensing, grievance, or disciplinary board of any jurisdiction in which s/he is licensed, certified, registered, or listed to practice psychology or psychotherapy in which the complaint, investigation, or proceeding concerns her/his practice of psychology or psychotherapy.

(d) Pending discipline or complaints. The Board may decline to issue a license to an applicant for reactivation if disciplinary action is pending or if there is an unresolved complaint.

(e) Continuing Professional Competence. Pursuant to section 12-43-307, C.R.S, effective September 1, 2017, a licensed psychologist shall complete continuing professional development in order to reactivate a license.

- (1) An applicant for reactivation must comply with all continuing professional development requirements pursuant to Rule 20 within the two (2) years immediately preceding the application receipt date.

(f) Criteria. The Board has established the following criteria for determining whether an applicant for reactivation has demonstrated her/his continued professional competence as required by section 12-43-204(3), C.R.S. An applicant must meet all applicable criteria to establish her/his continued professional competence.

- (1) License inactive more than two (2) years. An applicant whose license has been inactive more than two (2) years shall pass a Board developed jurisprudence examination and demonstrate her/his continued professional competence by either:

(A) A written statement detailing work experience related to the practice of psychology during the time the license has been expired. If work experience was in another jurisdiction(s), verification of licensure from each jurisdiction(s) is required; or

(B) Completion of an average of 20 Professional Development Hours (PDH) pursuant to section 12-43-307(2)(b), C.R.S. and Rule 20 for each year the license has been expired (1.67 for each month); or

(C) Retaking and passing the Examination for Professional Practice in Psychology (EPPP) national examination.

(D) Any other means approved by the Board.

Notice of Proposed Rulemaking

Tracking number

2017-00089

Department

1000 - Department of Public Health and Environment

Agency

1001 - Air Quality Control Commission

CCR number

5 CCR 1001-8

Rule title

REGULATION NUMBER 6 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Rulemaking Hearing**Date**

05/18/2017

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 6, Part A to incorporate by reference additions and changes to the U.S. Environmental Protection Agency's (EPA) New Source Performance Standards (NSPS), Emission Guidelines, and performance specifications in 40 C.F.R. Part 60.

The Division proposes to update the citation dates and incorporate by reference in full new and revised NSPS, Emissions Guidelines and Compliance Times, and performance specifications. Additionally, the Division requests that the Commission approve the Clean Air Act (CAA) Section 111(d) plans. States must develop and submit to the EPA 111(d) plan for implementing and enforcing federal standards on existing sources. The 111(d) plans are Colorado-specific plans proposed for EPA approval identifying how to implement the requirements for existing sources under CAA Section 111(d) and are not proposed as a regulation or for incorporation by reference into a regulation. The 111(d) plans will not be enforceable until approved by the EPA.

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

Statutory authority

Sections 25-7-105(1)(b) and 25-7-109; 25-7-106(6); 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended.

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DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 6

Standards of Performance for New Stationary Sources

5 CCR 1001-8

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

PART A

Federal Register Regulations Adopted by Reference

The regulations promulgated by the United States Environmental Protection Agency ([EPA](#)) listed below, found in Part 60, Chapter I, Title 40 of the Code of Federal Regulations (CFR) and in effect as of the dates indicated, but not including later amendments, were adopted by the Colorado Air Quality Control Commission and are hereby incorporated by reference. Copies of the material incorporated by reference are available for public inspection during regular business hours at the Office of the Commission, located at 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. Parties wishing to inspect these materials should contact the Technical Secretary of the Commission, located at the Office of the Commission. The material incorporated by reference is also available through the United States Government Printing Office, online at www.gpo.gov/fdsys.

All new sources of air pollution and all modified or reconstructed sources of air pollution shall comply with the standards, criteria, and requirements set forth herein. For the purpose of this regulation, the word "Administrator" as used in Part 60, Chapter I, Title 40, of the CFR shall mean the Colorado Air Pollution Control Division, except that in the sections in Table 1, "Administrator" shall mean both the Administrator of the Environmental Protection Agency or his authorized representative and the Colorado Air Pollution Control Division.

TABLE 1

40 CFR Part 60 Subpart*	Section(s)
A	60.8(b)(2) and (b)(3) and those sections throughout the standards that reference 60.8(b)(2) and (b)(3), 60.11(b) and (e).
Da	60.45a.
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b (e)(3)(iii) and (e)(3)(iv), 60.116b(f)(2)(iii).
S	60.195(b).
DD	60.302(d)(3).
GG	60.332(a)(3), 60.335(a).

40 CFR Part 60 Subpart*	Section(s)
VV	60.482-1(c)(2), 60.484.
WW	60.493(b)(2)(i)(A), 60.496(a)(1).
XX	60.502(e)(6).
GGG	60.592(c).
JJJ	60.623.
KKK	60.634.

*And any other section which 40 CFR Part 60 specifically states will not be delegated to the States.

Subpart A General Provisions. 40 CFR Part 60, Subpart A (July 1, [20152016](#)).

(See Part B of this Regulation Number 6 for Additional Requirements Regarding Modifications)

Subpart Cb Emission Guidelines and Compliance Times for Existing Sources: Municipal Waste Combustors That Are Constructed On or Before September 20, 1994. 40 CFR Part 60, Subpart Cb (July 1, [20152016](#)).

Subpart Cc Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. 40 CFR Part 60, Subpart Cc (July 1, [20152016](#)).

~~In addition to~~For clarification regarding requirements applicable to existing municipal solid waste landfills, designated facilities as defined in 40 CFR Part 60, Section 60.32c which meet the condition in 40 CFR Part 60, Section 60.33c(a)(1) shall submit to the Division an initial design capacity report and an initial emission rate report in accordance with 40 CFR Part 60, Section 60.757 within 90 days of the effective date of this regulation. If the design capacity report reflects that the facility meets the condition in 40 CFR Part 60, Section 60.33c(a)(2) and the initial NMOC emission rate report reflects that the facility meets the condition in 40 CFR Part 60, Section 60.33c(a)(3), the facility shall comply with the collection and control system requirements in 40 CFR Part 60, Section 60.752(b)(2)(ii), applicable control device requirements in 40 CFR Part 60, Section 60.33c(c)(1), (2) and (3), test methods and procedures requirements in 40 CFR 60.754, operational standards in 40 CFR Part 60, Section 60.753, compliance provisions in 40 CFR Part 60, Section 60.755, monitoring provisions in 40 CFR Part 60, Section 60.756 and reporting and recordkeeping provisions in 40 CFR Part 60, Sections 60.757 and 60.758, respectively. Such facilities must complete installation of air emission collection and control equipment capable of meeting the requirements of this subpart no later than 30 months from the effective date of these requirements or the date on which the source becomes subject to this subpart pursuant to 40 CFR Part 60, Section 60.36c(b) (the date on which the condition in 60.33c(a)(3) is met (i.e., the date of the first annual report in which the non-methane organic compounds emission rate equals or exceeds 50 megagrams per year)), whichever occurs later. These facilities must submit a final collection and control system design plan pursuant to 40 CFR Part 60, Section 60.757(c) within one year of the effective date of these requirements, which must be reviewed and approved by the state. The final collection and control system design plan must specify: (1) the date by which contracts for control systems/process modifications shall be awarded, (which shall be no later than 20 months after the effective date); (2) the date by which on-site construction or installation of the air pollution control device(s) or process changes will begin, (which shall be no later than 24 months after the effective date); and (3) the date by which the construction or installation of the air pollution control device(s) or process changes will be complete (which shall be no later than 30 months after the effective date).

In addition, the plan shall include site-specific design plans for the gas collection and control system(s). These facilities shall comply with the approved final collection and control system design plan and shall demonstrate compliance with these emission standards in accordance with 40 CFR Part 60, Section 60.8 not later than 180 days following initial startup of the collection and control system.

The Commission designates the effective date for these requirements applicable to designated facilities of Colorado's 111(d) plan, including the state emission standard for existing municipal solid waste landfills, as the date on which the United States Environmental Protection Agency EPA promulgates a final rule approving the state plan under Section 111(d) of the Clean Air Act. The Clean Air Act Section 111(d) plan implementing Subpart Cc will remain in effect until EPA approves the 111(d) plan implementing Subpart Cf as identified in 40 C.F.R. Part 62, Subpart G. Upon approval of the 111(d) plan by EPA (see Subpart Cf), designated facilities under Subpart Cc will be subject to applicable requirements specified in Subpart Cf.

Subpart Ce Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators. 40 CFR Part 60, Subpart Ce, paragraphs 60.30e; 60.31e; 60.32e; 60.33e(a)(1)-(3), (b)(1)-(2), (c)(1)-(2); 60.34e (referencing 40 CFR Part 60 Subpart Ec Section 60.53e); 60.35e (referencing 40 CFR Part 60 Subpart Ec Section 60.55e); 60.36e(a)(1)-(2), (c)(1)-(2); 60.37e(a) (referencing 40 CFR Part 60 Subpart Ec Section 60.56e), (a)(1)-(2), (b) (referencing 40 CFR Part 60 Subpart Ec Section 60.56c), (b)(1)-(2), (c)(1)-(4), (d) (referencing 40 CFR Part 60 Subpart Ec Section 60.57c), (e)(1)-(3), (f); 60.38e(a) (referencing 40 CFR Part 60 Subpart Ec Section 60.58c(b)-(g)), (a)(1)-(2), (b)(1)-(2) (July 1, 2015/2016). Designated facilities to which this subpart applies must comply with the minimum requirements in Subpart Ce, as provided in Colorado's 111(d) plan for Existing Hospital/Medical/Infectious Waste Incinerators. Colorado's 111(d) plan for Hospital/Medical/Infectious Waste Incinerators will be submitted to EPA once approved by the Commission and is effective once approved by EPA in 40 CFR Part 62, Subpart G.-

Specifically, designated facilities are defined in Section 60.32e and additional definitions are specified in Section 60.31e. Designated facilities must comply with applicable emission limits as provided in Sections 60.33e(a)(1)-(3), (b)(1)-(2), and (c)(1)-(2). Designated facilities must comply with applicable operating training and qualification requirements as specified in Section 60.34e (referencing 40 CFR Part 60 Subpart Ec Section 60.53c). Designated facilities must comply with applicable waste management plan requirements as specified in Section 60.35e (referencing 40 CFR Part 60 Subpart Ec Section 60.55c). Designated facilities must comply with applicable inspection requirements as specified in Section 60.36e(a)(1)-(2), (b), (c)(1)-(2), and (d). Designated facilities must comply with applicable compliance and performance testing requirements as specified in Sections 60.37e(a) (referencing 40 CFR Part 60 Subpart Ec Section 60.56c) or (a)(1)-(2), (b) (referencing 40 CFR Part 60 Subpart Ec Section 60.56c) or (b)(1)-(2), and (c)(1)-(4). Designated facilities must comply with applicable monitoring requirements as specified in Sections 60.37e(d) (referencing 40 CFR Part 60 Subpart Ec Section 60.57c), (e)(1)-(3), and (f). Designated facilities must comply with applicable notification and recordkeeping requirements as specified in Sections 60.32e(b)(1)-(2) and (c)(1)-(3). Designated facilities must comply with applicable reporting and recordkeeping requirements as specified in Sections 60.38e(a) (referencing 40 CFR Part 60 Subpart Ec Section 60.58c(b)-(g)) or (a)(1)-(2) and (b)(1)-(2). Designated facilities must comply with applicable compliance times as specified in Section 60.39e.

The Commission designates the effective date ~~for these emission limits and other requirements (see Colorado 111(d) plan for Existing Hospital/Medical/Infectious Waste Incinerators in Colorado, adopted August 20, 2015, and obtainable from the Air Quality Control Commission Office, for applicable emission limits, compliance times, and other requirements)~~ applicable to ~~designated facilities of Colorado's 111(d) plan~~ as the date on which the ~~United States Environmental Protection Agency~~ EPA promulgates a final rule in 40 CFR Part 62, Subpart G approving the state plan under Section 111(d) of the Clean Air Act. The compliance schedule for designated facilities can be found in Colorado's 111(d) plan for Existing Hospital/Medical/Infectious Waste Incinerators. Colorado's 111(d) plan for Existing Hospital/Medical/Infectious Waste Incinerators was adopted May 18, 2017, and is obtainable from the Commission Office.

Subpart Cf Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. 40 CFR Part 60, Subpart Cf (July 1, 2016), as adopted August 29, 2016 (81 FR 59313). Designated facilities to which this subpart applies must comply with the minimum requirements in Subpart Cf as provided in Colorado's 111(d) plan for Municipal Solid Waste Landfills. Colorado's 111(d) plan for Existing Municipal Solid Waste Landfills will be submitted to EPA once approved by the Commission and is effective once approved by EPA in 40 CFR Part 62, Subpart G.

Specifically, designated facilities are defined in Section 60.31f and additional definitions are specified in Section 60.41f. Designated facilities must comply with applicable emission limits for designated facilities specified in Section 60.33f. Designated facilities must comply with applicable operational standards for collection and control systems as specified in Section 60.34f. Designated facilities must comply with applicable test methods and procedures and compliance requirements as specified in Sections 60.35f-60.36f. Designated facilities must comply with applicable monitoring requirements as specified in Section 60.37f. Designated facilities must comply with applicable reporting and recordkeeping requirements as specified in Sections 60.38f-60.39f. Designated facilities must comply with applicable requirements for active collective systems as specified in Section 60.40f.

The Commission designates the effective date of Colorado's 111(d) plan as the date on which the EPA promulgates a final rule in 40 CFR Part 62, Subpart G approving the state plan under Section 111(d) of the Clean Air Act. The compliance schedule for designated facilities can be found in Colorado's 111(d) plan for Existing Municipal Solid Waste Landfills. Colorado's 111(d) plan for Existing Municipal Solid Waste Landfills was adopted May 18, 2017, and is obtainable from Commission Office.

Subpart D Standards of Performance for Fossil-Fuel-Fired Steam Generators for which Construction is Commenced after August 17, 1971. 40 CFR Part 60, Subpart D (July 1, ~~2015~~2016).

Subpart Da Standards of Performance for Electric Utility Steam Generators for which Construction is Commenced after September 18, 1978. 40 CFR Part 60, Subpart Da (July 1, ~~2015~~2016), ~~as amended April 6, 2016 (81 FR 201723).~~

(See Regulation Number 6, Part B, Section VIII. and Regulation Number 8, Part E, Subpart UUUUU for additional requirements regarding Electric Utility Steam Generating Units)

Subpart Db Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units. 40 CFR Part 60, Subpart Db (July 1, ~~2015~~2016).

(See Part B, Section III.D. of this Regulation Number 6 for Additional Requirements)

Subpart Dc Standards of Performance for Small Industrial-Commercial- Institutional Steam Generating Units. 40 CFR Part 60, Subpart Dc (July 1, ~~2015~~2016).

Subpart E Standards of Performance for Incinerators. 40 CFR Part 60, Subpart E (July 1, [20152016](#)).

(See Part B, Sections V, VI and VII of this Regulation Number 6 for Additional Requirements)

Subpart Ea Standards of Performance for Municipal Waste Combustors For Which Construction Is Commenced After December 20, 1989 and On or Before September 20, 1994. 40 CFR Part 60, Subpart Ea (July 1, [20152016](#)).

Subpart Eb Standards of Performance for Municipal Waste Combustors For Which Construction Is Commenced After September 20, 1994. 40 CFR Part 60, Subpart Eb (July 1, [20152016](#)).

(See Part B, Section VI of this Regulation Number 6 for Additional Requirements)

Subpart Ec Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996. 40 CFR Part 60, Subpart Ec (July 1, [20152016](#)).

(See Part B, Section V of this Regulation Number 6 for Additional Requirements)

Subpart F Standards of Performance for Portland Cement Plants. 40 CFR Part 60, Subpart F (July 1, [20152016](#)), as amended [July 27, 2015 \(80 FR 44772\)](#) and [September 11, 2015 \(80 FR 54728\)](#).

Subpart G Standards of Performance for Nitric Acid Plants. 40 CFR Part 60, Subpart G (July 1, [20152016](#)).

Subpart Ga Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011. 40 CFR Part 60, Subpart Ga (July 1, [20152016](#)).

Subpart H Standards of Performance for Sulfuric Acid Plants. 40 CFR Part 60, Subpart H (July 1, [20152016](#)).

Subpart I Standards of Performance for Hot Mix Asphalt Facilities. 40 CFR Part 60, Subpart I (July 1, [20152016](#)).

Subpart J Standards of Performance for Petroleum Refineries. 40 CFR Part 60, Subpart J (July 1, [20152016](#)), as amended [December 1, 2015 \(80 FR 75178\)](#).

Subpart Ja Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007. 40 CFR Part 60, Subpart Ja (July 1, [20152016](#)), as amended [December 1, 2015 \(80 FR 75178\)](#) [July 13, 2016 \(81 FR 45232\)](#).

Subpart K Standards of Performance for Storage Vessels for Petroleum Liquids Constructed after June 11, 1973 and prior to May 19, 1978. 40 CFR Part 60, Subpart K (July 1, [20152016](#)).

Subpart Ka Standards of Performance for Storage Vessels for Petroleum Liquids Constructed after May 18, 1978, and prior to July 23, 1984. 40 CFR Part 60, Subpart Ka (July 1, [20152016](#)).

Subpart Kb Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984. 40 CFR Part 60, Subpart Kb (July 1, [20152016](#)).

Subpart L Standards of Performance for Secondary Lead Smelters. 40 CFR Part 60, Subpart L (July 1, [20152016](#)).

Subpart M Standards of Performance for Secondary Brass and Bronze Production Plants. 40 CFR Part 60, Subpart M (July 1, [20152016](#)).

Subpart N Standards of Performance for Iron and Steel Plants. 40 CFR Part 60, Subpart N (July 1, [20152016](#)).

Subpart Na Standards of Performance for Basic Oxygen Process Furnaces. 40 CFR Part 60, Subpart Na (July 1, [20152016](#)).

Subpart O Standards of Performance for Sewage Treatment Plants. 40 CFR Part 60, Subpart O (July 1, [20152016](#)).

Subpart P Standards of Performance for Primary Copper Smelters. 40 CFR Part 60, Subpart P (July 1, [20152016](#)).

Subpart Q Standards of Performance for Primary Zinc Smelters. 40 CFR Part 60, Subpart Q (July 1, [20152016](#)).

Subpart R Standards of Performance for Primary Lead Smelters. 40 CFR Part 60, Subpart R (July 1, [20152016](#)).

Subpart S Standards of Performance for Primary Aluminum Reduction Plants. 40 CFR Part 60, Subpart S (July 1, [20152016](#)).

Subpart T Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants. 40 CFR Part 60, Subpart T (July 1, [20152016](#)), ~~as amended August 19, 2015 (80 FR 50386)~~.

Subpart U Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants. 40 CFR Part 60, Subpart U (July 1, [20152016](#)) ~~as amended August 19, 2015 (80 FR 50386)~~.

Subpart V Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants. 40 CFR Part 60, Subpart V (July 1, [20152016](#)) ~~as amended August 19, 2015 (80 FR 50386)~~.

Subpart W Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants. 40 CFR Part 60, Subpart W (July 1, [20152016](#)) ~~as amended August 19, 2015 (80 FR 50386)~~.

Subpart X Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities. 40 CFR Part 60, Subpart X (July 1, [20152016](#)) ~~as amended August 19, 2015 (80 FR 50386)~~.

Subpart Y Standards of Performance for Coal Preparation Plants. 40 CFR Part 60, Subpart Y (July 1, [20152016](#)).

Subpart Z Standards of Performance for Ferroalloy Production Facilities. 40 CFR Part 60, Subpart Z (July 1, [20152016](#)).

Subpart AA Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974, and on or before August 17, 1983. 40 CFR Part 60, Subpart AA (July 1, [20152016](#)).

Subpart AAa Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983. 40 CFR Part 60, Subpart AAa (July 1, [20152016](#)).

Subpart BB Standards of Performance for Kraft Pulp Mills. 40 CFR Part 60, Subpart BB (July 1, [20152016](#)).

Subpart BBa Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, [20152013](#). 40 CFR Part 60, Subpart BBa (July 1, [20152016](#))

Subpart CC Standards of Performance for Glass Manufacturing Plants. 40 CFR Part 60, Subpart CC (July 1, [20152016](#)).

Subpart DD Standards of Performance for Grain Elevators. 40 CFR Part 60, Subpart DD (July 1, [20152016](#)).

Subpart EE Standards of Performance for Surface Coating of Metal Furniture. 40 CFR Part 60, Subpart EE (July 1, [20152016](#)).

Subpart GG Standards of Performance for Stationary Gas Turbines. 40 CFR Part 60, Subpart GG (July 1, [20152016](#)).

(See Subpart KKKK of this Regulation Number 6 for additional requirements for Stationary Combustion Turbines)

Subpart HH Standards of Performance for Lime Manufacturing Plants. 40 CFR Part 60, Subpart HH (July 1, [20152016](#)).

Subpart KK Standards of Performance for Lead-Acid Battery Manufacturing Plants. 40 CFR Part 60, Subpart KK (July 1, [20152016](#)).

Subpart LL Standards of Performance for Metallic Mineral Processing Plants. 40 CFR Part 60, Subpart LL (July 1, [20152016](#)).

Subpart MM Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations. 40 CFR Part 60, Subpart MM (July 1, [20152016](#)).

Subpart NN Standards of Performance for Phosphate Rock Plants. 40 CFR Part 60, Subpart NN (July 1, [20152016](#)).

Subpart PP Standards of Performance for Ammonium Sulfate Manufacture. 40 CFR Part 60, Subpart PP (July 1, [20152016](#)).

Subpart QQ Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing. 40 CFR Part 60, Subpart QQ (July 1, [20152016](#)).

Subpart RR Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations. 40 CFR Part 60, Subpart RR (July 1, [20152016](#)).

Subpart SS Standards of Performance for Industrial Surface Coating: Large Appliances. 40 CFR Part 60, Subpart SS (July 1, [20152016](#)).

Subpart TT Standards of Performance for Metal Coil Surface Coating. 40 CFR Part 60, Subpart TT (July 1, [20152016](#)).

Subpart UU Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture. 40 CFR Part 60, Subpart UU (July 1, [20152016](#)).

Subpart VV Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction or Modification Commenced after January 5, 1981, and on or Before November 7, 2006. 40 CFR Part 60, Subpart VV (July 1, [20152016](#)).

Subpart VVa Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction or Modification Commenced after November 7, 2006. 40 CFR Part 60, Subpart VVa (July 1, [20152016](#)).

Subpart WW Standards of Performance for the Beverage Can Surface Coating Industry. 40 CFR Part 60, Subpart WW (July 1, [20152016](#)).

Subpart XX Standards of Performance for Bulk Gasoline Terminals. 40 CFR Part 60, Subpart XX (July 1, [20152016](#)).

Subpart BBB Standards of Performance for the Rubber Tire Manufacturing Industry. 40 CFR Part 60, Subpart BBB (July 1, [20152016](#)).

Subpart DDD Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry. 40 CFR Part 60, Subpart DDD (July 1, [20152016](#)).

Subpart FFF Standards of Performance for Flexible Vinyl and Urethane Coating and Printing. 40 CFR Part 60, Subpart FFF (July 1, [20152016](#)).

Subpart GGG Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and On or Before November 7, 2006. 40 CFR Part 60, Subpart GGG (July 1, [20152016](#)).

Subpart GGGa Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commences After November 7, 2006. 40 CFR Part 60, Subpart GGGa (July 1, [20152016](#)).

Subpart HHH Standards of Performance for Synthetic Fiber Production Facilities. 40 CFR Part 60, Subpart HHH (July 1, [20152016](#)).

Subpart III Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes. 40 CFR Part 60, Subpart III (July 1, [20152016](#)).

Subpart JJJ Standards of Performance for Petroleum Dry Cleaners. 40 CFR Part 60, Subpart JJJ (July 1, [20152016](#)).

Subpart KKK Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. 40 CFR Part 60, Subpart KKK (July 1, [20152016](#)).

Subpart LLL Standards of Performance for Onshore Natural Gas Processing: SO₂ Emissions. 40 CFR Part 60, Subpart LLL (July 1, [20152016](#)).

Subpart NNN Standards of Performance for Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry Distillation Operations. 40 CFR Part 60, Subpart NNN (July 1, [20152016](#)).

Subpart OOO Standards of Performance for Nonmetallic Mineral Processing Plants. 40 CFR Part 60, Subpart OOO (July 1, [20152016](#)).

Subpart PPP Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants. 40 CFR Part 60, Subpart PPP (July 1, [20152016](#)).

Subpart QQQ Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems. 40 CFR Part 60, Subpart QQQ (July 1, [20152016](#)).

Subpart RRR Standards of Performance for Volatile Organic Compounds (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes. 40 CFR Part 60, Subpart RRR (July 1, [20152016](#)).

Subpart SSS Standards of Performance for the Magnetic Tape Manufacturing Industry. 40 CFR Part 60, Subpart SSS (July 1, [20152016](#)).

Subpart TTT Standards of Performance for Industrial Surface Coating of Plastic Parts for Business Machines. 40 CFR Part 60, Subpart TTT (July 1, [20152016](#)).

Subpart UUU Standards of Performance for Calciners and Dryers in Mineral Industries. 40 CFR Part 60, Subpart UUU (July 1, [20152016](#)).

Subpart VVV Standards of Performance for Polymeric Coating of Supporting Substrates. 40 CFR Part 60, Subpart VVV (July 1, [20152016](#)).

Subpart WWW Standards of Performance for Municipal Solid Waste Landfills. 40 CFR Part 60, Subpart WWW (July 1, [20152016](#)).

Subpart XXX Standards of Performance for Municipal Solid Waste Landfills that Commenced Construction, Reconstruction or Modification after July 17, 2014. 40 CFR Part 60, Subpart XXX (July 1, 2016), as amended August 29, 2016 (81 FR 59332).

Subpart AAAA Standards of Performance for Small Municipal Waste Combustion Units for which Construction is Commenced after August 30, 1999 or for which Modification or Reconstruction is Commenced after June 6, 2001. 40 CFR Part 60, Subpart AAAA (July 1, [20152016](#)).

Subpart CCCC Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced after November 30, 1999 or for which Modification or Reconstruction is Commenced on or after June 1, 2001. 40 CFR Part 60, Subpart CCCC (July 1, [20152016](#)).

Subpart DDDD Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999. 40 CFR Part 60, Subpart DDDD (July 1, 20152016). Designated facilities to which this subpart applies must comply with the minimum requirements in Subpart DDDD as provided in Colorado's 111(d) plan for Existing Commercial and Industrial Solid Waste Incineration Units. Colorado's 111(d) plan for Existing Commercial and Industrial Solid Waste Incineration Units will be submitted to EPA once approved by the Commission and is effective once approved by EPA in 40 CFR Part 62, Subpart G.

Specifically, designated facilities are defined in Sections 60.2550 and 60.2555 and additional definitions are specified in Section 60.2875. Designated facilities must comply with applicable emission and operating limits for designated facilities as specified in Sections 60.2670-60.2680. Designated facilities must comply with applicable operator training and qualification requirements are specified in Sections 60.2635-60.2665. Designated facilities must comply with applicable waste management plan requirements as specified in Section 60.2620 and specified in Sections 60.2625 and 60.2630. Designated facilities must comply with applicable performance testing requirements as specified in Sections 60.2690-60.2695. Designated facilities must comply with applicable compliance requirements as specified in Sections 60.2700-60.2725. Designated facilities must comply with applicable monitoring requirements as specified in Sections 60.2730-60.2735. Designated facilities must comply with applicable notification and recordkeeping requirements as specified in Sections 60.2555(a)(1)-(2), (e)(1)-(4), and (f)(1)-(4). Designated facilities must comply with applicable reporting and recordkeeping requirements as specified in Sections 60.2740-60.2800. Designated facilities must comply with applicable air curtain incinerator requirements as specified in Sections 60.2810-60.2870. Designated facilities must comply with applicable compliance times as specified in Section 60.2535.

The Commission designates the effective date of Colorado's 111(d) plan as the date on which the EPA promulgates a final rule in 40 CFR Part 62, Subpart G approving the state plan under Section 111(d) of the Clean Air Act. The compliance schedule for designated facilities can be found in Colorado's 111(d) plan for Existing Commercial and Industrial Solid Waste Incineration Units. Colorado's 111(d) plan for Existing Commercial and Industrial Solid Waste Incineration Units was adopted May 18, 2017, and is obtainable from the Commission Office).

Subpart EEEE Standards of Performance for Other Solid Waste Incineration Units for which Construction is Commenced after December 9, 2004 or for which Modification or Reconstruction is Commenced on or after June 16, 2006. 40 CFR Part 60, Subpart EEEE (July 1, [20152016](#)).

Subpart FFFF Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units that Commenced Construction on or before December 9, 2004. 40 CFR Part 60, Subpart FFFF, Sections 60.2991 through 60.2994, 60.3000 through 60.3078, and Tables 1-5 (July 1, [20152016](#)).

Subpart HHHH Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units. Repealed: This rule was vacated by the February 8, 2008 D.C. Circuit Court of Appeals decision.

Subpart IIII Standards of Performance for Stationary Compression Ignition Internal Combustion Engines. 40 CFR Part 60, Subpart IIII, excluding the 100-hour emergency exemption in subsection 60.4211(f)(2)(ii)-(iii) pursuant to the court's decision in *Delaware Dept. of Natural Res. & Env't'l Control, et al. v. EPA*, 785 F. 3d 1 (DC Cir. 2015) (July 1, [20152016](#)).

Subpart KKKK Standards of Performance for Stationary Combustion Turbines. 40 CFR Part 60, Subpart KKKK (July 1, [20152016](#)).

(See Subpart GG for additional requirements for Stationary Gas Turbines)

Subpart LLLL Standards of Performance for New Sewage Sludge Incineration Unit. 40 CFR Part 60, Subpart LLLL (July 1, [20152016](#)).

Subpart MMMM Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units. 40 CFR Part 60, Subpart MMMM (July 1, [20152016](#)).

Subpart OOOO Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution. 40 CFR Part 60, Subpart OOOO, (July 1, [20152016](#)), ~~as amended August 12, 2015- (80 Fed. Reg. 48262).~~

APPENDIX A to Part 60 Test Methods. 40 CFR Part 60 (July 1, [20152016](#)).

APPENDIX B to Part 60 Performance Specifications. 40 CFR Part 60 (July 1, [20152016](#)), as amended July 7, [20152016](#) (80 FR 38628).

APPENDIX C to Part 60 Determination of Emission Rate Change. 40 CFR Part 60 (July 1, [20152016](#)).

APPENDIX D to Part 60 Required Emission Inventory Information. 40 CFR Part 60 (July 1, [20152016](#)).

APPENDIX F to Part 60 Quality Assurance Procedures. 40 CFR Part 60 (July 1, [20152016](#)).

APPENDIX I to Part 60 Removable Label and Owner's Manual. 40 CFR Part 60 (July 1, [20152016](#)).

STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE (For Part A)

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XXIV. Adopted May 18, 2017

Background

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedures Act, Section 24-4-103, C.R.S., the Colorado Air Pollution Prevention and Control Act, Sections 25-7-110 and 25-7-110.5, C.R.S., and the Air Quality Control Commission's ("Commission") Procedural Rules.

Basis

The U.S. Environmental Protection Agency ("EPA") promulgated amendments to 40 C.F.R. Part 60, Subparts Ec, Ja, XXX, CCCC, OOOO, and Appendixes A and B. Additionally, the D.C. Circuit Court of Appeals vacated EPA's 100-hour emergency demand response exemption contained in 40 C.F.R. Part 60, Subpart IIII in *Delaware Dept. of Natural Res. & Env't'l Control ("DNREC"), et al. v. EPA*, 785 F. 3d 1 (D.C. Cir. 2015). The State of Colorado is required under Section 111 of the Clean Air Act ("CAA") to adopt such New Source Performance Standards ("NSPS") into its regulations in order to maintain agency authority with regard to the standards.

Additionally, the EPA promulgated new and revised Emission Guidelines and Compliance Times contained in 40 C.F.R. Part 60, Subparts Ce, Cf, and DDDD. Under Section 111(d) of the Clean Air Act, States must develop and submit to EPA a plan for implementing and enforcing the Emission Guidelines and Compliance Times for existing sources. The 111(d) plans are Colorado-specific plans proposed for EPA approval identifying how to implement the requirements for existing sources under 111(d) and are not themselves regulations or incorporated by reference as regulations.

Specific Statutory Authority

The Colorado Air Pollution Prevention and Control Act, Sections 25-7-105(1)(b) and 25-7-109, C.R.S. authorize the Commission to adopt emission control regulations, including emission control regulations relating to new stationary sources, for the development of an effective air quality control program. Further, Section 25-7-106(6) authorizes the Commission to require testing, monitoring, and recordkeeping.

Purpose

Adoption of the federal rules in 40 C.F.R. Part 60, Subparts Ec, Ja, XXX, CCCC, IIII, OOOO, and Appendixes A and B, makes these rules and revisions enforceable under Colorado law. Additionally, updating citation references of 40 C.F.R. Part 60, Subparts Ce, Cf, and DDDD along with approval of 111(d) plans for Hospital/Medical/Infectious Waste Incinerators ("HMIWI"), Municipal Solid Waste ("MSW") Landfills, and Commercial and Industrial Solid Waste Incineration (CISWI) Units allows the Division to implement and enforce the Emission Guidelines and Compliance Times for these source categories. The 111(d) plans for CISWI Units, HMIWI, and MSW Landfills are consistent with and do not differ from the Model Rules contained in the Emission Guidelines and Compliance Times for these source categories. The Emission Guidelines and Compliance Times and associated 111(d) plans will not be enforceable until approved by the EPA. Until EPA approves these 111(d) plans, existing sources in these source categories would be subject to a federal plan promulgated by EPA, if applicable. The Commission does not intend for these 111(d) plans to apply retroactively. The schedule for sources to comply with the Emission Guidelines and Compliance Times varies depending on when a 111(d) plan or federal plan to take effect. For the CISWI 111(d) plan, affected sources would need to achieve final compliance as expeditiously as practicable after approval of the plan, but no later than the earlier date of February 7, 2018, or three years after the effective date of the approval of the plan. For the HMIWI 111(d) plan, affected sources would need to achieve final compliance no later than three years from EPA approval of the plan, but no later than October 6, 2014. For the MSW Landfill 111(d) plan, affected sources would need to submit an initial design capacity report no later than 90 days after the effective date of EPA's approval of the plan.

Adoption of the rules will not impose additional requirements upon sources beyond the minimum required by federal law and may benefit the regulated community by providing sources with up-to-date information.

Further, these revisions will correct any typographical, grammatical and formatting errors found within the regulation.



COLORADO

Air Quality Control Commission

Department of Public Health & Environment

NOTICE OF WRITTEN COMMENT ONLY RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 6, Part A

SUBJECT:

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 6, Part A to incorporate by reference additions and changes to the U.S. Environmental Protection Agency's (EPA) New Source Performance Standards (NSPS), Emission Guidelines, and performance specifications in 40 C.F.R. Part 60.

The Division proposes to update the citation dates and incorporate by reference in full new and revised NSPS, Emissions Guidelines and Compliance Times, and performance specifications. Additionally, the Division requests that the Commission approve the Clean Air Act (CAA) Section 111(d) plans. States must develop and submit to the EPA 111(d) plan for implementing and enforcing federal standards on existing sources. The 111(d) plans are Colorado-specific plans proposed for EPA approval identifying how to implement the requirements for existing sources under CAA Section 111(d) and are not proposed as a regulation or for incorporation by reference into a regulation. The 111(d) plans will not be enforceable until approved by the EPA.

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

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

HEARING SCHEDULE:

DATE: May 18, 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:

This is a written comment only rulemaking hearing. The Commission encourages all interested persons to provide their views in writing prior to or at the hearing. The Commission encourages that written comments be submitted by **May 2, 2017** so that Commissioners have the opportunity to review the information prior to the hearing.

Electronic submissions are preferred and should be emailed to:

cdphe.aqcc-comments@state.co.us

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

All submissions should include: your name, address, phone number, email address, and the name of the group that you are representing (if applicable).

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

The Colorado Air Pollution Prevention and Control Act, Sections 25-7-105(1)(b) and 25-7-109, C.R.S. authorize the Commission to adopt emission control regulations, including emission control regulations relating to new stationary sources, for the development of an effective air quality control program. Further, Section 25-7-106(6) authorizes the Commission to require testing, monitoring, and recordkeeping.

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 17th day of February 2017 at Denver, Colorado

Colorado Air Quality Control Commission

A handwritten signature in purple ink that reads "Michael Silverstein". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Michael Silverstein, Administrator

Notice of Proposed Rulemaking

Tracking number

2017-00090

Department

1000 - Department of Public Health and Environment

Agency

1001 - Air Quality Control Commission

CCR number

5 CCR 1001-10

Rule title

REGULATION NUMBER 8 CONTROL OF HAZARDOUS AIR POLLUTANTS

Rulemaking Hearing

Date

05/18/2017

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 8, Parts A and E to incorporate by reference additions and changes that the U.S. Environmental Protection Agency (EPA) made to its National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 C.F.R. Part 61 and Maximum Achievable Control Technology (MACT) standards in 40 C.F.R. Part 63.

The Division proposes to update the citation dates and incorporate by reference in full new and revised NESHAP and MACT standards, as identified below. The proposed revisions may also correct any typographical, grammatical, and formatting errors found through the regulation.

Statutory authority

Sections 25-7-105(1)(b) and 25-7-109(2)(h) and 109(4); 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 8

Control of Hazardous Air Pollutants

5 CCR 1001-10

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

PART A Federal NESHAPs

I. Federal NESHAPs

The provisions of Part 61, Chapter I, Title 40, of the Code of Federal Regulations (CFR), promulgated by the U.S. Environmental Protection Agency listed in this section are hereby incorporated by reference by the Air Quality Control Commission and made a part of the Colorado Air Quality Control Commission Regulations. Materials incorporated by reference are those in existence as of the dates indicated and do not include later amendments. The material incorporated by reference is available for public inspection during regular business hours at the Office of the Commission, located at 4300 Cherry Creek Drive South, Denver, Colorado 80246. Parties wishing to inspect these materials should contact the Technical Secretary of the Commission, located at the Office of the Commission. The material incorporated by reference is also available through the United States Government Printing Office, online at www.gpo.gov/fdsys.

All new sources of air pollution and all modified or reconstructed sources of air pollution shall comply with the standards, criteria, and requirements set forth herein. For the purpose of this regulation "Administrator" shall mean both the Administrator of the Environmental Protection Agency or his/her authorized representative and the Colorado Air Pollution Control Division.

Subpart A General Provisions 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart B Repealed – Reserved for National Emission Standards for Radon Emissions from Underground Uranium Mines 40 C.F.R. Part 61.

Subpart C National Emission Standard for Beryllium 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart D National Emission Standard for Beryllium Rocket Motor Firing 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart E National Emission Standard for Mercury 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart F National Emission Standard for Vinyl Chloride 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart H Repealed – Reserved for National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities 40 C.F.R. Part 61.

Subpart J National Emission Standard for Equipment leaks (fugitive Emission sources) of Benzene 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart K Repealed – Reserved for National Emission Standards for Radionuclide Emissions from Elemental Phosphorous Plants 40 C.F.R. Part 61.

Subpart L National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart N National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart O National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart P National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart Q Repealed – Reserved for National Emission Standards for Radon Emissions From Department of Energy Facilities 40 C.F.R. Part 61.

Subpart R Repealed – Reserved for National Emission Standards for Radon Emissions from Phosphogypsum Stacks, 40 C.F.R. Part 61.

Subpart T Repealed – Reserved for National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings 40 C.F.R. Part 61.

Subpart V National Emission Standard for Equipment Leaks (Fugitive Emission Sources) 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart W Repealed – Reserved for National Emission Standards for Radon Emissions from Operating Mill Tailings 40 C.F.R. Part 61.

Subpart Y National Emission Standard for Benzene Emissions from Benzene Storage Vessels 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart BB National Emission Standard for Benzene Emissions from Benzene Transfer Operations 40 C.F.R. Part 61 (July 1, [20152016](#)).

Subpart FF National Emission Standard for Benzene Waste Operations 40 C.F.R. Part 61 (July 1, [20152016](#)).

II. Statements of Basis, Specific Statutory Authority and Purpose for Part A

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II.O. Adopted May 18, 2017

Incorporation by reference of federal standards in 40 C.F.R. Part 61 into Regulation Number 8, Part A.

Background

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedures Act, C.R.S., Sections 24-4-103(4) and -103(12.5) for adopted or modified regulations, and with the requirements of regulations incorporated by reference; the Colorado Air Pollution Prevention and Control Act, Sections 25-7-

110 and 25-7-110.5, C.R.S.; and the Air Quality Control Commission's ("Commission") Procedural Rules.

Basis

The State of Colorado is required under Section 112 of the Clean Air Act to adopt revisions to and new standards under 40 C.F.R. Part 61 into its regulations. This rulemaking amends the incorporation dates of subparts already incorporated by reference.

Specific Statutory Authority

Sections 25-7-105(1)(b) and 25-7-109(2)(h) and 109(4), C.R.S. authorize the Commission to adopt emission control regulations and emission control regulations relating to hazardous air pollutants, specifically.

Purpose

Adoption of federal amendments to standards in 40 C.F.R. Part 61 make revisions enforceable under Colorado law. Further, these revisions may include corrections of any typographical, grammatical, and formatting errors throughout the regulation.

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PART E Federal Maximum Achievable Control Technology (MACT)

I. General Provisions

The provisions of Part 63, Chapter I, Title 40, of the Code of Federal Regulations (CFR), promulgated by the U.S. Environmental Protection Agency listed in this section are hereby incorporated by reference by the Air Quality Control Commission and made a part of the Colorado Air Quality Control Commission Regulations. Materials incorporated by reference are those in existence as of the dates indicated and do not include later amendments. The material incorporated by reference is available for public inspection during regular business hours at the Office of the Commission, located at 4300 Cherry Creek Drive South, Denver, Colorado 80246. Parties wishing to inspect these materials should contact the Technical Secretary of the Commission, located at the Office of the Commission. The material incorporated by reference is also available through the United States Government Printing Office, online at www.gpo.gov/fdsys.

For the purpose of this section of this regulation, the word "Administrator" as used in the C.F.R. shall mean the Colorado Air Pollution Control Division. References to 40 CFR part 70 or operating permit issuance shall relate to the Colorado Operating Permit program contained in Colorado Regulation No. 3, Parts A and C. Operating permits issued under these general provisions shall be issued by the Colorado Air Pollution Control Division under Colorado Regulation No. 3, Parts A and C. The phrases "HAP", "HAPs" or "listed HAPs" shall mean those substances listed in Colorado Regulation No. 3, Appendix B.

Subpart A National Emission Standards for Hazardous Air Pollutants for Source Categories: General Provisions, 40 CFR Part 63 (July 1, [20152016](#)).

For the purpose of this subpart A, the term "performance track member" shall mean a stationary source that is a member of both the U.S. Environmental Protection Agency's National Environmental Performance Track and the Colorado Department of Public Health and Environment's Environmental Leadership Program at the gold-level or higher.

II. Reserved

III. Federal Maximum Achievable Control Technology

The regulations promulgated by the U. S. Environmental Protection Agency listed in this section are hereby incorporated by reference by the Air Quality Control Commission and made a part of the Colorado Air Quality Control Commission Regulations. Materials incorporated by reference are those in existence as of the dates indicated and do not include later amendments. The material incorporated by reference is available for public inspection during regular business hours at the Office of the Commission, located at 4300 Cherry Creek Drive South, Denver, Colorado 80246, or may be examined at any state publications depository library. Parties wishing to inspect these materials should contact the Technical Secretary of the Commission, located at the Office of the Commission.

"Administrator" as used in the C. F. R. shall mean the Colorado Air Pollution Control Division.

Subpart F National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry, 40 C. F. R. Part 63, Subparts F (July 1, [20152016](#)).

Subpart G National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater, 40 C. F. R. Part 63, Subparts G (July 1, [20152016](#)).

Subpart H National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks, 40 C. F. R. Part 63, Subparts H (July 1, [20152016](#)).

Subpart I National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks, 40 C. F. R. Part 63, Subparts I (July 1, [20152016](#)).

Subpart J National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production, 40 C.F.R. Part 63, Subpart J (July 1, [20152016](#)).

Subpart M National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities, 40 C. F. R. Part 63, Subpart M (July 1, [20152016](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart M to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).

Subpart N National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 C.F.R. Part 63, Subpart N (July 1, [20152016](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart N to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).

Subpart O National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Sterilization and Fumigation Operations, 40 C.F.R. Part 63, Subpart O (July 1, [20152016](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart O to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).

- Subpart Q National Emissions Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers, 40 C.F.R. Part 63, Subpart Q (July 1, [20152016](#)).
- Subpart R National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations), 40 C.F.R. Part 63, Subpart R (July 1, [20152016](#)).
- Subpart S National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production, 40 C.F.R. Part 63, Subpart S (July 1, [20152016](#)).
- Subpart T National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning, 40 C.F.R. Part 63, Subpart T (July 1, [20152016](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart T to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).
- Subpart U National Emission Standards for Hazardous Air Pollutants: Group 1 Polymers and Resins, 40 C.F.R. Part 63, Subpart U (July 1, [20152016](#)).
- Subpart W National Emissions Standards for Hazardous Air Pollutants: Epoxy Resins Production and Non-Nylon Polyamides Production, 40 C.F.R. Part 63, Subpart W (July 1, [20152016](#)).
- Subpart X National Emissions Standards for Hazardous Air Pollutants from Secondary Lead Smelting, 40 C.F.R. Part 63, Subpart X (July 1, [20152016](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart X to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is deferred from submitting an application for such permit until December 9, 2005.
- Subpart AA National Emission Standards for Hazardous Air Pollutants for Source Category: Phosphoric Acid Manufacturing, 40 C.F.R. Part 63, Subpart AA (July 1, [20152016](#)); ~~as amended August 19, 2015 (80 FR 50386)~~.
- Subpart BB National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizers Production, 40 C.F.R. Part 63, Subpart BB (July 1, [20152016](#)); ~~as amended August 19, 2015 (80 FR 50386)~~.
- Subpart CC National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries, 40 C.F.R. Part 63, Subpart CC (July 1, [20152016](#)), as amended ~~December 1, 2015 (40 FR 75178)~~ [July 13, 2016 \(81 FR 45232\)](#).
- Subpart DD National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations, 40 C.F.R. Part 63, Subpart DD (July 1, [20152016](#)).
- Subpart EE National Emission Standards for Hazardous Air Pollutants Final Standards for Hazardous Air Pollutant Emissions from Magnetic Tape Manufacturing Operations, 40 C.F.R. Part 63, Subpart EE (July 1, [20152016](#)).
- Subpart GG National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework Facilities, 40 C.F.R. Part 63, Subpart GG (July 1, [20152016](#)), as amended ~~December 7, 2015 (80 FR 76152)~~ [August 3, 2016 \(81 FR 51115\)](#).

Subpart HH National Emission Standards for Hazardous Air Pollutants for Source Category: Oil and Natural Gas Production and Natural Gas Transmission and Storage, 40 C.F.R. Part 63, Subparts HH (July 1, [20152016](#)).

Subpart II National Emission Standards for Hazardous Air Pollutants: Shipbuilding and Ship Repair, 40 C.F.R. Part 63, Subpart II (July 1, [20152016](#)).

Subpart JJ National Emission Standards for Hazardous Air Pollutants: Wood Furniture Manufacturing Operations, 40 C.F.R. Part 63, Subpart JJ (July 1, [20152016](#)).

Subpart KK National Emission Standards for Hazardous Air Pollutants: Printing and Publishing Industry, 40 C.F.R. Part 63, Subpart KK (July 1, [20152016](#)).

Subpart LL National Emission Standards for Hazardous Air Pollutants for Source Category: Primary Aluminum Reduction Plants, 40 C.F.R. Part 63, Subpart LL (July 1, [20152016](#)), ~~as amended October 15, 2015 (80 FR 62390)~~.

Subpart MM National Emission Standards for Hazardous Air Pollutants for Source Category: Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-alone Semi-chemical Pulp Mills, 40 C.F.R. Part 63, Subpart MM (July 1, [20152016](#)).

Subpart OO National Emission Standards for Tanks - Level 1, 40 C.F.R., Part 63, Subpart OO (July 1, [20152016](#)).

Subpart PP National Emission Standards for Containers, 40 C.F.R., Part 63, Subpart PP (July 1, [20152016](#)).

Subpart XX National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations, 40 C.F.R. Part 63, Subpart XX (July 1, [20152016](#)).

Subpart YY National Emission Standards for Hazardous Air Pollutants for Source Category: Generic Maximum Achievable Control Technology Standard for Acetal Resins Production, Acrylic and Modacrylic Fiber Production, Hydrogen Fluoride Production, and Polycarbonate(s) Production, 40 C.F.R. Part 63, Subpart YY (July 1, [20152016](#)).

Subpart CCC National Emission Standards for Hazardous Air Pollutants for Source Category: Steel Pickling-HCL Process Facilities and Hydrochloric Acid Regeneration Plants, 40 C.F.R. Part 63, Subpart CCC (July 1, [20152016](#)).

Subpart DDD National Emission Standards for Hazardous Air Pollutants for Source Category: Mineral Wool Production, 40 C.F.R. Part 63, Subpart DDD (July 1, [20152016](#)), ~~as amended July 29, 2015 (80 FR 45280)~~.

Subpart EEE National Emission Standards for Hazardous Air Pollutants for Source Category: Hazardous Waste Combustors, 40 C.F.R. Part 63, Subpart EEE (July 1, [20152016](#)).

Subpart GGG National Emission Standards for Hazardous Air Pollutants for Source Category: Pharmaceuticals Production, 40 C.F.R. Part 63, Subpart GGG (July 1, [20152016](#)).

Subpart HHH National Emission Standards for Hazardous Air Pollutants for Source Category: Oil and Natural Gas Production and Natural Gas Transmission and Storage, 40 C.F.R. Part 63, Subparts HHH (July 1, [20152016](#)).

Subpart III National Emission Standards for Hazardous Air Pollutants for Source Category: Flexible Polyurethane Foam Production, 40 C.F.R. Part 63, Subpart III (July 1, [20152016](#)).

Subpart JJJ National Emission Standards for Hazardous Air Pollutants: Group IV Polymers and Resins, 40 C.F.R. Part 63, Subpart JJJ (July 1, [20152016](#)).

Subpart LLL National Emission Standards for Hazardous Air Pollutants for Source Category: Portland Cement Manufacturing, 40 C.F.R. Part 63, Subpart LLL (July 1, [20152016](#)), as amended ~~July 27, 2015 (80 FR 44772)~~ and ~~September 11, 2015 (80 FR 54728)~~ [July 25, 2016 \(81 FR 48356\)](#).

Subpart MMM National Emission Standards for Hazardous Air Pollutants for Source Category: Pesticide Active Ingredient Production, 40 C.F.R. Part 63, Subpart MMM (July 1, [20152016](#)).

Subpart NNN National Emission Standards for Hazardous Air Pollutants for Source Category: Wool Fiberglass Manufacturing, 40 C.F.R. Part 63, Subpart NNN (July 1, [20152016](#)), ~~as amended July 29, 2015 (80 FR 45280)~~.

Subpart OOO National Emission Standards for Hazardous Air Pollutants for Source Category: Amino/Phenolic Resins Production, 40 C.F.R. Part 63, Subpart OOO (July 1, [20152016](#)).

Subpart PPP National Emission Standards for Hazardous Air Pollutants for Source Category: Polyether Polyols Production, 40 C.F.R. Part 63, Subpart PPP (July 1, [20152016](#)).

Subpart QQQ National Emission Standards for Hazardous Air Pollutants for Primary Copper, 40 C.F.R. Part 63, Subpart QQQ (July 1, [20152016](#)).

Subpart RRR National Emission Standards for Hazardous Air Pollutants for Source Category: Secondary Aluminum Production, 40 C.F.R. Part 63, Subpart RRR (July 1, 2007). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart RRR to obtain a Regulation No. 3., Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).

Subpart TTT National Emission Standards for Hazardous Air Pollutants for Source Category: Primary Lead Smelting, 40 C.F.R. Part 63, Subpart TTT (July 1, [20152016](#)).

Subpart UUU National Emission Standards for Hazardous Air Pollutants for Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Plants at Petroleum Refineries, 40 C.F.R. Part 63, Subpart UUU (July 1, [20152016](#)), as amended ~~December 1, 2015 (40 FR-75178)~~ [July 13, 2016 \(81 FR 45232\)](#).

Subpart VVV National Emission Standards for Hazardous Air Pollutants for Source Category: Publicly Owned Treatment Works, 40 C.F.R. Part 63, Subpart VVV (July 1, [20152016](#)).

Subpart XXX National Emission Standards for Hazardous Air Pollutants for Source Category: Ferroalloys Production: Ferromanganese and Silicomanganese, 40 C.F.R. Part 63, Subpart XXX (July 1, [20152016](#)).

Subpart AAAA National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills, 40 C.F.R. Part 63, Subpart AAAA (July 1, [20152016](#)).

Subpart CCCC National Emission Standards for Hazardous Air Pollutants for Source Category: Manufacturing of Nutritional Yeast, 40 C.F.R. Part 63, Subpart CCCC (July 1, [20152016](#)).

Subpart DDDD National Emissions Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products, 40 C.F.R. Part 63, Subpart DDDD (July 1, [20152016](#)).

Subpart EEEE National Emissions Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline), 40 C.F.R. Part 63, Subpart EEEE (July 1, [20152016](#)).

Subpart FFFF National Emissions Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing, 40 C.F.R. Part 63, Subpart FFFF (July 1, [20152016](#)).

Subpart GGGG National Emission Standards for Hazardous Air Pollutants for Source Category: Solvent Extraction for Vegetable Oil Production, 40 C.F.R. Part 63, Subpart GGGG (July 1, [20152016](#)).

Subpart HHHH National Emission Standards for Hazardous Air Pollutants for Wet Formed Fiberglass Mat Production, 40 C.F.R. Part 63, Subpart HHHH (July 1, [20152016](#)).

Subpart IIII National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks, 40 C.F.R. Part 63, Subpart IIII (July 1, [20152016](#)).

Subpart JJJJ National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Coating, 40 C.F.R. Part 63, Subpart JJJJ (July 1, [20152016](#)).

Subpart KKKK National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans, 40 C.F.R. Part 63, Subpart KKKK (July 1, [20152016](#)).

Subpart MMMM National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Miscellaneous Metal Parts and Products, 40 C.F.R. Part 63, Subpart MMMM (July 1, [20152016](#)).

Subpart NNNN National Emission Standards for Hazardous Air Pollutants for Large Appliance Manufacturing, 40 C.F.R. Part 63, Subpart NNNN (July 1, [20152016](#)).

Subpart OOOO National Emission Standards for Hazardous Air Pollutants for Printing, Coating, and Dyeing of Fabrics and Other Textiles, 40 C.F.R. Part 63, Subpart OOOO (July 1, [20152016](#)).

Subpart PPPP National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Plastic Parts and Products, 40 C.F.R. Part 63, Subpart PPPP (July 1, [20152016](#)).

Subpart QQQQ National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products, 40 C.F.R. Part 63, Subpart QQQQ (July 1, [20152016](#)).

Subpart RRRR National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Furniture, 40 C.F.R. Part 63, Subpart RRRR (July 1, [20152016](#)).

Subpart SSSS National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Coil, 40 C.F.R. Part 63, Subpart SSSS (July 1, [20152016](#)).

Subpart TTTT National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations, 40 C.F.R. Part 63, Subpart TTTT (July 1, [20152016](#)).

Subpart UUUU National Emission Standards for Hazardous Air Pollutants for Cellulose Production Manufacturing, 40 C.F.R. Part 63, Subpart UUUU (July 1, [20152016](#)).

Subpart VVVV National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing, 40 C.F.R. Part 63, Subpart VVVV (July 1, [20152016](#)).

Subpart WWWW National Emission Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production, 40 C.F.R. Part 63, Subpart WWWW (July 1, [20152016](#)).

Subpart XXXX National Emission Standards for Hazardous Air Pollutants for Tire Manufacturing, 40 C.F.R. Part 63, Subpart XXXX (July 1, [20152016](#)).

Subpart YYYY National Emissions Standards for Hazardous Air Pollutants for Stationary Combustion Turbines, 40 C.F.R. Part 63, Subpart YYYY (July 1, [20152016](#)).

Subpart ZZZZ National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, 40 C.F.R. Part 63, Subpart ZZZZ (July 1, 2007).

Subpart AAAAA National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants, 40 C.F.R. Part 63, Subpart AAAAA (July 1, [20152016](#)).

Subpart BBBBB National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing, 40 C.F.R. Part 63, Subpart BBBBB (July 1, [20152016](#)).

Subpart CCCCC National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, 40 C.F.R. Part 63, Subpart CCCCC (July 1, [20152016](#)).

Subpart DDDDD National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 C.F.R. Part 63, Subpart DDDDD (July 1, [20152016](#)), ~~as amended November 20, 2015 (80 FR 72790)~~.

Subpart EEEEE National Emissions Standards for Hazardous Air Pollutants for Iron and Steel Foundries, 40 C.F.R. Part 63, Subpart EEEEE (July 1, [20152016](#)).

Subpart FFFFF National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing, 40 C.F.R. Part 63, Subpart FFFFF (July 1, [20152016](#)).

Subpart GGGGG National Emission Standards for Hazardous Air Pollutants: Site Remediation, 40 C.F.R. Part 63, Subpart GGGGG (July 1, [20152016](#)).

Subpart HHHHH National Emissions Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing, 40 C.F.R. Part 63, Subpart HHHHH (July 1, [20152016](#)).

Subpart IIIII National Emissions Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants, 40 C.F.R. Part 63, Subpart IIIII (July 1, [20152016](#)).

Subpart JJJJJ National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Manufacturing, 40 C.F.R. Part 63, Subpart JJJJJ, ~~as amended October 26, 2015 (80 FR 65740) and December 4, 2015 (80 FR 78517)~~ (July 1, [2016](#)).

Subpart KKKKK ~~Reserved for~~ National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing, 40 C.F.R. Part 63, Subpart KKKKK, ~~as amended October 26, 2015 (80 FR 65740) and December 4, 2015 (80 FR 78517) (July 1, 2016).~~

Subpart LLLLL National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing, 40 C.F.R. Part 63, Subpart LLLLL (July 1, ~~2015~~2016).

Subpart MMMMM National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication, 40 C.F.R. Part 63, Subpart MMMMM (July 1, ~~2015~~2016).

Subpart NNNNN National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production, 40 C.F.R. Part 63, Subpart NNNNN (July 1, ~~2015~~2016).

Subpart PPPPP National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards, 40 C.F.R. Part 63, Subpart PPPPP (July 1, ~~2015~~2016).

Subpart QQQQQ National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities, 40 C.F.R. Part 63, Subpart QQQQQ (July 1, ~~2015~~2016).

Subpart RRRRR National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing, 40 C.F.R. Part 63, Subpart RRRRR (July 1, ~~2015~~2016).

Subpart SSSSS National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing, 40 C.F.R. Part 63, Subpart SSSSS (July 1, ~~2015~~2016).

Subpart TTTTT National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining, 40 C.F.R. Part 63, Subpart TTTTT (July 1, ~~2015~~2016).

Subpart UUUUU National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, 40 C.F.R. Part 63, Subpart UUUUU (July 1, ~~2015~~2016), ~~as amended April 6, 2016 (81 FR 201723).~~

(See Regulation Number 6, Part A, Subpart Da and Part B, Section VIII. for additional requirements regarding Electric Utility Steam Generating Units)

Subpart WWWW National Emission Standards for Hospital Ethylene Oxide Sterilizers, 40 C.F.R. Part 63, Subpart WWWW (July 1, ~~2015~~2016).

Subpart YYYYY National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities, 40 C.F.R. Part 63, Subpart YYYYY (July 1, ~~2015~~2016).

Subpart ZZZZ National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources, 40 C.F.R. Part 63, Subpart ZZZZ (July 1, ~~2015~~2016).

Subpart DDDDD National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources, 40 C.F.R. Part 63, Subpart DDDDD (July 1, ~~2015~~2016).

Subpart EEEEE National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources, 40 C.F.R. Part 63, Subpart EEEEE (July 1, ~~2015~~2016).

Subpart FFFFFFFF National Emission Standards for Hazardous Air Pollutants: Secondary Copper Smelting, 40 C.F.R. Part 63, Subpart FFFFFFFF (July 1, [20152016](#)).

Subpart GGGGGG National Emission Standards for Hazardous Air Pollutants for Area Sources: Primary Nonferrous Metals: Zinc, Cadmium, and Beryllium, 40 C.F.R. Part 63, Subpart GGGGGG (July 1, [20152016](#)).

Subpart LLLLLL National Emission Standards for Hazardous Air Pollutants for area sources: Acrylic and Modacrylic Fibers Production, 40 C.F.R. Part 63, Subpart LLLLLL (July 1, [20152016](#)).

Subpart MMMMMM National Emission Standards for Hazardous Air Pollutants for area sources: Carbon Black Production, 40 C.F.R. Part 63, Subpart MMMMMM (July 1, [20152016](#)).

Subpart NNNNNN National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing area sources: Chromium Compounds, 40 C.F.R. Part 63, Subpart NNNNNN (July 1, [20152016](#)).

Subpart OOOOOO National Emission Standards for Hazardous Air Pollutants for area sources: Flexible Polyurethane Foam Production and Fabrication, 40 C.F.R. Part 63, Subpart OOOOOO (July 1, [20152016](#)).

Subpart PPPPPP National Emission Standards for Hazardous Air Pollutants for area sources: Lead Acid Battery Manufacturing, 40 C.F.R. Part 63, Subpart PPPPPP (July 1, [20152016](#)).

Subpart QQQQQQ National Emission Standards for Hazardous Air Pollutants for area sources: Wood Preserving, 40 C.F.R. Part 63, Subpart QQQQQQ (July 1, [20152016](#)).

Subpart TTTTTT National Emission Standards for Hazardous Air Pollutants for Secondary Nonferrous Metals Processing Area Sources, 40 C.F.R. Part 63, Subpart TTTTTT (July 1, [20152016](#)).

Subpart ZZZZZZ National Emission Standards for Hazardous Air Pollutants: Area Source Standards for Aluminum, Copper and Other Nonferrous Foundries, 40 C.F.R. Part 63, Subpart ZZZZZZ (July 1, [20152016](#)).

Subpart EEEEEEE National Emission Standards for Hazardous Air Pollutants: Gold Mine Ore Processing and Production Area Source Category, 40 C.F.R. Part 63, Subpart EEEEEEE (July 1, [20152016](#)).

Subpart HHHHHHH National Emission Standards for Hazardous Air Pollutant Emissions for Polyvinyl Chloride and Copolymers Production, 40 C.F.R. Part 63, Subpart HHHHHHH (July 1, [20152016](#)).

>>>>>>

PART E Federal Maximum Achievable Control Technology (MACT)

VI. Statements of Basis, Specific Statutory Authority and Purpose for Part E

[VI.II. Adopted May 18, 2017](#)

Incorporation by reference of federal rules and amendments to federal standards in 40 C.F.R. Part 63 into Regulation Number 8, Part E.

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., and the Air Quality Control Commission's ("Commission") Procedural Rules.

Basis

The EPA promulgated new standards in 40 C.F.R. Part 63, Subparts CC, GG, LLL, and UUU. The State of Colorado is required under Section 112 of the Clean Air Act to adopt such revisions and new standards into its regulations.

Authority

Sections 25-7-105(1)(b) and 25-7-109(2)(h) and 25-7-109(4), C.R.S. authorize the Commission to adopt emission control regulations and emission control regulations relating to hazardous air pollutants, respectively.

Purpose

Adoption of the federal rules and amendments to federal standards in 40 C.F.R. Part 63, Subparts CC, GG, LLL, and UUU make these rules and revisions enforceable under Colorado law. Further, these revisions may correct typographical, grammatical, and formatting errors throughout the regulation.



COLORADO

Air Quality Control Commission

Department of Public Health & Environment

NOTICE OF WRITTEN COMMENT ONLY RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 8, Parts A and E

SUBJECT:

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 8, Parts A and E to incorporate by reference additions and changes that the U.S. Environmental Protection Agency (EPA) made to its National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 C.F.R. Part 61 and Maximum Achievable Control Technology (MACT) standards in 40 C.F.R. Part 63.

The Division proposes to update the citation dates and incorporate by reference in full new and revised NESHAP and MACT standards, as identified below. The proposed revisions may also correct any typographical, grammatical, and formatting errors found through the regulation.

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

HEARING SCHEDULE:

DATE: May 18, 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:

This is a written comment only rulemaking hearing. The Commission encourages all interested persons to provide their views in writing prior to or at the hearing. The Commission encourages that written comments be submitted by **May 2, 2017** so that Commissioners have the opportunity to review the information prior to the hearing.

Electronic submissions are preferred and should be emailed to:

cdphe.aqcc-comments@state.co.us

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

All submissions should include: your name, address, phone number, email address, and the name of the group that you are representing (if applicable).

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

Sections 25-7-105(1)(b) and 25-7-109(2)(h) and 109(4), C.R.S. authorize the Commission to adopt emission control regulations and emission control regulations relating to hazardous air pollutants, specifically.

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 17th day of February 2017 at Denver, Colorado

Colorado Air Quality Control Commission

A handwritten signature in dark ink, reading "Michael Silverstein". The signature is written in a cursive, flowing style. The first name "Michael" is on the left, and the last name "Silverstein" is on the right, connected by a small space. The signature is positioned above a horizontal line.

Michael Silverstein, Administrator

Notice of Proposed Rulemaking

Tracking number

2017-00097

Department

1000 - Department of Public Health and Environment

Agency

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

CCR number

6 CCR 1011-1 Chap 24

Rule title

CHAPTER 24 - MEDICATION ADMINISTRATION REGULATIONS

Rulemaking Hearing

Date

04/19/2017

Time

10:00 AM

Location

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

Subjects and issues involved

To consider proposed amendments.

Statutory authority

Section 25-1.5-103, C.R.S., (2016);
Section 25-1.5-301, et seq., C.R.S. (2016);
Section 25--1.5--302, C.R.S.(2016).

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: Laurie Schoder, Policy Analyst, Health Facilities and Emergency Medical Services Division

Through: D. Randy Kuykendall, MLS; Director *DRK*

Date: February 15, 2017

Subject: Proposed Amendments to 6 CCR 1011-1, Standards for Hospitals and Health Facilities, Chapter 24, Medication Administration Regulations, with a Request for the Rulemaking Hearing to occur on April 19, 2017

The Department is proposing amendments to its regulations regarding medication administration in order to comply with House Bill 16-1424 which Governor Hickenlooper signed into law on June 10, 2016. The bill changes the way some state agencies handle the training, testing and registration of unlicensed personnel who are statutorily authorized to administer medications in certain types of facilities.

Previously, a person who was not a licensed nurse, physician or pharmacist had to complete a training and take a competency exam approved by the Department every four years in order to be deemed qualified to administer medication in both licensed facilities and unlicensed facilities that are overseen by the Departments of Health Care Policy and Financing and Human Services. House Bill 16-1424 now requires that individuals wishing to become QMAPs in licensed facilities receive such training and testing from an independent training entity approved by the Department and requires the Department to establish in rule the minimum requirements for course content, instructor qualifications and competency examinations.

Division personnel and stakeholders from a variety of providers and geographical locations have been meeting monthly since August to work through the legislative mandate and arrive at consensus regarding these proposed rule amendments.

For the convenience of board members considering this request for rule-making, the Division has also included the text from House Bill 16-1424 in this packet.

STATEMENT OF BASIS AND PURPOSE AND SPECIFIC STATUTORY AUTHORITY

For Amendments to 6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 24, Medication Administration Regulations
February 15, 2017

Basis and Purpose:

Qualified medication administration persons (QMAPs) are unlicensed individuals who are allowed, pursuant to statute, to administer medications to residents and clients of certain health facility types. Previous statutory language authorized the Department to develop a uniform medication administration curriculum which was taught across the state by instructors who contracted with the Department and then tested students to ensure their competency. Retesting was required every four years.

House Bill 16-1424 changed the way the Department manages the training, testing and recognition of qualified medication administration persons. For qualified medication administration persons employed in licensed facilities, training and competency testing will now be provided by independent training entities who must seek and receive Department authorization to offer such a program. The Department is required to establish minimum requirements for course content, competency and compliance by the facilities it licenses. In addition, the every four year retesting requirement has been repealed and a one-time successful completion of the competency evaluation is now sufficient for continuous qualification. The Department will maintain a list of approved training entities as well as a list of individuals who have successfully passed the competency evaluation.

The bill also allows three other state agencies to develop their own training programs. The Department of Health Care Policy and Financing and the Department of Human Services operate some programs in which their QMAPs perform additional tasks authorized by statute to meet the unique needs of their clients. The Department has been working with the Departments of Health Care Policy and Financing and Human Services to ascertain how best to align our various program and rule requirements to avoid disruption and maintain training standards and competency. Sections 2.1 and 7.4 of the proposed amendment are designed to address the differences of these programs. The proposed amendment does not have specific language related to the Department of Corrections because in working with that agency, it was determined to be unnecessary.

Although facilities have always been required to conduct criminal background checks for qualified medication administration persons, House Bill 16-1424 changed the language that had focused only on drug-related background checks to general, all-purpose criminal background checks. The proposed rules reflect this change as well in order to align with the new statutory requirements.

Lastly, this rule was reviewed in 2015, pursuant to Executive Order D2012-002, Section 24-4-103.3, C.R.S. and the Department's Regulatory Efficiency Review policy. House Bill 16-1424 modified that analysis; but to the extent the efficiencies identified in the rule review could be incorporated in these proposed amendments, that has occurred

These rules are promulgated pursuant to the following statutes:

Section 25-1.5-103, C.R.S., (2016)

Section 25-1.5-301, *et seq.*, C.R.S. (2016)

SUPPLEMENTAL QUESTIONS

Is this rulemaking due to a change in state statute?

☒ Yes House Bill 16-1424

☐ No

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

☐ Yes

☒ No

Does this rule incorporate materials by reference?

☐ Yes

☒ No

Does this rule create or modify fines or fees?

☐ Yes

☒ No

REGULATORY ANALYSIS

For Amendments to 6 CCR 1011-1, Standards for Hospitals and Health Facilities,
Chapter 24, Medication Administration Regulations
February 15, 2017

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

Current qualified medication administration persons and instructors will be affected by the rule amendments, along with the types of facilities that are allowed to use qualified medication administration persons. In addition, the rule amendments create a new class of persons, defined as authorized training entities, who will be affected. Primarily two classes will bear the costs of the proposed rule: 1) the authorized training entities that will need to develop the curriculum, train individuals and perform the competency examinations and 2) the students and/or facilities who will now pay these authorized independent entities in order to receive that training. It is anticipated that the rule amendments will benefit all classes by affording greater availability of training and choice.

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

It is difficult to describe the probable quantitative and qualitative impact of the proposed amendments because the newly created training entities will be able to charge students whatever they choose. It is anticipated that the competition will be a moderating force regarding the price of training. Since House Bill 16-1424 repealed the requirement that the competency examination be taken every four years and replaced it with a one-time evaluation, it is anticipated that will lessen the financial burden for individuals who currently have or are seeking qualification as a medication administration person. The cost for the requisite fingerprint background check remains the same as before. There is a new requirement that a facility hiring a qualified medication administration person after July 1, 2017 must ensure that the individual is adequately supervised until completion of on the job training. The cost of such supervision is anticipated to be minimal and outweighed by the benefit of ensuring that QMAPS are sufficiently prepared to administer medications in an individual facility.

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

The Department will incur costs to implement and administratively maintain the proposed rule amendments. The anticipation is that these costs will be covered by the fee that approved training entities must tender when submitting an individual's name for inclusion in the public competency listing. The probable costs to other state agencies is unknown at this time, although the Department has been working closely with the Departments of Health Care Policy and Financing and Human Services to

clarify their respective programs and minimize any potential conflicts or administrative burdens. The bill requires the Department to set a uniform fee for inclusion on the public competency listing. The Department is currently contemplating a registration fee of \$14 that would result in annual revenue of \$71,400 to oversee the program. The fee amount is information since the statute does not required the fee to be established by the Board of Health and these proposed amendments do not include a fee.

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

The proposed amendments are necessary in order to comply with House Bill 16-1424. Inaction is not an option as it would result in violation of the amended statutes.

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

There are no less costly or less intrusive methods for achieving the purpose of the rule amendments since the changes are mandated by statute.

6. Alternative rules or alternatives to rulemaking considered and why rejected.

The Department is making several administrative changes through policy. However, since the legislation specifically required the Department to establish by rule the minimum requirements for training entities, including instructor qualifications and the approval process, no other alternatives to the proposed rule amendments were seriously considered or deemed appropriate.

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 current Department administered program for qualified medication administration persons trains approximately 6,000 individuals per year, but the Department expects that number to decrease since retesting won't be required every four years. The Department estimates that approximately 5,100 students would still seek training and registration annually. There are over 1600 licensed facilities that are authorized to use qualified medication administration personnel and thata number is increasing on an annual basis.

STAKEHOLDER COMMENTS

For Amendments to 6 CCR 1011-1, Standards for Hospitals and Health Facilities, Chapter 24, Medication Administration Regulations

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: Shortly after House Bill 16-1424 was signed into law, the Department reached out to stakeholders to request their participation in a task force to discuss the new legislation, revise the existing regulations and work through the potential administrative processes. The task force was comprised of Department personnel and representatives of the diverse group of stakeholders that will be affected by the proposed rule changes. Specifically, the task force included the representatives of the following groups and/or facilities: Colorado Assisted Living Association, Colorado Health Care Association, LeadingAge Colorado, Peakview Assisted Living and Memory Care, Discover Goodwill, Winfield/Myron Stratton Home, King Adult Day, Pharmerica, and Pathways Hospice and Palliative Care. Representatives from the Departments of Health Care Policy and Financing and Human Services were also in attendance as were many members of the public. Since August 2016, the Department representatives and stakeholders have engaged in six lengthy meetings to reach consensus on these proposed amendments.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

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

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

No major factual or policy issues were encountered since the legislation is reasonably prescriptive as to the proposed amendments that must be adopted. The Department and stakeholders reached consensus on all major issues.

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 amendments impact Coloradoans as equally or equitably as could be accomplished within the parameters of the legislation that mandated the amendments.

HOUSE BILL 16-1424

CONCERNING QUALIFICATIONS FOR THE ADMINISTRATION OF MEDICATIONS IN FACILITIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

SECTION 1. In Colorado Revised Statutes, 25-1.5-301, **amend** (2) (h) and (4) (b) as follows:

25-1.5-301. Definitions. As used in this part 3, unless the context otherwise requires:

(2) "Facility" means:

(h) All services funded through and regulated by the department of ~~human services~~ HEALTH CARE POLICY AND FINANCING pursuant to article ~~10-5~~ 6 of title ~~27~~ 25.5, C.R.S., in support of persons with intellectual and developmental disabilities; and

(4) "Qualified manager" means a person who:

(b) Has completed training in the administration of medications pursuant to section 25-1.5-303 or is a licensed nurse pursuant to article 38 of title 12, C.R.S., a licensed physician pursuant to article 36 of title 12, C.R.S., or a licensed pharmacist pursuant to article 42.5 of title 12, C.R.S. Every unlicensed person who is a "qualified manager" within the meaning of this subsection (4) shall ~~every four years,~~ successfully complete a ~~test approved by the department~~ COMPETENCY EVALUATION pertaining to the administration of medications.

SECTION 2. In Colorado Revised Statutes, 25-1.5-302, **amend** (1) introductory portion, (1) (a), (3), and (8); and **add** (9) and (10) as follows:

25-1.5-302. Administration of medications - powers and duties of department - criminal history record checks. (1) The department has, in addition to all other powers and duties imposed upon it by law, the power and duty to establish and maintain by rule and regulation a program for the administration of medications in facilities. ~~which program shall be developed and conducted by the department of human services and the department of corrections, as provided in this part 3~~ THE DEPARTMENT OF HUMAN SERVICES, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND THE DEPARTMENT OF CORRECTIONS SHALL DEVELOP AND CONDUCT A MEDICATION ADMINISTRATION PROGRAM AS PROVIDED IN THIS PART 3. A MEDICATION ADMINISTRATION PROGRAM DEVELOPED PURSUANT TO THIS SUBSECTION (1) MUST BE CONDUCTED within the following guidelines:

(a) As a condition to authorizing or renewing the authorization to operate any facility that administers medications to persons under its care, the authorizing agency shall require that the facility have a staff member qualified pursuant to paragraph (b) of this subsection (1) on duty at any time that the facility administers such medications and that the facility maintain a written record of each medication administered to each resident, including the DATE, time, and ~~the~~ amount of the medication AND THE SIGNATURE OF THE PERSON ADMINISTERING THE MEDICATION. Such record will be IS subject to review by the authorizing agency as a part of its THE AGENCY'S procedure in authorizing the continued operation of the facility. Notwithstanding any exemption enumerated in paragraph (b) of this subsection (1), any facility may establish a policy ~~which~~ THAT requires a person authorized to administer medication

to report to, be supervised by, or to be otherwise accountable for the performance of such administration to a registered nurse as defined in section 12-38-103, C.R.S.

(3) ~~If either~~ The department of human services, ~~or~~ THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, AND the department of corrections wishes to use a different training curriculum and competency evaluation procedure for those who administer medications in the facilities whose operation is authorized by those departments, such department shall ensure that such training curriculum and competency evaluation procedure are first submitted to the department of public health and environment for its review. If, after such review, the department of public health and environment has no objection, the submitting department shall assume responsibility for the cost and implementation of such curriculum and evaluation in keeping with the other provisions of this medications administration program for those facilities whose operation is authorized by such department. Any department that administers competency evaluations shall maintain a list of those who have successfully completed such competency evaluation and shall forward a copy of such list to the department of public health and environment within forty-five days after administration of such evaluation MAY DEVELOP AND APPROVE MINIMUM REQUIREMENTS FOR COURSE CONTENT, INCLUDING COMPETENCY EVALUATIONS, FOR INDIVIDUALS WHO ADMINISTER MEDICATIONS IN FACILITIES WHOSE OPERATION IS AUTHORIZED BY THOSE DEPARTMENTS. A DEPARTMENT THAT ADMINISTERS COMPETENCY EVALUATIONS SHALL MAINTAIN A PUBLIC LIST OF INDIVIDUALS WHO HAVE SUCCESSFULLY COMPLETED THE COMPETENCY EVALUATION.

(8) Each owner, operator, or supervisor of a facility who employs a person who is not licensed to administer medications shall conduct a ~~drug-related~~ criminal background check on each employee prior to employment OR PROMOTION TO A POSITION IN WHICH THE PERSON HAS ACCESS TO MEDICATIONS.

(9) EVERY UNLICENSED PERSON AND QUALIFIED MANAGER DESCRIBED IN THIS SECTION, AS A CONDITION OF EMPLOYMENT OR PROMOTION TO A POSITION IN WHICH HE OR SHE HAS ACCESS TO MEDICATIONS, SHALL SIGN A DISCLOSURE STATEMENT UNDER PENALTY OF PERJURY STATING THAT HE OR SHE NEVER HAD A PROFESSIONAL LICENSE TO PRACTICE NURSING, MEDICINE, OR PHARMACY REVOKED IN THIS OR ANY PAGE 3-HOUSE BILL 16-1424 OTHER STATE FOR REASONS DIRECTLY RELATED TO THE ADMINISTRATION OF MEDICATIONS.

(10) A PERSON WHO, ON OR BEFORE JULY 1, 2017, IS AUTHORIZED TO ADMINISTER MEDICATION PURSUANT TO THIS SECTION IS NOT REQUIRED TO COMPLETE ADDITIONAL TRAINING BUT IS OTHERWISE SUBJECT TO THIS SECTION.

SECTION 3. In Colorado Revised Statutes, 25-1.5-302, **amend** (2); and **repeal** (4), (5), (6), and (7) as follows:

25-1.5-302. Administration of medications - powers and duties of department - criminal history record checks. (2) (a) The department ~~in cooperation with appropriate agencies or advisory bodies, shall develop or approve training curricula and competency evaluation procedures for those who administer medications in facilities~~ ESTABLISH BY RULE THE MINIMUM REQUIREMENTS FOR COURSE CONTENT, INCLUDING COMPETENCY EVALUATIONS, FOR MEDICATION ADMINISTRATION AND TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS FOR FACILITIES LICENSED UNDER THIS TITLE.

(b) THE DEPARTMENT SHALL APPROVE TRAINING ENTITIES FOR FACILITIES LICENSED UNDER THIS TITLE AND MAINTAIN A LIST OF APPROVED TRAINING ENTITIES. THE DEPARTMENT SHALL ESTABLISH BY RULE THE MINIMUM REQUIREMENTS FOR TRAINING ENTITIES, INCLUDING INSTRUCTOR QUALIFICATIONS AND THE APPROVAL PROCESS. APPROVED TRAINING ENTITIES SHALL PROVIDE THE DEPARTMENT WITH A LIST OF ALL PERSONS WHO HAVE SUCCESSFULLY COMPLETED A COMPETENCY EVALUATION.

(c) TRAINING ENTITIES SHALL ALSO PROVIDE THE DEPARTMENT WITH ANY OTHER PERTINENT INFORMATION REASONABLY REQUESTED BY THE DEPARTMENT PURSUANT TO THE DEPARTMENT'S OBLIGATION AND AUTHORITY UNDER THIS SECTION.

(d) THE DEPARTMENT SHALL PUBLISH AND MAINTAIN A CURRENT LIST OF ALL PERSONS WHO HAVE PASSED A COMPETENCY EVALUATION FROM AN APPROVED TRAINING ENTITY AND PAID THE FEE REQUIRED BY PARAGRAPH (e) OF THIS SUBSECTION (2).

(e) THE DEPARTMENT SHALL SET AND COLLECT A UNIFORM FEE FOR PAGE 4-HOUSE BILL 16-1424 INCLUSION IN THE PUBLIC COMPETENCY LISTING. THE DEPARTMENT SHALL NOT INCLUDE AN INDIVIDUAL ON THE PUBLIC LISTING UNLESS THE INDIVIDUAL HAS SUCCESSFULLY COMPLETED A COMPETENCY EVALUATION FROM AN APPROVED TRAINING ENTITY AND PAID THE FEE ESTABLISHED BY THE DEPARTMENT. THE REVENUE GENERATED FROM THE FEE MUST APPROXIMATE THE DIRECT AND INDIRECT COSTS INCURRED BY THE DEPARTMENT IN THE PERFORMANCE OF DUTIES UNDER THIS SECTION.

~~(4) The department shall assure that training sessions, each followed by a competency evaluation set to measure basic competency only, are offered at various geographic locations in the state. An individual who does not pass the competency evaluation may apply to retake it. An appropriate fee must be paid each time the competency evaluation is taken. An individual may apply for and take the competency evaluation only once without having first attended a training session approved by the department. If such individual fails to meet a minimum competency level on such first evaluation, the applicant must attend an approved training session before again taking the competency evaluation.~~

~~(5) The department shall set and collect a uniform fee for any training session given and a uniform fee for any competency evaluation administered under the provisions of this section whether the department administers such training or testing or contracts with a private provider pursuant to subsection (7) of this section, so that the revenue generated from such fees approximates the direct and indirect costs incurred by the department in the performance of its duties under this section. No person shall enroll in a training session or take the competency evaluation test until such person applies and makes payment of the appropriate fees to the department.~~

~~(6) If the individual authorized to administer medication pursuant to subsection (1) of this section is found, during the course of any review by the authorizing agency as part of its procedure in authorizing the continued operation of the facility, to be unable or unwilling to comply with the training regimen established for medication administration, the department may order retraining as a remedial measure.~~

~~(7) (a) If the department determines that it is not able to provide the training and administer competency evaluations pursuant to this section, the department may contract with a private provider or instructor to provide such training and administer such competency evaluations.~~

~~(b) Before any private contractor may offer training pursuant to this subsection (7), such private contractor shall be reviewed by the department. Only those private contractors approved by the department may offer training. Any such approved private contractor shall offer only a medication administration training program which has been approved by the department. The department shall maintain a list of approved medication administration contractors. The department shall compensate contractors from the fees collected from each trainee in attendance at any such privately contracted training session or competency evaluation.~~

~~(c) All private contractors shall provide the department with a list of all persons who have taken such contractor's approved training sessions or have passed the competency evaluation or both. Such contractors shall also provide the department with any other pertinent information reasonably requested by the department pursuant to its obligations and authority under this section. The department shall maintain a listing of all persons who have passed the competency evaluation on its web site.~~

SECTION 4. In Colorado Revised Statutes, 25-1.5-303, **amend** (1), (2), (3), and (5) (c) as follows:

25-1.5-303. Medication reminder boxes or systems - medication cash fund - repeal. (1) Medication reminder boxes or systems may be used if such containers have been filled and properly labeled by a pharmacist licensed pursuant to article 42.5 of title 12, C.R.S., a nurse licensed pursuant to article 38 of title 12, C.R.S., or an unlicensed person trained pursuant to this section or filled and properly labeled through the gratuitous care by members of one's family or friends. Nothing in this section authorizes or shall be construed to authorize the practice of pharmacy, as defined in section 12-42.5-102 (31), C.R.S. ~~No~~ An unlicensed person shall NOT fill and label medication reminder boxes pursuant to this section until ~~such~~ THE person has SUCCESSFULLY completed appropriate training approved by the department, A COMPETENCY EVALUATION FROM AN APPROVED TRAINING ENTITY OR HAS BEEN APPROVED BY AN AUTHORIZED AGENCY, and no facility shall use an unlicensed person to perform such services unless ~~such~~ THE facility has a qualified manager to oversee the work of ~~such~~ THE unlicensed person or persons. Every unlicensed person and qualified manager described in this section shall sign a disclosure statement under penalty of perjury stating that he or she never had a professional license to practice nursing, medicine, or pharmacy revoked in this or any other state for reasons directly related to the administration of medications.

(2) The department has, in addition to all other powers and duties imposed upon it by law, the powers and duties provided in this section to develop and implement ~~policies and procedures~~ RULES with respect to the provisions in subsection (1) of this section concerning the administration of medication reminder boxes.

(3) The executive directors of the departments that control the facilities defined in section 25-1.5-301 (2) (a) and (2) (b) may direct the unlicensed staff of any such facility to monitor medications in any part of any such facility. Administration of medications in any such facility shall be allowed only in those areas of any such facility that have a licensed physician or other licensed practitioner on duty. Notwithstanding other training requirements established in this section, the operator or administrator of every facility that hires an unlicensed person to administer medications pursuant to this section shall provide on-the-job training for such person, and all such unlicensed persons hired on or after July 1, 1998 2017, shall be adequately supervised until they have SUCCESSFULLY completed ~~such~~ THE training. ~~Such~~ THE on-the-job training shall MUST be appropriate to the job responsibilities of each trainee.

Facility operators and administrators shall require each unlicensed person who administers medication in the facility to pass the A competency evaluation ~~developed or approved by the department~~ pursuant to section 25-1.5-302 (2) as a condition of employment in that facility. ~~at least once every five years.~~ Facility operators and administrators shall document each unlicensed person's satisfactory completion of on-the-job training and passage of the competency evaluation in his or her permanent personnel file.

(5) (c) (I) Any ~~moneys~~ MONEY collected by the department from persons taking a training program or a competency examination from a private contractor approved pursuant to section 25-1.5-302 (7) shall be transmitted to the state treasurer, who shall credit the same to the medication administration cash fund created in paragraph (a) of this subsection (5). Such ~~moneys~~ MONEY collected from the fees charged for any such training program or competency examination shall be annually appropriated by the general assembly to the department for the purpose of paying private contractors for services rendered and for paying the department's direct and indirect costs incurred pursuant to section 25-1.5-302 (7).

(II) THIS PARAGRAPH (c) IS REPEALED, EFFECTIVE JULY 1, 2017.

SECTION 5. Appropriation. For the 2016-17 state fiscal year, \$30,298 is appropriated to the department of public health and environment for use by the health facilities and emergency medical services division. This appropriation is from the medication administration cash fund created in section 25-1.5-303 (5) (a), C.R.S., and is based on an assumption that the division will require an additional 0.5 FTE. To implement this act, the division may use this appropriation for administration and operations.

SECTION 6. Effective date. This act takes effect July 1, 2016; except that section 3 of this act takes effect July 1, 2017.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
Health Facilities and Emergency Medical Services Division

STANDARDS FOR HOSPITALS AND HEALTH FACILITIES: CHAPTER 24 - MEDICATION

ADMINISTRATION REGULATIONS

6 CCR 1011-1 Chapter 24

SECTION 1 – STATUTORY AUTHORITY AND APPLICABILITY

- 1.1 The statutory authority for the promulgation of these rules is set forth in sections 25-1.5-103 and 25-1.5-301, et seq., C.R.S.
- 1.2 Any licensed facility that administers medications to persons under its care shall comply with all applicable federal and state statutes and regulations, including but not limited to this Chapter ~~XXIV~~ 24.
- 1.3 Any facility, AS DEFINED HEREIN, THAT ADMINISTERS MEDICATIONS TO PERSONS UNDER ITS CARE BUT IS NOT LICENSED BY THE DEPARTMENT MAY BE REQUIRED TO COMPLY WITH THIS CHAPTER 24 AS A CONDITION OF OPERATING ITS FACILITY IF SO DIRECTED BY ITS AUTHORIZING STATE AGENCY.

SECTION 2 – DEFINITIONS

- 2.1 "ADMINISTRATION" MEANS ASSISTING A PERSON IN THE INGESTION, APPLICATION, INHALATION, OR, USING UNIVERSAL PRECAUTIONS, RECTAL OR VAGINAL INSERTION OF MEDICATION, INCLUDING PRESCRIPTION DRUGS, ACCORDING TO THE LEGIBLY WRITTEN OR PRINTED DIRECTIONS OF THE ATTENDING PHYSICIAN OR OTHER AUTHORIZED PRACTITIONER OR AS WRITTEN ON THE PRESCRIPTION LABEL AND MAKING A WRITTEN RECORD THEREOF WITH REGARD TO EACH MEDICATION ADMINISTERED, INCLUDING THE TIME AND THE AMOUNT TAKEN, BUT "ADMINISTRATION" DOES NOT INCLUDE JUDGMENT, EVALUATION, OR ASSESSMENTS OR THE INJECTIONS OF MEDICATION, THE MONITORING OF MEDICATION, OR THE SELF-ADMINISTRATION OF MEDICATION, INCLUDING PRESCRIPTION DRUGS AND INCLUDING THE SELF-INJECTION OF MEDICATION BY THE RESIDENT.
- "ADMINISTRATION" ALSO MEANS INGESTION THROUGH GASTROSTOMY TUBES OR NASO-GASTRIC TUBES, IF ADMINISTERED BY A PERSON AUTHORIZED PURSUANT TO SECTION 25.5-10-204(2)(J) AND 27-10.5-103(2)(I)), C.R.S., AS PART OF RESIDENTIAL OR DAY PROGRAM SERVICES PROVIDED THROUGH SERVICE AGENCIES APPROVED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND SUPERVISED BY A LICENSED PHYSICIAN OR NURSE.
- 2.2 "APPROVED TRAINING ENTITY" MEANS AN AGENCY, ASSOCIATION, FACILITY, INDIVIDUAL, INSTITUTION OR ORGANIZATION THAT IS APPROVED BY THE DEPARTMENT TO PROVIDE MEDICATION ADMINISTRATION STUDENTS WITH A SUITABLE CLASSROOM AND CLINICAL EXPERIENCE.
- 2.3 "APPROVAL" MEANS RECOGNITION THAT A MEDICATION ADMINISTRATION TRAINING PROGRAM MEETS THE STANDARDS ESTABLISHED BY THE DEPARTMENT.
- 2.4 "CLASSROOM" MEANS THAT PORTION OF THE TRAINING PROGRAM IN WHICH MEDICATION ADMINISTRATION STUDENTS RECEIVE INSTRUCTION IN THE PRINCIPLES THAT COMPRISE THE BASIS FOR SAFE AND COMPLIANT MEDICATION ADMINISTRATION. THE CLASSROOM PORTION OF THE TRAINING PROGRAM MAY BE CONDUCTED EITHER ELECTRONICALLY OR IN PERSON.
- 2.5 "COMPETENCY EVALUATION" MEANS EITHER:

- 1 (A) THE EXAMINATION OFFERED BY AN APPROVED TRAINING ENTITY THAT MUST BE TAKEN AND
2 PASSED AS A CONDITION OF BECOMING A QUALIFIED MEDICATION ADMINISTRATION PERSON, OR
3
4 (B) THE WRITTEN AND CLINICAL EXAMINATION ADMINISTERED BY THE DEPARTMENT BEFORE JULY 1,
5 2017.

6 2.6 "CONTROLLED SUBSTANCE" MEANS ANY MEDICATION THAT IS REGULATED AND CLASSIFIED BY THE
7 CONTROLLED SUBSTANCE ACT AT 21 USC §812 AS BEING SCHEDULE II THROUGH V.

8 2.7 "COURSE CONTENT" MEANS THE CLASSROOM AND SKILLS PRACTICE THAT THE TRAINING ENTITY IS
9 REQUIRED TO DELIVER AS A CONDITION OF DEPARTMENT APPROVAL.

10 2.48 "Department" means the Department of Public Health and Environment.

11 2.29 "Facility" for purposes of this Chapter means:

12 (A) Correctional facilities under the supervision of the Executive Director of the Department
13 of Corrections;

14 (B) Juvenile facilities operated by or under contract with the Department of Human Services,
15 as set forth in section 19-2-401, et seq., C.R.S.;

16 (C) Assisted living residences as defined in section 25-27-102(1.3), C.R.S.;

17 (D) Adult foster care facilities provided for in section 26-2-122.3, C.R.S.;

18 (E) Alternate care facilities provided for in section 25.5-6-303(3), C.R.S.;

19 (F) Residential child care facilities for children as defined in section 26-6-102(8), C.R.S.;

20 (G) Secure residential treatment centers as defined in section 26-6-102(9), C.R.S.;

21 (H) Facilities that provide treatment for persons with mental illness as defined in section 27-
22 65-102(7), C.R.S., except for those facilities which are publicly or privately licensed
23 hospitals;

24 (I) All services funded through and regulated by the Department of Human Services HEALTH
25 CARE POLICY AND FINANCING pursuant to article 40-5 6 of Title 27 25.5, C.R.S., in support
26 of persons with INTELLECTUAL AND developmental disabilities; and

27 (J) Adult day care facilities providing services in support of persons as defined in section
28 25.5-6-303(1), C.R.S.

29 2.10 "MEDICATION ADMINISTRATION TRAINING PROGRAM" (HEREINAFTER REFERRED TO AS "TRAINING
30 PROGRAM") MEANS A COURSE OF STUDY THAT IS APPROVED BY THE DEPARTMENT THAT MEETS THE
31 REQUIREMENTS OF THIS CHAPTER.

32 2.311 "Medication reminder box" means a container that is compartmentalized and designed to hold
33 medications for distribution according to a time element such as day, week, or portions thereof.

34 2.12 "MONITORING" MEANS

35 (A) REMINDING THE RESIDENT TO TAKE MEDICATION(S) AT THE TIME ORDERED BY THE
36 PRACTITIONER;

- (B) HANDING A RESIDENT A CONTAINER OR PACKAGE OF MEDICATION THAT WAS PREVIOUSLY LAWFULLY LABELED BY A PRACTITIONER FOR THE INDIVIDUAL RESIDENT;
- (C) VISUAL OBSERVATION OF THE RESIDENT TO ENSURE COMPLIANCE;
- (D) MAKING A WRITTEN RECORD OF THE RESIDENT'S COMPLIANCE WITH REGARD TO EACH MEDICATION, INCLUDING THE TIME TAKEN; AND
- (E) NOTIFYING THE PRACTITIONER IF THE RESIDENT REFUSES OR IS UNABLE TO COMPLY WITH THE PRACTITIONER'S INSTRUCTIONS REGARDING THE MEDICATION.

2.413 "Qualified manager" means a person who:

- (A) Is the owner or operator of the facility or a supervisor designated by the owner or operator of the facility for the purpose of implementing section 25-1.5-303, C.R.S., and
- (B) Has completed training in the administration of medication pursuant to section 25-1.5-303, C.R.S., or is a licensed nurse, licensed physician, or licensed pharmacist in the State of Colorado.

2.14 "PRACTITIONER" MEANS A PERSON AUTHORIZED BY LAW TO PRESCRIBE TREATMENT, MEDICATION OR MEDICAL DEVICES WHO IS ACTING WITHIN THE SCOPE OF SUCH AUTHORITY.

2.15 "PROGRAM COORDINATOR" MEANS THE INDIVIDUAL DESIGNATED BY AN APPROVED TRAINING ENTITY WHO ACTS AS LIAISON TO THE DEPARTMENT AND IS RESPONSIBLE FOR TRANSMITTING THE NAMES OF STUDENTS WHO HAVE PASSED THE TRAINING ENTITY'S COMPETENCY EXAMINATION, APPLICABLE FEES AND COURSE CONTENT UPDATES.

2.16 "QUALIFIED INSTRUCTOR" MEANS A NURSE, PHARMACIST, PHYSICIAN OR PHYSICIAN ASSISTANT WITH AN ACTIVE, UNRESTRICTED COLORADO LICENSE.

2.517 ~~"Qualified medication administration staff member PERSON" or "QMAP" means a person~~ AN INDIVIDUAL WHO ~~has passed the department's competency evaluation and:~~ PASSED A COMPETENCY EVALUATION ADMINISTERED BY THE DEPARTMENT BEFORE JULY 1, 2017, OR PASSED A COMPETENCY EVALUATION ADMINISTERED BY AN APPROVED TRAINING ENTITY ON OR AFTER JULY 1, 2017 AND WHOSE NAME APPEARS ON THE DEPARTMENT'S LIST OF PERSONS WHO HAVE PASSED THE REQUISITE COMPETENCY EVALUATION.

~~(A) — Is trained and employed by a facility on a full or part-time basis to provide direct care service including medication administration to the facility's residents, or~~

~~(B) — Is utilized by a facility on a contractual, full or part-time basis to provide direct care services including medication administration to the facility's residents.~~

~~(1) — The term qualified medication administration staff member does not apply to intermittent, temporary or pool staffing services provided by agencies offering such services.~~

2.618 "Self-administration" means the ability of a person to take medication independently without any assistance from another person.

2.19 "SKILLS PRACTICE" MEANS THAT PORTION OF THE TRAINING PROGRAM WHERE STUDENTS IN A SIMULATED CARE SETTING PRACTICE MEDICATION ADMINISTRATION SKILLS AND APPLICATION OF CLASSROOM PRINCIPLES UNDER THE DIRECT SUPERVISION OF QUALIFIED INSTRUCTORS. THE SKILLS PRACTICE PORTION OF THE TRAINING PROGRAM SHALL BE CONDUCTED IN PERSON RATHER THAN ELECTRONICALLY.

SECTION 3 – GENERAL PROVISIONS FACILITY RESPONSIBILITIES

3.1 The EACH facility shall ensure that there is a qualified medication administration staff member onsite any time medication is administered, including when medication is administered pro re nata (PRN) or “as needed.”

3.2 The facility shall maintain payment or other documentation verifying the employment status of each qualified medication administration staff member.

(A) If the qualified medication administration staff member is a contract employee, documentation shall consist of the employment contract and include the following:

(1) The name of the specific person who is trained in medication administration and will be providing those services;

(2) Verification that the person's direct care and medication administration services will only be provided to the residents of the licensed facility; and

(3) Verification that the facility is paying for this person's services.

3.3 The department shall maintain a list on its web site of all qualified medication administration staff members who have passed the competency evaluation.

3.4 Every unlicensed person who is a “qualified manager” shall pass the competency evaluation approved by the department pertaining to the administration of medications at least once every four years.

3.5 The facility shall report to the department if a QMAP or qualified manager engages in a pattern of deficient medication administration practice or administers medication contrary to a physician's order or these rules that either causes or has the potential to cause harm to the recipient. Such report shall be made no later than the next business day after the occurrence or no later than the next business day after the facility becomes aware of the occurrence.

SECTION 4 – POLICIES AND PROCEDURES

4.1 All licensed facilities shall maintain and follow written policies and procedures for the administration of medication that are consistent with the regimen taught in the medication administration course.

4.2-3.2 Pursuant to section 25-1.5-302(8), C.R.S., e Each facility that employs a person who is not licensed to administer medications shall conduct a drug-related criminal background check on each person prior to employment OR PROMOTION TO A POSITION IN WHICH HE OR SHE HAS ACCESS TO MEDICATIONS.

(A) All licensed facilities shall establish, follow and maintain a written policy and procedure concerning drug-related criminal background checks. Such policy and procedure shall include, at a minimum:

(1) Criteria for the investigation and evaluation of any drug-related offenses revealed by the background check, and

(2) Criteria for monitoring any person hired with prior drug-related offenses, and

(3) Sufficient record keeping to document compliance with items (1) and (2).

1 ~~4.3 Facility operators and administrators shall require each unlicensed person who administers~~
2 ~~medication in the facility to pass the competency evaluation developed or approved by the~~
3 ~~department pursuant to section 25-1.5-302(2), C.R.S., as a condition of employment in that~~
4 ~~facility at least once every five years. QMAPs who have not retested in the five years prior to~~
5 ~~January 1, 2010, shall do so as soon as practicable, but no later than January 1, 2012.~~

6 ~~(A) Facility operators and administrators shall document each unlicensed person's~~
7 ~~satisfactory completion of on-the-job training and passage of the competency evaluation~~
8 ~~in his or her permanent personnel file.~~

9 ~~(B) If an existing QMAP does not successfully complete the competency evaluation within~~
10 ~~the time limits established in this section 4.3, the facility shall immediately cancel that~~
11 ~~individual's medication administration responsibility and so notify the department.~~

12 3.3 EACH FACILITY SHALL ESTABLISH, FOLLOW AND MAINTAIN A WRITTEN POLICY AND PROCEDURE
13 CONCERNING CRIMINAL BACKGROUND CHECKS. SUCH POLICY AND PROCEDURE SHALL INCLUDE, AT A
14 MINIMUM:

15 (A) CRITERIA FOR THE INVESTIGATION AND EVALUATION OF ANY CRIMINAL OFFENSES REVEALED BY
16 THE BACKGROUND CHECK, AND

17 (B) CRITERIA FOR MONITORING ANY PERSON HIRED WITH A CRIMINAL OFFENSE HISTORY.

18 3.4 A FACILITY SHALL REQUIRE A QUALIFIED MEDICATION ADMINISTRATION PERSON OR QUALIFIED MANAGER,
19 AS A CONDITION OF EMPLOYMENT OR PROMOTION TO A POSITION WHERE THE INDIVIDUAL HAS ACCESS TO
20 MEDICATIONS, TO SIGN A DISCLOSURE STATEMENT UNDER PENALTY OF PERJURY STATING THAT HE OR
21 SHE HAS NEVER HAD A PROFESSIONAL LICENSE TO PRACTICE NURSING, MEDICINE, OR PHARMACY
22 REVOKED IN COLORADO OR ANY OTHER STATE FOR REASONS DIRECTLY RELATED TO THE
23 ADMINISTRATION OF MEDICATIONS.

24 3.5 A FACILITY THAT EMPLOYS OR CONTRACTS WITH A PERSON WHO IS NOT LICENSED TO ADMINISTER
25 MEDICATIONS SHALL VERIFY THAT THE PERSON'S NAME IS INCLUDED ON THE DEPARTMENT'S LIST OF
26 QUALIFIED MEDICATION ADMINISTRATION PERSONS.

27 3.6 THE OPERATOR OR ADMINISTRATOR OF EACH FACILITY THAT HIRES A QUALIFIED MEDICATION
28 ADMINISTRATION PERSON SHALL PROVIDE SUCH PERSON WITH ON-THE-JOB TRAINING THAT FOCUSES ON
29 THE UNIQUE NEEDS OF THE FACILITY.

30 3.7 A FACILITY SHALL ENSURE THAT EACH QUALIFIED MEDICATION ADMINISTRATION PERSON HIRED ON OR
31 AFTER JULY 1, 2017, IS ADEQUATELY SUPERVISED UNTIL HE OR SHE HAS SUCCESSFULLY COMPLETED
32 THE TRAINING.

33 3.8 THE FACILITY SHALL RETAIN DOCUMENTATION OF COMPLIANCE WITH SECTIONS 3.2 THROUGH 3.7.

34 **SECTION 4 - PROCEDURES FOR TRAINING ENTITY APPROVAL**

35 4.1 ANY AGENCY, ASSOCIATION, FACILITY, INDIVIDUAL, INSTITUTION OR ORGANIZATION DESIRING TO BECOME
36 AN APPROVED TRAINING ENTITY SHALL:

37 (A) SUBMIT AN APPLICATION AND ALL REQUIRED ATTACHMENTS CONCERNING ITS MEDICATION
38 ADMINISTRATION TRAINING PROGRAM IN THE FORM AND MANNER REQUIRED BY THE
39 DEPARTMENT, AND

40 (B) DESIGNATE A PROGRAM COORDINATOR WHO SHALL BE RESPONSIBLE FOR COMPLIANCE WITH
41 THIS CHAPTER.

- 4.2 A TRAINING ENTITY SHALL NOT ENROLL STUDENTS IN A MEDICATION ADMINISTRATION TRAINING PROGRAM UNTIL IT HAS RECEIVED APPROVAL FROM THE DEPARTMENT. STUDENTS ATTENDING AND COMPLETING A NON-APPROVED PROGRAM ARE NOT ELIGIBLE FOR INCLUSION ON THE DEPARTMENT'S PUBLIC LIST OF INDIVIDUALS WHO HAVE PASSED THE QMAP COMPETENCY EVALUATION AND A FACILITY SHALL NOT ALLOW SUCH INDIVIDUAL TO ADMINISTER MEDICATIONS.

SECTION 5 - TRAINING PROGRAM ADMISSIONS

- 5.1 THE APPROVED TRAINING ENTITY SHALL ENSURE THAT ALL APPLICANTS WISHING TO ENROLL IN A TRAINING PROGRAM TO BECOME A MEDICATION ADMINISTRATION PERSON PROVIDE PROOF OF BEING AT LEAST EIGHTEEN (18) YEARS OF AGE.
- 5.2 THE APPROVED TRAINING ENTITY SHALL PROVIDE EACH APPLICANT, PRIOR TO ENROLLMENT, WITH A WRITTEN STATEMENT REGARDING THE BASIC READING, WRITING AND MATH SKILLS THAT AN APPLICANT IS EXPECTED TO POSSESS IN ORDER TO SUCCESSFULLY COMPLETE THE COURSE.

SECTION 6 – TRAINING PROGRAM COURSE CONTENT

- 6.1 THE COURSE CONTENT SHALL BE DEVELOPED, IMPLEMENTED AND MANAGED BY THE TRAINING ENTITY AND APPROVED BY THE DEPARTMENT.
- (A) EACH APPROVED TRAINING ENTITY SHALL, PRIOR TO IMPLEMENTATION, PROMPTLY PROVIDE THE DEPARTMENT WITH INFORMATION CONCERNING ANY ANTICIPATED CHANGES THAT SIGNIFICANTLY ALTER THE APPROVED COURSE CONTENT OR COMPETENCY EVALUATION.
- 6.2 THE COURSE CONTENT SHALL CONTAIN THE REQUIRED ITEMS SPECIFIED BY THE DEPARTMENT AND CONTAINED IN THIS CHAPTER.
- 6.3 CLASSROOM AND SKILLS PRACTICE IN THE REQUIRED CONTENT MUST BE COMPLETED BEFORE STUDENTS PROCEED TO THE COMPETENCY EXAMINATION.
- 6.4 CLASSROOM AND SKILLS PRACTICE SHALL BE TAUGHT AND OVERSEEN BY A QUALIFIED INSTRUCTOR.
- 6.5 THE COMPETENCY EVALUATION SHALL INCLUDE WRITTEN AND PRACTICAL SKILLS TESTING AND BE ADMINISTERED BY A QUALIFIED INSTRUCTOR WHO SHALL DOCUMENT EACH STUDENT'S SUCCESS WITH THE COMPETENCIES.
- (A) THE WRITTEN PORTION OF THE COMPETENCY EVALUATION SHALL COVER, AT A MINIMUM, ALL THE REQUIRED CURRICULUM CONTENT SET FORTH IN SECTION 6.7 OF THIS CHAPTER.
- (B) THE PRACTICAL SKILLS PORTION OF THE COMPETENCY EVALUATION SHALL ASSESS, AT A MINIMUM, WHETHER EACH STUDENT IS CAPABLE OF SAFE, SANITARY AND ACCURATE MEDICATION ADMINISTRATION FROM PREPARATION THROUGH ALLOWABLE ROUTES OF ADMINISTRATION AND DOCUMENTATION.
- 6.6 APPROVED TRAINING ENTITIES SHALL RETAIN STUDENT COMPETENCY EVALUATION RECORDS FOR A MINIMUM OF THREE YEARS.
- 6.7 THE COURSE CONTENT SHALL INCLUDE CLASSROOM AND SKILLS PRACTICE IN ALL OF THE FOLLOWING AREAS:
- (A) THE PRINCIPLES OF ADMINISTERING MEDICATIONS THAT INCLUDE, AT A MINIMUM:
- (1) THE SCOPE OF PRACTICE OF A MEDICATION ADMINISTRATION PERSON INCLUDING, BUT NOT LIMITED TO:

- 1 (a) AUTHORIZED SETTINGS AND REQUIREMENTS,
- 2 (b) MEDICATION RESTRICTIONS,
- 3 (c) ROLES, RESPONSIBILITIES AND CAUTIONS,
- 4 (d) SEVEN RIGHTS OF MEDICATION ADMINISTRATION,
- 5 (e) ROUTES AND FORMS OF ACCEPTABLE MEDICATION ADMINISTRATION,
- 6 (f) MEDICATION ORDERS, AND
- 7 (g) EXPIRATION AND REFILL DATES.
- 8 (2) THE USES AND FORMS OF DRUGS INCLUDING BUT NOT LIMITED TO:
- 9 (a) THE PURPOSE OF PRESCRIBED MEDICATIONS.
- 10 (b) CONTROLLED SUBSTANCE CLASSIFICATION AND ACCOUNTABILITY.
- 11 (c) MEDICATION EFFECTS INCLUDING THERAPEUTIC, SIDE, AND ADVERSE EFFECTS.
- 12 (d) WHEN, WHERE AND HOW TO PROPERLY NAVIGATE APPROPRIATE MEDICATION
- 13 REFERENCE RESOURCES.
- 14 (3) MEDICATION ADMINISTRATION RECORDS (MARs) INCLUDING, BUT NOT LIMITED TO:
- 15 (a) MEDICATION TIMING OPTIONS (SPECIFIED VS. TIME WINDOW), AND
- 16 (b) RULES AND PRACTICE FOR DOCUMENTING.
- 17 (4) COMMUNICATION AND INTERPERSONAL SKILLS FOR ADDRESSING UNIQUE NEEDS AND
- 18 BEHAVIORS OF INDIVIDUALS WHO ARE ELDERLY, HAVE IMPAIRED PHYSICAL CAPACITY,
- 19 IMPAIRED COGNITIVE ABILITY, BEHAVIORAL ISSUES, DEMENTIA AND/OR ALZHEIMER'S.
- 20 (5) INFECTION CONTROL.
- 21 (6) SAFETY AND EMERGENCY PROCEDURES
- 22 (7) DRUG DIVERSION AWARENESS.
- 23 (8) PREVENTING AND REPORTING ABUSE, NEGLECT AND MISAPPROPRIATION OF
- 24 RESIDENT OR CLIENT PROPERTY.
- 25 (B) MEDICATION ADMINISTRATION PROCEDURES INCLUDING, BUT NOT LIMITED TO:
- 26 (1) ADMINISTERING, MONITORING AND SELF-ADMINISTRATION,
- 27 (2) ADMINISTERING PRN MEDICATIONS IN ACCORDANCE WITH SCOPE OF
- 28 PRACTICE,
- 29 (3) STANDARDS, PRECAUTIONS AND SAFE PRACTICE,
- 30 (4) PREPARING OR ALTERING MEDICATION FOR ADMINISTRATION IN ACCORDANCE WITH
- 31 MANUFACTURER'S INSTRUCTIONS AND PRACTITIONER'S ORDERS,

- (5) COUNTING, ADMINISTERING AND DOCUMENTING CONTROLLED SUBSTANCES,
- (6) PROPER DOCUMENTATION OF MEDICATION ADMINISTRATION,
- (7) DETERMINING, DOCUMENTING AND REPORTING MEDICATION ERRORS,
- (8) MEDICATION STORAGE AND DISPOSAL, AND
- (9) FILLING AND ADMINISTRATION OF MEDICATION REMINDER BOXES AND DAY/TRIP PACKS.

SECTION 5 7 – ADMINISTRATION OF MEDICATION ADMINISTRATION PRACTICE STANDARDS

~~5.1 The term “administration” of medication does not include judgment, evaluation, assessment or monitoring of medication.~~

~~5.2 7.1~~ Prescription and non-prescription medications shall be administered ~~only~~ by qualified medication administration ~~staff members~~ PERSONS and only upon written order of a licensed physician or ~~other licensed authorized practitioner~~. Such orders shall be current for all medications.

(A) New orders from ~~either a physician, physician’s assistant or advance practice nurse with prescriptive authority~~ A LICENSED PRACTITIONER shall be obtained and followed whenever a ~~patient or resident~~ OR CLIENT returns to the facility after an inpatient hospitalization.

~~5.3 7.2~~ Non-prescription medications shall be labeled with THE ~~resident’s~~ RECIPIENT’S full name.

~~5.4 7.3~~ No resident OR CLIENT shall be allowed to take another’s medication ~~nor shall~~ AND staff ~~be allowed to~~ SHALL NOT give ~~one resident’s~~ medication to ~~another resident~~ ANYONE OTHER THAN THE RESIDENT OR CLIENT FOR WHOM IT WAS ORDERED.

~~5.5 7.4 Unless otherwise authorized by statute, q~~ Qualified medication administration ~~staff members~~ PERSONS shall not:

(A) administer medication through a gastrostomy tube or ADMINISTER INSULIN UNLESS SPECIFICALLY AUTHORIZED TO DO SO PURSUANT TO RULES ADOPTED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING OR THE DEPARTMENT OF HUMAN SERVICES.

~~(B)~~

7.5 QUALIFIED MEDICATION ADMINISTRATION PERSONS SHALL NOT ADMINISTER EPINEPHRINE INJECTIONS ~~prepare, draw up, or administer medication in a syringe for injection into the bloodstream or skin, including insulin pens~~ EXCEPT WHEN DIRECTED TO DO SO BY A 911 EMERGENCY CALL OPERATOR AS AN URGENT FIRST AID MEASURE.

7.6 The contents of any medication container having EITHER no label or ~~with~~ an illegible label shall be destroyed immediately.

7.7 Medication that has a specific expiration date shall not be administered after that date.

~~Each facility shall document the disposal of~~ 7.8 FOR ALL MEDICATIONS MANAGED BY A FACILITY, THERE SHALL BE DOCUMENTATION THAT discontinued, out-dated, or expired medications ARE RETURNED TO THE RESIDENT, CLIENT OR LEGAL REPRESENTATIVE WITH INSTRUCTIONS FOR THEIR PROPER DISPOSAL OR PROMPTLY DISPOSED OF BY THE FACILITY IF THE RESIDENT, CLIENT OR LEGAL REPRESENTATIVE CONSENTS.

SECTION 68 – MEDICATION REMINDER BOXES OR SYSTEMS

- 68.1 Residents OR CLIENTS who self-administer medication may use medication reminder boxes. Facilities using medication reminder boxes for persons who are not self-administering shall have a ~~QMAP~~ QUALIFIED MEDICATION ADMINISTRATION PERSON available to assist with or administer from the medication reminder box.
- 68.2 Only LICENSED PRACTITIONERS OR QUALIFIED MEDICATION ADMINISTRATION PERSONS ~~may~~ ARE ALLOWED TO assist residents OR CLIENTS with medication reminder boxes.
- (A) Each ~~QMAP~~ QUALIFIED MEDICATION ADMINISTRATION PERSON assisting a resident OR CLIENT with a medication reminder box shall be familiar with the type and quantity of medication in each compartment of the box.
- 68.3 Each ~~QMAP~~ QUALIFIED MEDICATION ADMINISTRATION PERSON assisting with or administering from a medication reminder box shall, immediately after assisting or administering, record the assist or administration on medication ADMINISTRATION record forms developed or acquired and maintained by the facility.
- (A) The medication administration record shall contain complete instructions for the administration of each medication.
- (B) The medication administration record shall contain a specific entry for each medication given.
- 68.4 The facility shall be responsible for administering the correct medications to its residents OR CLIENTS in a manner consistent with the provisions of section 25-1.5-303, C.R.S.
- 68.5 A licensed pharmacist shall prepare medications for each medication reminder box in a registered prescription drug outlet or other outlet and in accordance with sections 12-22-121(4) and 12-22-123, C.R.S.
- (A) If a ~~physician or other authorized~~ LICENSED practitioner orders a change in any medication for the resident OR CLIENT, the facility shall discontinue use of the medication reminder until the pharmacist has refilled it according to the change ordered.
- 68.6 If a licensed nurse or ~~QMAP~~ QUALIFIED MEDICATION ADMINISTRATION PERSON fills the medication reminder box ~~or a family member or friend gratuitously fills it~~, the facility shall ensure that a label is attached to the box. If the medication reminder box has a labeling system, such labeling system may be used.
- (A) The information on the label shall include the name of the resident OR CLIENT, each medication, the dosage, the quantity, the route of administration, and the time that each medication is to be administered.
- (B) The facility shall ensure that each medication reminder box has a corresponding medication record where all administrations are documented immediately after administration. If a ~~physician or other authorized~~ LICENSED practitioner orders a change in any medication for the resident OR CLIENT, the facility shall discontinue use of the medication reminder box until the nurse, ~~QMAP designated by the qualified manager, family member or friend has refilled~~ the box HAS BEEN REFILLED according to the change ordered.
- 68.7 If any medication in the medication reminder box is not consistent with the labeling, administration or assistance to the resident OR CLIENT shall not proceed and the qualified medication

administration ~~staff member~~ PERSON shall immediately notify the proper person as outlined in the policies and procedures of the facility.

(A) For purposes of this paragraph, the proper person shall be whoever filled the medication reminder box or the ~~resident's physician or other~~ licensed practitioner who prescribed the medication(s).

(B) Once the problem with the medication(s) is resolved and all medications are correctly assigned to the appropriate compartments of the medication reminder, the qualified medication administration ~~staff member~~ PERSON may resume the administration or assistance to the resident OR CLIENT from the medication reminder box.

68.8 Any medication problem shall be resolved prior to the next administration.

68.9 PRN or "as needed" medications of any kind shall not be placed in a medication reminder box. Only medications intended for oral ingestion shall be placed in the medication reminder.

(A) Medications that require administration according to special instructions, including but not limited to instructions such as "30 minutes or an hour before meals," rather than administered routinely shall not be placed in a medication reminder.

68.10 Medications in the medication reminder box shall only be used at the time specified on the box. Medication reminder boxes shall not be filled for more than two weeks at a time.

68.11 Any medication reminder "day packs" or individual "trip packs" assembled for administration outside the facility shall comply with the requirements of this section 6 8.

SECTION 9 – STORAGE OF MEDICATION

79.1 All medication shall be stored on-site including medication that is placed in a medication reminder box and filled by staff, A family member or other designated person.

79.2 All controlled substances as defined in section 12-22-303, C.R.S., shall be stored under double lock, counted and signed for at the end of every shift in the presence of either two (2) QMAPS or a QMAP and a qualified manager.

(A) If the above procedure is not possible, the QMAP going off-duty shall count and sign for the controlled substances and the next on-duty QMAP shall verify the count and sign. If the count cannot be verified, the discrepancy shall be immediately reported to the facility administrator.

79.3 All prescription and non-prescription medication shall be maintained and stored in a manner that ensures the safety of all residents OR CLIENTS.

79.4 Medication shall not be stored with disinfectants, insecticides, bleaches, household cleaning solutions, or poisons.

~~SECTION 8 – CONTRACT INSTRUCTORS~~

~~8.1 The medication administration curriculum may be taught by a person who contracts with the department or is otherwise approved by the department to teach an approved curriculum and holds a valid license in good standing as a physician, nurse, pharmacist or physician assistant.~~

1 8.2 All private contractors shall provide the department with a list of all persons who have taken the
2 contractor's approved training sessions and/or have passed the competency evaluation. Said list
3 shall be provided to the department within fifteen (15) days of the training session or evaluation.

4 (A) Such contractors shall also provide the department with any other pertinent information
5 reasonably requested by the department pursuant to its authority under this Chapter.

6 **SECTION 9 – DEPARTMENT OVERSIGHT**

7 9.1 Each QMAP and qualified manager shall sign a disclosure statement under penalty of perjury
8 stating that he or she has never had a professional license to practice nursing, medicine, or
9 pharmacy revoked in Colorado or any other state for reasons directly related to the administration
10 of medications.

11 (A) Any misrepresentation or falsification of an individual's disclosure shall constitute good
12 cause for the department to rescind that individual's medication administration authority.

13 (B) Each QMAP and qualified manager shall notify the department within ten (10) days of
14 any change in the information previously disclosed.

15 9.2 If the department determines, after an investigation, that a QMAP or qualified manager has
16 engaged in a pattern of deficient medication administration practice or has administered
17 medication contrary to a physician's order or these rules that either causes or has the potential to
18 cause harm to the recipient, the department shall rescind that individual's medication
19 administration authority until the individual undergoes retraining, retesting, and successfully
20 passes the competency examination.

21 9.3 Compliance with this Chapter XXIV 24 is a condition of licensure for any facility licensed by the
22 department that administers medications to persons under its care. Failure to comply may result
23 in the department taking action against the facility's license pursuant to 6 CCR 1011-1, Chapter II
24 and section 24-4-104, C.R.S.

25



Notice of Public Rule-Making Hearing

April 19, 2017

ID #: 94

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

Date: April 19, 2017

Time: 10:00 AM

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

To consider the promulgation/amendments or repeal of:

CCR Number(s)

6 CCR 1015-3, Emergency Medical Services, Chapter 1, EMS Education and Certification

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)

§25-3.5-1103, C.R.S.

§25-3.5-1104 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, April 13, 2017.

Deborah Nelson, Board of Health Administrator

Date: 2017-02-16T14:21:17

Notice of Proposed Rulemaking

Tracking number

2017-00100

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

04/19/2017

Time

10:00 AM

Location

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

Subjects and issues involved

To consider proposed amendments to Chapter One, EMS Education and Certification

Statutory authority

§ 25-3.5-1103, C.R.S

§ 25-3.5-1104, C.R.S

Contact information

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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: Marschall Smith, Emergency Medical and Trauma Services Branch, Professional Standards Section Manager

Through: D. Randy Kuykendall, Health Facilities and Emergency Medical Services, Division Director, D.R.K.

Date: February 15, 2017

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1015-3 Emergency Medical Services, Chapter One - Rules Pertaining to EMS Education and Certification with a request for a rulemaking hearing to be set for April of 2017

House Bill 16-1034 was signed into effect on June 10, 2016. The bill authorizes the oversight of emergency medical responders (EMRs), formerly called first responders, to move from the Department of Public Safety (DPS) to the Department of Public Health and Environment (Department). This move is to recognize that EMRs are part of the emergency medical services and trauma system and oversight should occur all in one department. EMRs answer emergency calls, render aid to ill and injured patients, prepare the scene for the arrival of the ambulance and emergency service providers, and provide assistance to emergency medical service providers as directed. HB 16-1034 did not expand the emergency medical service (EMS) provider current certification levels to include EMRs; therefore, the EMRs will continue to be unable to provide direct emergency medical care and treatment to patients transported in an ambulance.

Under the proposed rule language, EMRs can voluntarily register through an application process similar to the current EMS provider certification application. House Bill 16-1034 requires the Department to have the voluntary registration program in place by July 1, 2017. EMRs will be required to attend a Department-recognized EMR training program, pass the National Registry of Emergency Medical Technicians (NREMT) EMR test, and submit to a fingerprint based background check. EMRs currently registered with DPS will have their certification transferred to the Department's registry. Upon the expiration of their transferred certification from DPS, they will have the option of renewing. To renew a registration, an EMR will submit evidence of compliance with the criminal history record check, evidence of current and valid professional level basic CPR course completion from a national or local organization approved by the Department, and proof of continuing education or a valid EMR certification from the NREMT. EMRs that choose not to renew their voluntary registrations with the Department, cannot hold themselves out as state registered EMRs. However, they will be able to continue to act as EMRs.

There will be no cost to apply with the Department for EMR registration, just as there is no cost to EMS providers to apply for certification. There will, however, be cost to the individual in taking the NREMT test (\$75) and obtaining the fingerprint based background check (\$17.50 for Colorado only and \$39.50 for Colorado and FBI background checks, paid directly to CBI). An applicant may request a provisional registration while awaiting the CBI/FBI fingerprint background check for a fee of \$23.00, paid to the Department. Individuals may still obtain training and act as EMRs without registering with the Department. In that situation, however, those individuals cannot hold themselves out as state registered EMRs.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to

6 CCR 1015-3 Emergency Medical Services, Chapter One - Rules Pertaining to EMS Education and Certification

Basis and Purpose.

House Bill 16-1034 moves the emergency medical responders (EMRs), formerly called first responders, certification from the Department of Public Safety (DPS) to a registry at the Department of Public Health and Environment (Department). EMRs are considered to be part of the emergency medical services and trauma system because they answer emergency calls, render aid to ill and injured patients, prepare the scene for the arrival of the ambulance and emergency medical service providers, and provide assistance to emergency medical service providers as directed. By moving oversight from DPS to the Department, EMRs will be more integrated into the EMS and trauma system by creating a registry process that is parallel to the emergency medical service (EMS) provider certification process. The bill does not, however, expand the definition of EMS provider to include EMRs.

The bill directs the Department to create a voluntary registry of EMRs by July 1, 2017. EMRs who opt to register with Department after this date will have completed training at a recognized EMR training program, submitted a fingerprint-based criminal background check and taken and passed the National Registry of Emergency Medical Technician (NREMT) EMR test. Following an initial 3 year registration, registration can be renewed by a demonstration of continuing education, either by continuing to hold a valid EMR certification issued by NREMT or meeting a minimum number of state approved continuing education credits, and proof of a professional level basic CPR course completion.

Currently certified DPS EMRs will be transferred to the Department registry for the remainder of their current certification cycle. They will then have the option of renewing their registration by demonstrating continuing education by either maintaining an EMR certification with the NREMT or meeting continuing education as described in rule, submitting a fingerprint-based criminal background check, and proof of a professional level basic CPR course completion.

The Department requests a July 1, 2017 effective date. DPS rules governing EMRs certification will remain in effect until the July 1, 2017 registry effective date, per § 25-3.5-1103, C.R.S.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes:

§ 25-3.5-1103, C.R.S

§ 25-3.5-1104, C.R.S

Is this rulemaking due to a change in state statute?

☒ Yes, the bill number is HB 16-1034. Rules are ___ authorized ☒ required.
_____ No

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

_____ Yes

☒ No

Does this rule incorporate materials by reference?

☐ Yes

☒ No

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

☐ No

REGULATORY ANALYSIS
for Amendments to
6 CCR 1015-3 Emergency Medical Services, Chapter One - Rules Pertaining to EMS Education and Certification

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.

As of November 2016, the Department of Public Safety (DPS) had 638 emergency medical responders (EMR) registered. EMRs are part of the emergency medical and trauma services system who answer emergency calls, render aid to ill and injured patients, prepare the scene for the arrival of the ambulance and emergency service providers, and provide assistance to emergency medical service providers as directed. They are not, however, considered to be emergency medical service providers themselves.

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.

EMRs currently certified with DPS will have their certifications transferred to the Department's registry. Upon the expiration of their transferred certification from DPS, they will have the option of renewing. To renew a registration, an EMR will submit evidence of compliance with a criminal history record check, evidence of current and valid professional level basic CPR course completion from a national or local organization approved by the Department, and continuing education met through either EMR certification by the National Registry of Emergency Medical Technicians (NREMT) or by meeting continuing education standards set by the Department. EMRs that choose not to renew their registrations cannot hold themselves out as state registered EMRs; however, they will be able to continue to act as EMRs.

With the move of the EMR program from DPS to the Department, individuals who attend EMR training at a recognized training program will be eligible to sit for the test offered by the NREMT. Currently, under the Colorado agreement with the NREMT, only the Department can recognize programs that are eligible to train students for any certification offered by the NREMT.

Under DPS, the fee to take the test to be recognized by the state as an EMR was \$30. With the move to the Department, individuals will have to pay the CBI directly for the cost for background checks (\$17.50 for Colorado only and \$39.50 for Colorado and FBI background checks), as well as \$75 to sit for the NREMT EMR test. There may also be costs to the individual associated with continuing education. Individuals may request a provisional registration so that they may hold themselves out as state registered EMRs prior to a fingerprint-based criminal background being completed. In this instance, there will also be a \$23 fee paid to the Department for the provisional registration. The Department sees approximately 5 provisional EMS certifications a year, and predicts that EMR provisional registration will be similar.

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

The Department requires an additional 0.5 FTE for the Investigations Unit of the Emergency Medical and Trauma Services Branch due to the increase in review and processing of criminal background checks. Funds to support this program will come from the EMS Account, which is funded by a \$2 fee placed on the registration of motor vehicles. In 2016, the Department was granted an increase in spending authority that allows for the

increase in FTE without impacting any of the other programs that rely on the EMS Account for funding.

The implementation costs of the program will be absorbed as part of the continuing maintenance of the computer system used for the certification of EMS providers.

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

HB 16-1034 requires the implementation of the EMR program by July 1, 2017.

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

The registration process of EMRs mirrors closely the already existing process for emergency medical service (EMS) providers' certification. By using the existing platforms built for EMS provider certification, the Department has minimized cost.

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

HB 16-1034 requires rule to implement the transfer of the EMR certification from DPS to the Department maintained registry. The proposed amendments are written to correspond to the existing EMS provider certification process in order to integrate the processing of EMR personnel as seamlessly as possible.

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

There are 638 EMRs currently certified by DPS and a final reconciliation will take place just prior to July 1, 2017. Transferring the oversight of EMRs to the Department allows for their registration process to be more fully integrated with the emergency medical services and trauma system. This transition is very similar to the process used in 2005 to transition EMS providers from state testing to NREMT testing and background checks. In that instance, there was no change in the number of EMS providers certified by the Department and, within two years, there was an increase in the total numbers of providers statewide.

STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1015-3 Emergency Medical Services, Chapter One - Rules Pertaining to EMS Education and
Certification

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:

Starting in November 2016, The Department made the draft proposed rules available to the following groups, and many of these individuals are EMRs trainers.

1. Colorado Fire Service Training and Certification Advisory Board
 - a. Mark Quick - Department of Public Safety
 - b. Scott Rogers - West Metro Fire
 - c. Kristy Olme
 - d. John Bennett - Telluride Fire
 - e. John Hall - Grand Junction Fire Department
 - f. Kevin Darrah - Department of Public Safety
 - g. Laura Renville - Department of Public Safety
 - h. Mark Carlson
 - i. Mike Cook
 - j. Mark Schuman
 - k. Perry Otero - City of Thornton
 - l. Philip Tiffany - Ft. Lupton Fire
 - m. Randall Souther
 - n. Mike Morgan - Department of Public Safety
 - o. Lisa Pine - Department of Public Safety
2. Colorado Fire Training Officers Association
3. EMR education programs as identified by DPS
 - a. Nicholas Betz, Aims Community College
 - b. Garard Lutz, Brighton Fire Protection District
 - c. Joe Ceuvorst, Coal Creek Canyon Fire Protection District
 - d. Theresa Kelliher, Colorado Northwestern Community College
 - e. Cindy Brown, First Response Team Training LLC
 - f. Anthony Rowe, Grand Valley Fire Protection District
 - g. Erik Forythe, Gunnison Valley EMS
 - h. Jeff Edelson, Mountain Rescue Aspen
 - i. Troy Salazar, Pueblo Community College
 - j. Ed Ward, Colorado First Aid
 - k. Drew Baske, Aurora Community College
 - l. Julia Kalish, Foothills Fire & Rescue
 - m. Don Enninga, Morgan Community College
 - n. Rich Solomon, Sable Altura Fire Rescue
 - o. Dominic Verquer, Trinidad Ambulance District
 - p. Barry Wilson, Jefferson Como Fire Protection District
 - q. Ed Castellon, Colorado Fire Camp
 - r. Christopher Weaver, Venturing ER Team 911 EMR
 - s. Molly Hunsberger, Arapahoe Community College
 - t. Sheryl Hummel, Ellicott Fire Department
 - u. Kathleen Stevenson, Sugar Loaf Fire Protection District

The Department also reached out to these additional stakeholders:

1. The Emergency Medical Practice Advisory Council
 - a. Will Dunn
 - b. Kevin Weber
 - c. Stein Bronsky
 - d. Bill Hall
 - e. Diana Koelliker
 - f. Jason Kotas
 - g. Kevin McVane
 - h. Michelle Flemmings
 - i. Art Kanowitz
 - j. Jeff Beckman
2. The Regional Medical Directors group
 - a. Marc Burdick
 - b. Peter Vellman
 - c. Eugene Eby
 - d. Erica Douglass
 - e. Stein Bronsky
 - f. Kevin Weber
3. Regional Emergency Medical and Trauma Advisory Councils (RETACs) at their quarterly forum in December 2016

The Department has posted the proposed rules to the coems.info website and sent notice out in the weekly EMTS on the Go newsletter with a link to the rules since Nov. 16, 2016. This newsletter is sent to over 1,000 individuals.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

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

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

The stakeholders have been generally supportive of the move of the EMR program from DPS to the Department. During legislative testimony, no parties testified against the bill. Comments received on the bill have been procedural questions related to being recognized as an EMR training program or center and seeking clarification of the voluntary registration versus being a non-registered EMR.

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 voluntary registration of EMRs has no impact on health equity and environmental justice. Currently, EMRs are in use across the state and will be able to continue in their roles. There will

be a higher one time cost associated with taking the NREMT test and obtaining a finger-print based background check; however, application for registration with the Department will be free.

Excerpt from House Bill 16-1034

§ 25-3.5-1103. Registration - rules - funds

(1) On and after July 1, 2017, the department shall administer a voluntary registration program for emergency medical responders. A person shall not hold himself or herself out as a registered emergency medical responder, providing care or services as identified in national guidelines for emergency medical response as approved by the department, unless the person meets the requirements set forth in this part 11; except that a person may function as a good samaritan pursuant to section 13-21-116, C.R.S.

(2) The board shall adopt rules for the administration of the emergency medical responder registration program, which rules shall include, at a minimum, the following:

(a) Requirements for emergency medical responder registration, which include certification of the applicant through a nationally recognized emergency responder certification organization approved by the department;

(b) The period of time for which the registration as an emergency medical responder is valid;

(c) Registration renewal requirements;

(d) Training requirements for new and renewing registrants;

(e) Provisions governing national and state criminal history record checks for new and renewing registrants and the use of the results of the checks by the department to determine the action to take on a registration application. Notwithstanding section 24-5-101, C.R.S., these provisions must allow the department to consider whether the applicant has been convicted of a felony or misdemeanor involving moral turpitude and the pertinent circumstances connected with the conviction and to make a determination whether any such conviction disqualifies the applicant from registration.

(f) Disciplinary sanctions, which may include provisions for the denial, revocation, probation, and suspension, including summary suspension, of registration and of education program recognition; and

(g) An appeal process consistent with sections 24-4-104 and 24-4-105, C.R.S., that is applicable to department decisions in connection with sanctions.

(3) Rules promulgated by the department of public safety remain in effect until superceded by rules duly adopted pursuant to this part 11.

(4)

(a) The department may issue a provisional registration to an applicant for registration as an emergency medical responder who requests issuance of a provisional registration and who pays a fee authorized under rules adopted by the board. A provisional registration is valid for not more than ninety days.

(b) The department may not issue a provisional registration unless the applicant satisfies the requirements for registration established in rules of the board. If the department finds that an emergency medical responder who has received a provisional registration has violated any requirements for registration, the department may revoke the provisional registration and prohibit the registration of the emergency medical responder.

(c) The department may issue a provisional registration to an applicant whose fingerprint-based criminal history record check has not yet been completed. The department shall require the applicant to submit a name-based criminal history record check prior to issuing a provisional registration.

(d) The board shall adopt rules as necessary to implement this subsection (4), including rules establishing a fee to be charged to applicants seeking a provisional registration. The department

shall deposit any fee collected for a provisional registration in the emergency medical services account created in section 25-3.5-603.

(5)

(a) The department shall acquire a fingerprint-based criminal history record check from the Colorado bureau of investigation to investigate the holder of or applicant for an emergency medical responder registration. The department may acquire a name-based criminal history record check for a registrant or an applicant who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. Notwithstanding paragraph (b) of this subsection (5), if a person submitted to a fingerprint-based criminal history record check at the time of initial registration or registration renewal, the person shall not be required to submit to a subsequent fingerprint-based criminal history record check.

(b) If, at the time of application for registry or for renewal, an individual has lived in the state for three years or less, the department shall require the applicant to submit to a federal bureau of investigation fingerprint-based national criminal history record check; except that the department may acquire a national name-based criminal history record check for an applicant who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. The department shall be the authorized agency to receive and disseminate information regarding the result of any national criminal history record check.

§ 25-3.5-1104. Training programs - rules

(1) The board shall adopt rules regarding the recognition by the department of education programs that provide initial training and continued competency education for emergency medical responders.

(2) The receipt of a certificate or other document of course completion issued by an education program or national certification organization is not deemed state licensure, approval, or registration.



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***

Jan. 12, 2017

Mr. Tony Capello, 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. Capello:

At the Jan. 12, 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 Emergency Medical Services Chapter 1 - Rules Pertaining to EMS Education and Certification, were reviewed and discussed. This rule revision creates a voluntary registration process for emergency medical responders as required by House Bill 16-1034. A motion was made and passed to approve the proposed revisions.

Sincerely yours,

Chief Rich Martin
Chairman



DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

EMERGENCY MEDICAL SERVICES

6 CCR 1015-3

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

CHAPTER ONE – RULES PERTAINING TO EMS AND EMR EDUCATION, EMS CERTIFICATION, AND EMR REGISTRATION

Section 1 – Purpose and Authority for Rules

1.1 These rules address the recognition process for emergency medical services (EMS) AND EMERGENCY MEDICAL RESPONDER (EMR) education programs; the certification process for all levels of EMS Providers; THE REGISTRATION PROCESS FOR EMERGENCY MEDICAL RESPONDERS; and the procedures for denial, revocation, suspension, limitation, or modification of a certificate OR REGISTRATION.

1.2 The authority for the promulgation of these rules is set forth in Section 25-3.5-101 et seq., C.R.S.

Section 2 – Definitions

2.1 All definitions that appear in Section 25-3.5-103, C.R.S., shall apply to these rules.

2.2 “Advanced Cardiac Life Support (ACLS)” - A course of instruction designed to prepare students in the practice of advanced emergency cardiac care.

2.3 “Advanced Emergency Medical Technician (AEMT)”- An individual who has a current and valid AEMT certificate issued by the Department and who is authorized to provide limited acts of advanced emergency medical care in accordance with the Rules Pertaining to EMS Practice and Medical Director Oversight.

2.4 “Basic Cardiac Life Support (CPR)” – A course of instruction designed to prepare students in cardiopulmonary resuscitation techniques.

2.5 “Board for Critical Care Transport Paramedic Certification (BCCTPC)”- a non-profit organization that develops and administers the Critical Care Paramedic Certification and Flight Paramedic Certification exam.

2.6 “Certificate” – Designation as having met the requirements of Section 5 of these rules, issued to an individual by the Department. Certification is equivalent to licensure for purposes of the state Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

2.7 “Certificate Holder” – An individual who has been issued a certificate as defined above.

2.8 “Continuing Education” - Education required for the renewal of a certificate OR REGISTRATION.

2.9 “Department” - Colorado Department of Public Health and Environment.

2.10 “Emergency Medical Practice Advisory Council (EMPAC)” – The council established pursuant to Section 25-3.5-206, C.R.S., that is responsible for advising the Department regarding the

appropriate scope of practice for EMS Providers and for the criteria for physicians to serve as EMS medical directors.

2.11 “EMERGENCY MEDICAL RESPONDER (EMR)” – AN INDIVIDUAL WHO HAS SUCCESSFULLY COMPLETED THE TRAINING AND EXAMINATION REQUIREMENTS FOR EMERGENCY MEDICAL RESPONDERS AND WHO PROVIDES ASSISTANCE TO THE INJURED OR ILL UNTIL MORE HIGHLY TRAINED AND QUALIFIED PERSONNEL ARRIVE.

2.12 “Emergency Medical Technician (EMT)” - An individual who has a current and valid EMT certificate issued by the Department and who is authorized to provide basic emergency medical care in accordance with the Rules Pertaining to EMS Practice and Medical Director Oversight. For the purposes of these rules, EMT includes the historic EMS Provider level of EMT-Basic (EMT-B).

2.13 “Emergency Medical Technician Intermediate (EMT-I)” - An individual who has a current and valid EMT-I certificate issued by the Department and who is authorized to provide limited acts of advanced emergency medical care in accordance with the Rules Pertaining to EMS Practice and Medical Director Oversight. For the purposes of these rules, EMT-I includes the historic EMS Provider level of EMT-Intermediate (EMT-I or EMT-I 99).

2.14 “Emergency Medical Technician with IV Authorization (EMT-IV)” – An individual who has a current and valid EMT certificate issued by the Department and who has met the conditions defined in the Rules Pertaining to EMS Practice and Medical Director Oversight relating to IV authorization.

2.15 “EMR EDUCATION CENTER” - A STATE-RECOGNIZED PROVIDER OF INITIAL COURSES, EMR CONTINUING EDUCATION TOPICS AND/OR REFRESHER COURSES THAT QUALIFY GRADUATES FOR THE NATIONAL REGISTRY OF EMERGENCY MEDICAL TECHNICIAN'S EMR CERTIFICATION.

2.16 “EMR EDUCATION GROUP” – A STATE-RECOGNIZED PROVIDER OF EMR CONTINUING EDUCATION TOPICS AND/OR REFRESHER COURSES THAT QUALIFY INDIVIDUALS FOR RENEWAL OF A NATIONAL REGISTRY EMR CERTIFICATION

2.17 “EMS Education Center” - A state-recognized provider of initial courses, EMS continuing education topics and/or refresher courses that qualify graduates for state and/or National Registry EMS provider certification.

2.18 “EMS Education Group” - A state-recognized provider of EMS continuing education topics and/or refresher courses that qualify individuals for renewal of a state and/or National Registry EMS provider certification.

2.19 “Education Program” - A state-recognized provider of EMS AND/OR EMR education including a recognized education group or center.

2.20 “Education Program Standards” - Department approved minimum standards for EMS OR EMR education that shall be met by state-recognized EMS OR EMR education programs.

2.21 “EMS Provider” – Means an individual who holds a valid emergency medical service provider certificate issued by the Department and includes Emergency Medical Technician, Advanced Emergency Medical Technician, Emergency Medical Technician Intermediate and Paramedic.

2.22 “Graduate Advanced Emergency Medical Technician” - A certificate holder who has successfully completed a Department recognized AEMT education course but has not yet successfully completed the AEMT certification requirements set forth in these rules.

2.23 “Graduate Emergency Medical Technician Intermediate” - A certificate holder who has successfully completed a Department recognized EMT-I education course but has not yet successfully completed the EMT-I certification requirements set forth in these rules.

- 77 2.24 “Graduate Paramedic” – A certificate holder who has successfully completed a Department
78 recognized Paramedic education course but has not yet successfully completed the Paramedic
79 certification requirements set forth in these rules.
- 80 2.25 “Initial Course” - A course of study based on the Department approved curriculum that meets the
81 education requirements for issuance of a certificate **OR REGISTRATION** for the first time.
- 82 2.26 “Initial Certification” - First time application for and issuance by the Department of a certificate at
83 any level **AS AN EMS PROVIDER**. This shall include applications received from persons holding
84 any level of **EMS** certification issued by the Department who are applying for either a higher or
85 lower level certificate.
- 86 2.27 **“INITIAL REGISTRATION” – FIRST TIME APPLICATION FOR AND ISSUANCE BY THE**
87 **DEPARTMENT OF A REGISTRATION AS AN EMR. THIS SHALL INCLUDE APPLICATIONS**
88 **RECEIVED FROM PERSONS HOLDING ANY LEVEL OF EMS CERTIFICATION ISSUED BY**
89 **THE DEPARTMENT WHO ARE APPLYING FOR REGISTRATION**
- 90 2.28 “Letter of Admonition” - A form of disciplinary sanction that is placed in an **EMS PROVIDER’S** or
91 **EMR’s** file and represents an adverse action against the certificate holder.
- 92 2.29 “Medical Director” – For the purposes of these rules, a physician licensed in good standing who
93 authorizes and directs, through protocols and standing orders, the performance of students-in-
94 training enrolled in Department-recognized EMS **OR EMR** education programs and/or **EMS**
95 certificate holders who perform medical acts, and who is specifically identified as being
96 responsible to assure the performance competency of those EMS Providers as described in the
97 physician's medical continuous quality improvement program.
- 98 2.30 “National Registry of Emergency Medical Technicians (NREMT)” - A national non-governmental
99 organization that certifies entry-level and ongoing competency of EMS providers **AND EMRS**.
- 100 2.31 “Paramedic” - An individual who has a current and valid Paramedic certificate issued by the
101 Department and who is authorized to provide acts of advanced emergency medical care in
102 accordance with the Rules Pertaining to EMS Practice and Medical Director Oversight. For the
103 purposes of these rules, Paramedic includes the historic EMS Provider level of EMT-Paramedic
104 (EMT-P).
- 105 2.32 “Paramedic with Critical Care Endorsement (P-CC)” – An individual who has a current and valid
106 Paramedic certificate issued by the Department and who has met the conditions defined in the
107 Rules Pertaining to EMS Practice and Medical Director Oversight relating to critical care.
- 108 2.33 “Practical Skills Examination” - A skills test conducted at the end of an initial course and prior to
109 application for national or state certification.
- 110 2.34 “Provisional Certification” - A certification, valid for not more than 90 days, that may be issued by
111 the Department to an **EMS PROVIDER** applicant seeking certification.
- 112 2.35 **“PROVISIONAL REGISTRATION” – A REGISTRATION, VALID FOR NOT MORE THAN 90**
113 **DAYS, THAT MAY BE ISSUED BY THE DEPARTMENT TO AN EMR APPLICANT SEEKING**
114 **REGISTRATION.**
- 115 2.36 “Refresher Course” - A course of study based on the Department approved curriculum that
116 contributes in part to the education requirements for renewal of a certificate **OR REGISTRATION**.
- 117 2.37 **“REGISTERED EMERGENCY MEDICAL RESPONDER (EMR)” - AN INDIVIDUAL WHO HAS**
118 **SUCCESSFULLY COMPLETED THE TRAINING AND EXAMINATION REQUIREMENTS FOR**
119 **EMRS, WHO PROVIDES ASSISTANCE TO THE INJURED OR ILL UNTIL MORE HIGHLY**
120 **TRAINED AND QUALIFIED PERSONNEL ARRIVE, AND WHO IS REGISTERED WITH THE**
121 **DEPARTMENT PURSUANT TO SECTION 6 OF THESE RULES.**

2.38 “Rules Pertaining to EMS Practice and Medical Director Oversight” - Rules adopted by the Executive Director or Chief Medical Officer of the Department upon the advice of the EMPAC that establish the responsibilities of medical directors and all authorized acts of EMS certificate holders, located at 6 CCR 1015-3, Chapter Two.

2.39 “State Emergency Medical and Trauma Services Advisory Council (SEMTAC)” – A council created in the Department pursuant to Section 25-3.5-104, C.R.S., that advises the Department on all matters relating to emergency medical and trauma services.

Section 3 - State Recognition of Education Programs

3.1 Specialized Education Curricula

3.1.1 The specialized education curricula established by the Department include but are not limited to the following:

A) EMR INITIAL AND REFRESHER COURSES

B) EMT initial and refresher courses

C) Intravenous therapy (IV) and medication administration course

D) AEMT initial and refresher courses

E) EMT-I initial and refresher courses

F) Paramedic initial and refresher courses

3.2 Application for State Recognition as an Education Program

3.2.1 The Department may grant recognition for any of the following types of education programs:

A) EMR EDUCATION CENTER

B) EMR EDUCATION GROUP

C) EMT education center

D) EMT education group

E) EMT IV education group

F) AEMT education center

G) AEMT education group

H) EMT-I education center

I) EMT-I education group

J) Paramedic education center

K) Paramedic education group

3.2.2 An education program recognized as an education center at any level shall also be authorized to serve as an education group at the same level(s).

- 3.2.3 AN education program recognized prior to the effective date of these rules shall be authorized to continue providing services at the same level(s) for the remainder of the current recognition period.
- 3.2.4 EMS education programs recognized at the EMT-I level shall also be authorized to provide services at the AEMT level for the remainder of the current recognition period.
- 3.2.5 Any education provider seeking to prepare graduates for EMS certification OR EMR REGISTRATION shall apply for state recognition as described IN SECTION 3.2.11, below.
- 3.2.6 Initial education program recognition shall be valid for a period of three (3) years from the date of the Department's written notice of recognition.
- 3.2.7 Education programs shall utilize personnel who meet the qualification requirements in the Department's EMS OR EMR education program standards.
- 3.2.8 State-recognized EMS education programs are required to present the Rules Pertaining to EMS Practice and Medical Director Oversight at 6 CCR 1015-3, Chapter Two, including the current Colorado EMS scope of practice content as established in those rules, within every initial and refresher course.
- 3.2.9 EMS education centers that provide initial education at the Paramedic level shall obtain accreditation from the Commission on Accreditation of Allied Health Education Programs (CAAHEP). The EMS education center shall provide the Department with verification that an application for accreditation has been submitted to CAAHEP prior to the EMS education center initiating a second course.
- 3.2.10 EMS education centers that provide initial education at the Paramedic level shall maintain accreditation from CAAHEP. Loss of CAAHEP accreditation by an EMS education center shall result in proceedings for the revocation, suspension, limitation or modification of state recognition as an EMS education program.
- 3.2.11 Applicants for education program recognition shall submit the following documentation to the Department:
- A) a completed application form provided by the Department;
 - B) a personnel roster, to include a current resume for the program director and medical director;
 - C) a description of the facilities to be used for course didactic, lab, and clinical instruction and a listing of all education aids and medical equipment available to the program;
 - D) program policies and procedures, which at a minimum shall address:
 - 1) admission requirements;
 - 2) attendance requirements;
 - 3) course schedule that lists as separate elements the didactic, lab, clinical, skills and written testing criteria of the education program;
 - 4) discipline/counseling of students;
 - 5) grievance procedures;
 - 6) successful course completion requirements;

196 7) testing policies;

197 8) tuition policy statement;

198 9) infection control plan;

199 10) description of insurance coverage for students, both personal liability and
200 worker's compensation;

201 11) practical skills testing policies and procedures;

202 12) a continuous quality improvement plan: and

203 13) recognition of continuing medical education provided by outside parties
204 including, but not limited to, continuing medical education completed by
205 members of the armed forces or reserves of the United States or the
206 National Guard, military reserves or naval militia of any state.

207 3.2.12 After receipt of the application and other documentation required by these rules, the
208 Department shall notify the applicant of recognition or denial as an education program, or
209 shall specify a site review or modification of the materials submitted by the applicant.

210 3.2.13 If the Department requires a site visit, the applicant shall introduce staff, faculty, and
211 medical director, and show all documentation, equipment, supplies and facilities.

212 3.2.14 Applications determined to be incomplete shall be returned to the applicant.

213 3.2.15 The Department shall provide written notice of education program recognition or denial of
214 recognition to the applicant. The Department's determination shall include, but not be
215 limited to, consideration of the following factors:

216 A) fulfillment of all application requirements;

217 B) demonstration of ability to conduct education, **AT THE REQUESTED LEVEL**, in
218 compliance with the Department's education program standards;

219 C) demonstration of necessary professional staff, equipment and supplies to provide
220 the education.

221 3.2.16 Denial of recognition shall be in accordance with Section 4 of these rules.

222 3.3 Education Program Recognition Renewal

223 3.3.1 Renewal of recognition shall be valid for a period of five (5) years from the date of the
224 Department's notice of recognition renewal and shall be based upon satisfactory past
225 performance and submission of an updated application form.

226 3.3.2 Additional information as specified in Section 3.2.11 may be required by the Department.
227 The Department may require a site review in conjunction with the renewal application.

228 3.4 Incorporation by Reference

229 3.4.1 These rules incorporate by reference the Commission on Accreditation of Allied Health
230 Education Programs (CAAHEP) Standards and Guidelines for the Accreditation of
231 Educational Programs in the Emergency Medical Services Professions as revised in
232 2005. Such incorporation does not include later amendments to or editions of the
233 referenced material. The Health Facilities and Emergency Medical Services Division of
234 the Department maintains copies of the incorporated material for public inspection during
235 regular business hours, and shall provide certified copies of any non-copyrighted material

to the public at cost upon request. Information regarding how the incorporated material 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

3.4.2 The incorporated material may be obtained at no cost from the website of the Committee on Accreditation of Education Programs for the Emergency Medical Services Professions at www.coaemsp.org/standards.htm.

Section 4 - Disciplinary Sanctions and Appeal Procedures for Education Program Recognition

4.1 The Department, in accordance with the State Administrative Procedure Act, Section 24-4-101, et seq., C.R.S., may initiate proceedings to deny, revoke, suspend, limit or modify education program recognition for, but not limited to, the following reasons:

4.1.1 the applicant fails to meet the application requirements specified in Section 3 of these rules.

4.1.2 the applicant does not possess the necessary qualifications to conduct an education program in compliance with **THE DEPARTMENT'S** education program standards.

4.1.3 the applicant fails to demonstrate access to adequate clinical or internship services as required **BY THE DEPARTMENT'S** education program standards.

4.1.4 fraud, misrepresentation, or deception in applying for or securing education program recognition.

4.1.5 failure to conduct the education program in compliance with **THE DEPARTMENT'S** education program standards.

4.1.6 failure to notify the Department of changes in the program director or medical director.

4.1.7 providing false information to the Department with regard to successful completion of education or practical skill examination.

4.1.8 failure to comply with the provisions in Section 3 of these rules.

4.2 If the Department initiates proceedings to deny, revoke, suspend, limit or modify an education program recognition, the Department shall provide notice of the action to the education program (or program applicant) and shall inform the program (or program applicant) of its right to appeal and the procedure for appealing. Appeals of Departmental actions shall be conducted in accordance with the State Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

SECTION 6 - EMERGENCY MEDICAL RESPONDER REGISTRATION

6.1 GENERAL REQUIREMENTS

273 6.1.1 AN EMR CERTIFIED WITH THE DEPARTMENT OF PUBLIC SAFETY PRIOR TO JULY
274 1, 2017 WILL BE A REGISTERED EMR FOR THE REMAINDER OF HIS OR HER
275 CURRENT CERTIFICATION PERIOD, AFTER WHICH, TO REMAIN REGISTERED, AN
276 APPLICANT WILL NEED TO MEET THE REQUIREMENTS IN SECTION 6.3 BELOW,
277 FOR RENEWAL OF REGISTRATION.

278 6.1.2 AN EMR MAY REGISTER WITH THE DEPARTMENT ON A VOLUNTARY BASIS BY
279 MEETING REGISTRATION REQUIREMENTS INCLUDED IN THIS SECTION.

280 A) REGISTRATION IS NOT REQUIRED TO PERFORM AS AN EMR.

281 B) REGISTRATION PROVIDES RECOGNITION THAT AN EMR HAS
282 SUCCESSFULLY COMPLETED THE TRAINING FROM A RECOGNIZED
283 EDUCATION PROGRAM, PASSED THE NREMT EMR EXAMINATION, AND
284 UNDERGONE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
285 CHECK BY THE DEPARTMENT.

286 6.1.3 NO PERSON SHALL HOLD HIM OR HERSELF OUT AS A REGISTERED EMR
287 UNLESS THAT PERSON HAS REGISTERED WITH THE DEPARTMENT IN
288 ACCORDANCE WITH THIS SECTION.

289 6.1.4 REGISTRATIONS SHALL BE EFFECTIVE FOR A PERIOD OF THREE (3) YEARS
290 AFTER THE REGISTRATION DATE. THE REGISTRATION DATE SHALL BE
291 DETERMINED BY THE DATE THE DEPARTMENT APPROVES THE APPLICATION.

292 6.2 INITIAL REGISTRATION

293 6.2.1 APPLICANTS FOR INITIAL REGISTRATION SHALL BE NO LESS THAN 16 YEARS OF
294 AGE AT THE TIME OF APPLICATION.

295 6.2.2 APPLICANTS FOR INITIAL REGISTRATION SHALL SUBMIT TO THE DEPARTMENT
296 A COMPLETED APPLICATION PROVIDED BY THE DEPARTMENT, INCLUDING THE
297 APPLICANT'S SIGNATURE IN A FORM AND MANNER AS DETERMINED BY THE
298 DEPARTMENT, WHICH CONTAINS THE FOLLOWING:

299 A) EVIDENCE OF COMPLIANCE WITH CRIMINAL HISTORY RECORD CHECK
300 REQUIREMENTS:

301 1) IF THE APPLICANT HAS LIVED IN COLORADO FOR MORE THAN
302 THREE (3) YEARS AT THE TIME OF APPLICATION, THE APPLICANT
303 IS REQUIRED TO SUBMIT TO A FINGERPRINT-BASED CRIMINAL
304 HISTORY RECORD CHECK GENERATED BY THE CBI.

305 2) IF THE APPLICANT HAS LIVED IN COLORADO FOR THREE (3)
306 YEARS OR LESS AT THE TIME OF APPLICATION, THE APPLICANT
307 SHALL SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY
308 RECORD CHECK GENERATED BY THE FEDERAL BUREAU OF
309 INVESTIGATIONS (FBI) AND PROCESSED THROUGH THE CBI.

310 3) IF, IN ACCORDANCE WITH SUBPARAGRAPHS 1 OR 2 ABOVE, AN
311 APPLICANT HAS TWICE SUBMITTED TO A FINGERPRINT-BASED
312 CRIMINAL HISTORY RECORD CHECK AND THE FBI OR CBI HAS
313 BEEN UNABLE TO CLASSIFY THE FINGERPRINTS, THEN THE
314 DEPARTMENT MAY ACCEPT A CBI AND/OR FBI NAME-BASED
315 CRIMINAL HISTORY REPORT GENERATED THROUGH THE CBI.

316 B) PROOF OF ADEQUATE TRAINING AND EDUCATION WITH A CURRENT AND
317 VALID CERTIFICATION FROM THE NREMT AT THE EMR LEVEL.

C) EVIDENCE OF CURRENT AND VALID PROFESSIONAL LEVEL BASIC CPR COURSE COMPLETION FROM A NATIONAL OR LOCAL ORGANIZATION APPROVED BY THE DEPARTMENT.

D) EVIDENCE OF LAWFUL PRESENCE IN THE UNITED STATES.

6.3 RENEWAL OF REGISTRATION

6.3.1 GENERAL REQUIREMENTS

A) UPON THE EXPIRATION OF AN EMR REGISTRATION, THE REGISTRATION IS NO LONGER VALID AND THE INDIVIDUAL SHALL NOT HOLD HIM OR HERSELF OUT AS A REGISTERED EMR.

B) PERSONS WHO HAVE PERMITTED THEIR REGISTRATION TO EXPIRE FOR A PERIOD NOT TO EXCEED SIX (6) MONTHS FROM THE EXPIRATION DATE MAY RENEW THEIR REGISTRATION BY COMPLYING WITH THE PROVISIONS OF SECTION 6.3 OF THESE RULES (RENEWAL OF REGISTRATION).

C) PERSONS WHO HAVE PERMITTED THEIR REGISTRATION TO EXPIRE FOR A PERIOD OF GREATER THAN SIX (6) MONTHS FROM THE EXPIRATION DATE SHALL NOT BE ELIGIBLE FOR RENEWAL AND SHALL COMPLY WITH THE PROVISIONS OF SECTION 6.2 OF THESE RULES (INITIAL CERTIFICATION).

D) ALL REGISTRATIONS RENEWED BY THE DEPARTMENT SHALL BE VALID FOR THREE (3) YEARS FROM THE DATE OF REGISTRATION.

E) REGISTRATION DATE IS THE DATE OF RENEWAL APPLICATION APPROVAL BY THE DEPARTMENT, EXCEPT, FOR APPLICANTS SUCCESSFULLY COMPLETING THE RENEWAL OF REGISTRATION REQUIREMENTS DURING THE LAST SIX (6) MONTHS PRIOR TO THEIR REGISTRATION EXPIRATION DATE, THE REGISTRATION DATE SHALL BE THE EXPIRATION DATE OF THE CURRENT VALID REGISTRATION BEING RENEWED.

F) PURSUANT TO SECTION 24-4-104(7), C.R.S., OF THE STATE ADMINISTRATIVE PROCEDURE ACT, IF A REGISTERED EMR HAS MADE TIMELY AND SUFFICIENT APPLICATION FOR REGISTRATION RENEWAL AND THE DEPARTMENT FAILS TO TAKE ACTION ON THE APPLICATION PRIOR TO THE REGISTRATION'S EXPIRATION DATE, THE EXISTING REGISTRATION SHALL NOT EXPIRE UNTIL THE DEPARTMENT ACTS UPON THE APPLICATION. THE DEPARTMENT, IN ITS SOLE DISCRETION, SHALL DETERMINE WHETHER THE APPLICATION WAS TIMELY AND SUFFICIENT.

6.3.2 APPLICATION FOR RENEWAL OF REGISTRATION

AN APPLICANT FOR REGISTRATION RENEWAL SHALL:

A) SUBMIT TO THE DEPARTMENT A COMPLETED APPLICATION FORM PROVIDED BY THE DEPARTMENT, INCLUDING THE APPLICANT'S SIGNATURE IN A FORM AND MANNER AS DETERMINED BY THE DEPARTMENT;

B) SUBMIT TO THE DEPARTMENT WITH A COMPLETED APPLICATION FORM ALL OF THE FOLLOWING:

- 364 1) EVIDENCE OF COMPLIANCE WITH CRIMINAL HISTORY RECORD
365 CHECK REQUIREMENTS:
- 366 a. THE APPLICANT IS NOT REQUIRED TO SUBMIT TO A
367 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK IF
368 THE APPLICANT HAS LIVED IN COLORADO FOR MORE THAN
369 THREE (3) YEARS AT THE TIME OF APPLICATION AND THE
370 APPLICANT HAS SUBMITTED TO A FINGERPRINT-BASED
371 CRIMINAL HISTORY RECORD CHECK THROUGH THE
372 COLORADO BUREAU OF INVESTIGATIONS (CBI) FOR A
373 PREVIOUS COLORADO EMR REGISTRATION APPLICATION.
- 374 b. IF THE APPLICANT HAS LIVED IN COLORADO FOR MORE THAN
375 THREE (3) YEARS AT THE TIME OF APPLICATION AND HAS
376 NOT SUBMITTED TO A FINGERPRINT-BASED CRIMINAL
377 HISTORY RECORD CHECK AS DESCRIBED IN SUBPARAGRAPH
378 A ABOVE, THE APPLICANT SHALL SUBMIT TO A FINGERPRINT-
379 BASED CRIMINAL HISTORY RECORD CHECK GENERATED BY
380 THE CBI.
- 381 c. IF THE APPLICANT HAS LIVED IN COLORADO FOR THREE (3)
382 YEARS OR LESS AT THE TIME OF APPLICATION, THE
383 APPLICANT SHALL SUBMIT TO A FINGERPRINT-BASED
384 CRIMINAL HISTORY RECORD CHECK GENERATED BY THE
385 FEDERAL BUREAU OF INVESTIGATIONS (FBI) THROUGH THE
386 CBI.
- 387 d. IF, IN ACCORDANCE WITH SUBPARAGRAPHS B OR C ABOVE,
388 AN APPLICANT HAS TWICE SUBMITTED TO A FINGERPRINT-
389 BASED CRIMINAL HISTORY RECORD CHECK AND THE FBI OR
390 CBI HAS BEEN UNABLE TO CLASSIFY THE FINGERPRINTS,
391 THEN THE DEPARTMENT MAY ACCEPT A CBI AND/OR FBI
392 NAME-BASED CRIMINAL HISTORY REPORT GENERATED
393 THROUGH THE CBI.
- 394 2) EVIDENCE OF CURRENT AND VALID PROFESSIONAL LEVEL BASIC
395 CPR COURSE COMPLETION FROM A NATIONAL OR LOCAL
396 ORGANIZATION APPROVED BY THE DEPARTMENT.
- 397 3) EVIDENCE OF LAWFUL PRESENCE IN THE UNITED STATES.
- 398 C) COMPLETE ONE OF THE FOLLOWING TRAINING REQUIREMENTS:
- 399 1) CURRENT AND VALID NREMT CERTIFICATION AT THE EMR LEVEL.
- 400 2) APPROPRIATE LEVEL REFRESHER COURSE AS DESCRIBED IN
401 SECTION 6.3.3 CONDUCTED OR APPROVED THROUGH
402 SIGNATURE OF A DEPARTMENT-RECOGNIZED EMR EDUCATION
403 PROGRAM REPRESENTATIVE AND SKILL COMPETENCY AS
404 ATTESTED TO BY SIGNATURE OF MEDICAL DIRECTOR OR
405 DEPARTMENT-RECOGNIZED EMR EDUCATION PROGRAM
406 REPRESENTATIVE.
- 407 3) THE MINIMUM NUMBER OF EDUCATION HOURS AS DESCRIBED IN
408 SECTION 6.3.3 COMPLETED OR APPROVED THROUGH
409 SIGNATURE OF A DEPARTMENT-RECOGNIZED EMR EDUCATION
410 PROGRAM REPRESENTATIVE AND SKILL COMPETENCY AS
411 ATTESTED TO BY SIGNATURE OF MEDICAL DIRECTOR OR
412 DEPARTMENT-RECOGNIZED EMR EDUCATION PROGRAM
413 REPRESENTATIVE.

414 6.3.3 EDUCATION REQUIREMENT TO RENEW A REGISTRATION WITHOUT THE USE OF
415 A CURRENT AND VALID NREMT CERTIFICATION

416 A) FOR RENEWAL OF A REGISTRATION WITHOUT THE USE OF A CURRENT
417 AND VALID NREMT EMR CERTIFICATION, THE FOLLOWING EDUCATION IS
418 REQUIRED:

419 1) EDUCATION REQUIRED FOR THE RENEWAL OF AN EMR
420 REGISTRATION SHALL BE NO LESS THAN TWELVE (12) HOURS
421 AND SHALL BE COMPLETED THROUGH ONE OF THE FOLLOWING:

422 a. A REFRESHER COURSE AT THE EMR LEVEL CONDUCTED OR
423 APPROVED BY A DEPARTMENT-RECOGNIZED EMR
424 EDUCATION PROGRAM PLUS ADDITIONAL CONTINUING
425 EDUCATION TOPICS SUCH THAT THE TOTAL EDUCATION
426 HOURS IS NO LESS THAN TWELVE (12) HOURS.

427 b. CONTINUING EDUCATION TOPICS CONSISTING OF NO LESS
428 THAN TWELVE (12) HOURS OF EDUCATION THAT IS
429 CONDUCTED OR APPROVED THROUGH A DEPARTMENT-
430 RECOGNIZED EMR EDUCATION PROGRAM CONSISTING OF
431 THE FOLLOWING MINIMUM CONTENT REQUIREMENTS:

432 i. ONE (1) HOUR OF PREPARATORY CONTENT THAT MAY
433 INCLUDE SCENE SAFETY, QUALITY IMPROVEMENT,
434 HEALTH AND SAFETY OF EMRS, OR MEDICAL LEGAL
435 CONCEPTS.

436 ii. TWO (2) HOURS OF AIRWAY ASSESSMENT AND
437 MANAGEMENT

438 iii. TWO (2) HOURS OF PATIENT ASSESSMENT

439 iv. THREE (3) HOURS OF CIRCULATION TOPICS

440 v. THREE (3) HOURS OF ILLNESS AND INJURY TOPICS

441 vi. ONE (1) HOUR OF CHILDBIRTH AND PEDIATRIC TOPICS

442 6.3.4 IN SATISFACTION OF THE REQUIREMENTS OF SECTION 6.3.3 ABOVE, THE
443 DEPARTMENT MAY ACCEPT CONTINUING MEDICAL EDUCATION, TRAINING, OR
444 SERVICE COMPLETED BY A MEMBER OF THE ARMED FORCES OR RESERVES OF
445 THE UNITED STATES OR THE NATIONAL GUARD, MILITARY RESERVES OR
446 NAVAL MILITIA OF ANY STATE, UPON PRESENTATION OF SATISFACTORY
447 EVIDENCE BY THE APPLICANT FOR RENEWAL OF CERTIFICATION.

448 A) SATISFACTORY EVIDENCE MAY INCLUDE BUT IS NOT LIMITED TO THE
449 CONTENT OF THE EDUCATION, METHOD OF DELIVERY, LENGTH OF
450 PROGRAM, QUALIFICATIONS OF THE INSTRUCTOR AND METHOD(S)
451 USED TO EVALUATE THE EDUCATION PROVIDED.

452 6.4 PROVISIONAL REGISTRATION

453 6.4.1 GENERAL REQUIREMENTS

454 A) THE DEPARTMENT MAY ISSUE A PROVISIONAL REGISTRATION TO AN
455 APPLICANT WHOSE FINGERPRINT-BASED CRIMINAL HISTORY RECORD
456 CHECK HAS NOT BEEN RECEIVED BY THE DEPARTMENT AT THE TIME OF
457 APPLICATION FOR REGISTRATION.

- 458 B) TO BE ELIGIBLE FOR A PROVISIONAL REGISTRATION, THE APPLICANT
459 SHALL, AT THE TIME OF APPLICATION, HAVE SATISFIED ALL
460 REQUIREMENTS IN THESE RULES FOR INITIAL OR RENEWAL
461 REGISTRATION.
- 462 C) A PROVISIONAL REGISTRATION SHALL BE VALID FOR NOT MORE THAN
463 NINETY DAYS.
- 464 D) THE DEPARTMENT MAY IMPOSE DISCIPLINARY SANCTIONS PURSUANT
465 TO THESE RULES IF THE DEPARTMENT FINDS THAT AN EMR WHO HAS
466 RECEIVED A PROVISIONAL REGISTRATION HAS VIOLATED ANY
467 REQUIREMENTS FOR REGISTRATION OR ANY OF THESE RULES.
- 468 E) ONCE A PROVISIONAL REGISTRATION BECOMES INVALID, AN APPLICANT
469 MAY NOT HOLD HIM OR HERSELF OUT AS A REGISTERED EMR UNLESS
470 AN INITIAL OR RENEWAL REGISTRATION HAS BEEN ISSUED BY THE
471 DEPARTMENT TO THE APPLICANT.

472 6.4.2 APPLICATION FOR PROVISIONAL REGISTRATION

473 AN APPLICANT FOR A PROVISIONAL REGISTRATION SHALL:

- 474 A) SUBMIT TO THE DEPARTMENT A COMPLETED APPLICATION FORM
475 PROVIDED BY THE DEPARTMENT.
- 476 1) THE APPLICANT SHALL REQUEST A PROVISIONAL
477 REGISTRATION.
- 478 B) SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
479 AS PROVIDED IN SECTIONS 6.2.2 AND 6.3.2 OF THESE RULES. AT THE
480 TIME OF APPLICATION, THE APPLICANT SHALL HAVE ALREADY
481 SUBMITTED THE REQUIRED MATERIALS TO THE CBI TO INITIATE THE
482 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.
- 483 C) SUBMIT TO THE DEPARTMENT WITH A COMPLETED APPLICATION FORM
484 ALL OF THE FOLLOWING:
- 485 1) A FEE IN THE AMOUNT OF \$23.00.
- 486 2) A NAME-BASED CRIMINAL HISTORY RECORD CHECK.
- 487 a. IF THE APPLICANT HAS LIVED IN COLORADO FOR MORE
488 THAN THREE (3) YEARS AT THE TIME OF APPLICATION, A
489 NAME-BASED CRIMINAL HISTORY REPORT CONDUCTED
490 BY THE CBI, INCLUDING A CRIMINAL HISTORY REPORT
491 FROM AN INTERNET-BASED SYSTEM ON CBI'S WEBSITE,
492 OR OTHER NAME-BASED REPORT AS DETERMINED BY
493 THE DEPARTMENT.
- 494 b. IF THE APPLICANT HAS LIVED IN COLORADO FOR THREE
495 (3) YEARS OR LESS AT THE TIME OF APPLICATION, A
496 NAME-BASED CRIMINAL HISTORY REPORT FOR EACH
497 STATE IN WHICH THE APPLICANT HAS LIVED FOR THE
498 PAST THREE (3) YEARS, CONDUCTED BY THE
499 RESPECTIVE STATES' BUREAUS OF INVESTIGATION OR
500 EQUIVALENT STATE-LEVEL LAW ENFORCEMENT AGENCY,
501 OR OTHER NAME-BASED REPORT AS DETERMINED BY
502 THE DEPARTMENT.

- c. ANY NAME-BASED CRIMINAL HISTORY REPORT PROVIDED TO THE DEPARTMENT FOR PURPOSES OF THIS PARAGRAPH C SHALL HAVE BEEN OBTAINED BY THE APPLICANT NOT MORE THAN 90 DAYS PRIOR TO THE DEPARTMENT'S RECEIPT OF A COMPLETED APPLICATION.

Section 7 - Disciplinary Sanctions and Appeal Procedures for EMS Provider Certification OR EMR REGISTRATION

7.1 For good cause, the Department may deny, revoke, suspend, limit, modify, or refuse to renew AN EMS PROVIDER certificate OR EMR REGISTRATION, may impose probation on a certificate OR REGISTRATION holder, or may issue a letter of admonition in accordance with the State Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

7.2 Good cause for disciplinary sanctions listed above shall include, but not be limited to:

7.2.1 failure to meet the requirements of these rules pertaining to issuance and renewal of certification OR REGISTRATION.

7.2.2 fraud, misrepresentation, or deception in applying for or securing certification OR REGISTRATION.

7.2.3 aiding and abetting in the procurement of certification OR REGISTRATION for any person not eligible for certification OR REGISTRATION.

7.2.4 utilizing NREMT certification that has been illegally obtained, suspended or revoked, to obtain a state certification OR REGISTRATION.

7.2.5 unlawful use, possessing, dispensing, administering, or distributing controlled substances.

7.2.6 driving an emergency vehicle in a reckless manner, or while under the influence of alcohol or other performance altering substances.

7.2.7 responding to or providing patient care while under the influence of alcohol or other performance altering substances.

7.2.8 demonstrating a pattern of alcohol or other substance abuse.

7.2.9 materially altering any Department certificate OR REGISTRATION, or using and/or possessing any such altered certificate OR REGISTRATION.

7.2.10 having ANY CERTIFICATE, LICENSE, OR REGISTRATION RELATED TO PATIENT CARE suspended or revoked in Colorado or in another state or country.

7.2.11 unlawfully discriminating in the provision of services.

7.2.12 representing qualifications at any level other than the person's current EMS Provider certification level.

7.2.13 representing oneself to others as a certificate holder or providing medical care without possessing a current and valid certificate issued by the Department.

7.2.14 REPRESENTING ONESELF TO OTHERS AS A REGISTERED EMR WITHOUT BEING CURRENTLY REGISTERED WITH THE DEPARTMENT.

7.2.15 failing to follow accepted standards of care in the management of a patient, or in response to a medical emergency.

- 543 7.2.16 failing to administer medications or treatment in a responsible manner in accordance with
544 the medical director's orders or protocols.
- 545 7.2.17 failing to maintain confidentiality of patient information.
- 546 7.2.18 failing to provide the Department with the current place of residence or failing to promptly
547 notify the Department of a change in current place of residence or change of name.
- 548 7.2.19 a pattern of behavior that demonstrates routine response to medical emergencies without
549 being under the policies and procedures of a designated emergency medical response
550 agency and/or providing patient care without medical direction when required.
- 551 7.2.20 performing medical acts not authorized by the Rules Pertaining to EMS Practice and
552 Medical Director Oversight and in the absence of any other lawful authorization to
553 perform such medical acts.
- 554 7.2.21 PERFORMING MEDICAL ACTS REQUIRING AN EMS PROVIDER CERTIFICATION
555 WHILE HOLDING ONLY A VALID EMR REGISTRATION.
- 556 7.2.22 failing to provide care or discontinuing care when a duty to provide care has been
557 established.
- 558 7.2.23 appropriating or possessing without authorization medications, supplies, equipment, or
559 personal items of a patient or employer.
- 560 7.2.24 falsifying entries or failing to make essential entries in a patient care report, EMS OR
561 EMR education document, or medical record.
- 562 7.2.25 falsifying or failing to comply with any collection or reporting required by the state.
- 563 7.2.26 failing to comply with the terms of any agreement or stipulation regarding certification OR
564 REGISTRATION entered into with the Department.
- 565 7.2.27 violating any state or federal statute or regulation, the violation of which would jeopardize
566 the health or safety of a patient or the public.
- 567 7.2.28 unprofessional conduct at the scene of an emergency that hinders, delays, eliminates, or
568 deters the provision of medical care to the patient or endangers the safety of the public.
- 569 7.2.29 failure by a certificate holder OR REGISTERED EMR to report to the Department any
570 violation by another certificate holder OR REGISTERED EMR of the good cause
571 provisions of this section when the certificate holder knows or reasonably believes a
572 violation has occurred.
- 573 7.2.30 committing or permitting, aiding or abetting the commission of an unlawful act that
574 substantially relates to performance of a certificate holder OR REGISTERED EMR's
575 duties and responsibilities as determined by the Department.
- 576 7.2.31 committing patient abuse including the willful infliction of injury, unreasonable
577 confinement, intimidation, or punishment, with resulting physical harm, pain, or mental
578 anguish, or patient neglect, including the failure to provide goods and services necessary
579 to attain and maintain physical and mental well-being.
- 580 7.3 Good cause for disciplinary sanctions also includes conviction of, or a plea of guilty, or of no
581 contest, to a felony or misdemeanor that relates to the duties and responsibilities of a certificate
582 OR REGISTRATION holder, including patient care and public safety. For purposes of this
583 paragraph, "conviction" includes the imposition of a deferred sentence.
- 584 7.3.1 The following crimes set forth in the Colorado Criminal Code (Title 18, C.R.S.) are
585 considered to relate to the duties and responsibilities of a certificate holder:

- 586 A) offenses under Article 3 - offenses against a person.
- 587 B) offenses under Article 4 - offenses against property.
- 588 C) offenses under Article 5 - offenses involving fraud.
- 589 D) offenses under Article 6 - offenses involving the family relations.
- 590 E) offenses under Article 6.5 - wrongs to at-risk adults.
- 591 F) offenses under Article 7 - offenses related to morals.
- 592 G) offenses under Article 8 - offenses - governmental operations.
- 593 H) offenses under Article 9 - offenses against public peace, order and decency.
- 594 I) offenses under Article 17 - Colorado Organized Crime Control Act.
- 595 J) offenses under Article 18 - Uniform Controlled Substances Act of 1992.
- 596 7.3.2 The offenses listed above are not exclusive. The Department may consider other pleas or
597 criminal convictions, including those from other state, federal, foreign or military
598 jurisdictions.
- 599 7.3.3 In determining whether to impose disciplinary sanctions based on a plea or on a felony or
600 misdemeanor conviction, the Department may consider, but is not limited to, the following
601 information:
- 602 A) the nature and seriousness of the crime including but not limited to whether the
603 crime involved violence to or abuse of another person and whether the crime
604 involved a minor or a person of diminished capacity;
- 605 B) the relationship of the crime to the purposes of requiring a certificate OR
606 REGISTRATION;
- 607 C) the relationship of the crime to the ability, capacity or fitness required to perform
608 the duties and discharge the responsibilities of an EMS Provider OR
609 REGISTERED EMR; and
- 610 D) the time frame in which the crime was committed.
- 611 7.4 Appeals
- 612 7.4.1 If the Department denies certification OR REGISTRATION, the Department shall provide
613 the applicant with notice of the grounds for denial and shall inform the applicant of the
614 applicant's right to request a hearing.
- 615 A) A request for a hearing shall be submitted to the Department in writing within
616 sixty (60) calendar days from the date of the notice.
- 617 B) If a hearing is requested, the applicant shall file an answer within sixty (60)
618 calendar days from the date of the notice.
- 619 C) If a request for a hearing is made, the hearing shall be conducted in accordance
620 with the State Administrative Procedure Act, Section 24-4-101 et seq., C.R.S.
- 621 D) If the applicant does not request a hearing in writing within sixty (60) calendar
622 days from the date of the notice, the applicant is deemed to have waived the
623 opportunity for a hearing.

624 7.4.2 If the Department proposes disciplinary sanctions as provided in this section, the
625 Department shall notify the certificate OR REGISTRATION holder by first class mail to
626 the last address furnished to the Department by the certificate OR REGISTRATION
627 holder. The notice shall state the alleged facts and/or conduct warranting the proposed
628 action and state that the certificate OR REGISTRATION holder may request a hearing.

629 A) The certificate OR REGISTRATION holder shall file a written answer within thirty
630 (30) calendar days of the date of mailing of the notice.

631 B) A request for a hearing shall be submitted to the Department in writing within
632 thirty (30) calendar days from the date of mailing of the notice.

633 C) If a request for a hearing is made, the hearing shall be conducted in accordance
634 with the State Administrative Procedure Act, Section 24-4-101 et seq., C.R.S.

635 D) If the certificate OR REGISTRATION holder does not request a hearing in writing
636 within thirty (30) calendar days of the date of mailing of the notice, the certificate
637 OR REGISTRATION holder is deemed to have waived the opportunity for a
638 hearing.

639 7.4.3 If the Department summarily suspends a certificate OR REGISTRATION, the Department
640 shall provide the certificate OR REGISTRATION holder notice of such in writing, which
641 shall be sent by first class mail to the last address furnished to the Department by the
642 certificate OR REGISTRATION holder. The notice shall state that the certificate OR
643 REGISTRATION holder is entitled to a prompt hearing on the matter. The hearing shall
644 be conducted in accordance with the State Administrative Procedure Act, Section 24-4-
645 101, et seq., C.R.S.



Notice of Public Rule-Making Hearing

April 19, 2017

ID #: 94

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

Date: April 19, 2017

Time: 10:00 AM

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

To consider the promulgation/amendments or repeal of:

CCR Number(s)

6 CCR 1015-3, Emergency Medical Services, Chapter 1, EMS Education and Certification

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)

§25-3.5-1103, C.R.S.

§25-3.5-1104 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, April 13, 2017.

Deborah Nelson, Board of Health Administrator

Date: 2017-02-16T14:21:17

Notice of Proposed Rulemaking

Tracking number

2017-00099

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

03/30/2017

Time

09:00 AM

Location

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

Subjects and issues involved

To consider proposed amendments to Chapter One, EMS Education and Certification

Statutory authority

§ 25-3.5-1103, C.R.S

§ 25-3.5-1104, C.R.S

Contact information

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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: Marschall Smith, Emergency Medical and Trauma Services Branch, Professional Standards Section Manager

Through: D. Randy Kuykendall, Health Facilities and Emergency Medical Services, Division Director, D.R.K.

Date: February 15, 2017

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1015-3 Emergency Medical Services, Chapter One - Rules Pertaining to EMS Education and Certification with a request for a rulemaking hearing to be set for April of 2017

House Bill 16-1034 was signed into effect on June 10, 2016. The bill authorizes the oversight of emergency medical responders (EMRs), formerly called first responders, to move from the Department of Public Safety (DPS) to the Department of Public Health and Environment (Department). This move is to recognize that EMRs are part of the emergency medical services and trauma system and oversight should occur all in one department. EMRs answer emergency calls, render aid to ill and injured patients, prepare the scene for the arrival of the ambulance and emergency service providers, and provide assistance to emergency medical service providers as directed. HB 16-1034 did not expand the emergency medical service (EMS) provider current certification levels to include EMRs; therefore, the EMRs will continue to be unable to provide direct emergency medical care and treatment to patients transported in an ambulance.

Under the proposed rule language, EMRs can voluntarily register through an application process similar to the current EMS provider certification application. House Bill 16-1034 requires the Department to have the voluntary registration program in place by July 1, 2017. EMRs will be required to attend a Department-recognized EMR training program, pass the National Registry of Emergency Medical Technicians (NREMT) EMR test, and submit to a fingerprint based background check. EMRs currently registered with DPS will have their certification transferred to the Department's registry. Upon the expiration of their transferred certification from DPS, they will have the option of renewing. To renew a registration, an EMR will submit evidence of compliance with the criminal history record check, evidence of current and valid professional level basic CPR course completion from a national or local organization approved by the Department, and proof of continuing education or a valid EMR certification from the NREMT. EMRs that choose not to renew their voluntary registrations with the Department, cannot hold themselves out as state registered EMRs. However, they will be able to continue to act as EMRs.

There will be no cost to apply with the Department for EMR registration, just as there is no cost to EMS providers to apply for certification. There will, however, be cost to the individual in taking the NREMT test (\$75) and obtaining the fingerprint based background check (\$17.50 for Colorado only and \$39.50 for Colorado and FBI background checks, paid directly to CBI). An applicant may request a provisional registration while awaiting the CBI/FBI fingerprint background check for a fee of \$23.00, paid to the Department. Individuals may still obtain training and act as EMRs without registering with the Department. In that situation, however, those individuals cannot hold themselves out as state registered EMRs.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to

6 CCR 1015-3 Emergency Medical Services, Chapter One - Rules Pertaining to EMS Education and Certification

Basis and Purpose.

House Bill 16-1034 moves the emergency medical responders (EMRs), formerly called first responders, certification from the Department of Public Safety (DPS) to a registry at the Department of Public Health and Environment (Department). EMRs are considered to be part of the emergency medical services and trauma system because they answer emergency calls, render aid to ill and injured patients, prepare the scene for the arrival of the ambulance and emergency medical service providers, and provide assistance to emergency medical service providers as directed. By moving oversight from DPS to the Department, EMRs will be more integrated into the EMS and trauma system by creating a registry process that is parallel to the emergency medical service (EMS) provider certification process. The bill does not, however, expand the definition of EMS provider to include EMRs.

The bill directs the Department to create a voluntary registry of EMRs by July 1, 2017. EMRs who opt to register with Department after this date will have completed training at a recognized EMR training program, submitted a fingerprint-based criminal background check and taken and passed the National Registry of Emergency Medical Technician (NREMT) EMR test. Following an initial 3 year registration, registration can be renewed by a demonstration of continuing education, either by continuing to hold a valid EMR certification issued by NREMT or meeting a minimum number of state approved continuing education credits, and proof of a professional level basic CPR course completion.

Currently certified DPS EMRs will be transferred to the Department registry for the remainder of their current certification cycle. They will then have the option of renewing their registration by demonstrating continuing education by either maintaining an EMR certification with the NREMT or meeting continuing education as described in rule, submitting a fingerprint-based criminal background check, and proof of a professional level basic CPR course completion.

The Department requests a July 1, 2017 effective date. DPS rules governing EMRs certification will remain in effect until the July 1, 2017 registry effective date, per § 25-3.5-1103, C.R.S.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes:

§ 25-3.5-1103, C.R.S

§ 25-3.5-1104, C.R.S

Is this rulemaking due to a change in state statute?

☒ Yes, the bill number is HB 16-1034. Rules are ___ authorized ☒ required.
_____ No

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

_____ Yes

☒ No

Does this rule incorporate materials by reference?

☐ Yes

☒ No

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

☐ No

REGULATORY ANALYSIS
for Amendments to
6 CCR 1015-3 Emergency Medical Services, Chapter One - Rules Pertaining to EMS Education and Certification

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.

As of November 2016, the Department of Public Safety (DPS) had 638 emergency medical responders (EMR) registered. EMRs are part of the emergency medical and trauma services system who answer emergency calls, render aid to ill and injured patients, prepare the scene for the arrival of the ambulance and emergency service providers, and provide assistance to emergency medical service providers as directed. They are not, however, considered to be emergency medical service providers themselves.

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.

EMRs currently certified with DPS will have their certifications transferred to the Department's registry. Upon the expiration of their transferred certification from DPS, they will have the option of renewing. To renew a registration, an EMR will submit evidence of compliance with a criminal history record check, evidence of current and valid professional level basic CPR course completion from a national or local organization approved by the Department, and continuing education met through either EMR certification by the National Registry of Emergency Medical Technicians (NREMT) or by meeting continuing education standards set by the Department. EMRs that choose not to renew their registrations cannot hold themselves out as state registered EMRs; however, they will be able to continue to act as EMRs.

With the move of the EMR program from DPS to the Department, individuals who attend EMR training at a recognized training program will be eligible to sit for the test offered by the NREMT. Currently, under the Colorado agreement with the NREMT, only the Department can recognize programs that are eligible to train students for any certification offered by the NREMT.

Under DPS, the fee to take the test to be recognized by the state as an EMR was \$30. With the move to the Department, individuals will have to pay the CBI directly for the cost for background checks (\$17.50 for Colorado only and \$39.50 for Colorado and FBI background checks), as well as \$75 to sit for the NREMT EMR test. There may also be costs to the individual associated with continuing education. Individuals may request a provisional registration so that they may hold themselves out as state registered EMRs prior to a fingerprint-based criminal background being completed. In this instance, there will also be a \$23 fee paid to the Department for the provisional registration. The Department sees approximately 5 provisional EMS certifications a year, and predicts that EMR provisional registration will be similar.

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

The Department requires an additional 0.5 FTE for the Investigations Unit of the Emergency Medical and Trauma Services Branch due to the increase in review and processing of criminal background checks. Funds to support this program will come from the EMS Account, which is funded by a \$2 fee placed on the registration of motor vehicles. In 2016, the Department was granted an increase in spending authority that allows for the

increase in FTE without impacting any of the other programs that rely on the EMS Account for funding.

The implementation costs of the program will be absorbed as part of the continuing maintenance of the computer system used for the certification of EMS providers.

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

HB 16-1034 requires the implementation of the EMR program by July 1, 2017.

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

The registration process of EMRs mirrors closely the already existing process for emergency medical service (EMS) providers' certification. By using the existing platforms built for EMS provider certification, the Department has minimized cost.

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

HB 16-1034 requires rule to implement the transfer of the EMR certification from DPS to the Department maintained registry. The proposed amendments are written to correspond to the existing EMS provider certification process in order to integrate the processing of EMR personnel as seamlessly as possible.

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

There are 638 EMRs currently certified by DPS and a final reconciliation will take place just prior to July 1, 2017. Transferring the oversight of EMRs to the Department allows for their registration process to be more fully integrated with the emergency medical services and trauma system. This transition is very similar to the process used in 2005 to transition EMS providers from state testing to NREMT testing and background checks. In that instance, there was no change in the number of EMS providers certified by the Department and, within two years, there was an increase in the total numbers of providers statewide.

STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1015-3 Emergency Medical Services, Chapter One - Rules Pertaining to EMS Education and
Certification

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:

Starting in November 2016, The Department made the draft proposed rules available to the following groups, and many of these individuals are EMRs trainers.

1. Colorado Fire Service Training and Certification Advisory Board
 - a. Mark Quick - Department of Public Safety
 - b. Scott Rogers - West Metro Fire
 - c. Kristy Olme
 - d. John Bennett - Telluride Fire
 - e. John Hall - Grand Junction Fire Department
 - f. Kevin Darrah - Department of Public Safety
 - g. Laura Renville - Department of Public Safety
 - h. Mark Carlson
 - i. Mike Cook
 - j. Mark Schuman
 - k. Perry Otero - City of Thornton
 - l. Philip Tiffany - Ft. Lupton Fire
 - m. Randall Souther
 - n. Mike Morgan - Department of Public Safety
 - o. Lisa Pine - Department of Public Safety
2. Colorado Fire Training Officers Association
3. EMR education programs as identified by DPS
 - a. Nicholas Betz, Aims Community College
 - b. Garard Lutz, Brighton Fire Protection District
 - c. Joe Ceuvorst, Coal Creek Canyon Fire Protection District
 - d. Theresa Kelliher, Colorado Northwestern Community College
 - e. Cindy Brown, First Response Team Training LLC
 - f. Anthony Rowe, Grand Valley Fire Protection District
 - g. Erik Forythe, Gunnison Valley EMS
 - h. Jeff Edelson, Mountain Rescue Aspen
 - i. Troy Salazar, Pueblo Community College
 - j. Ed Ward, Colorado First Aid
 - k. Drew Baske, Aurora Community College
 - l. Julia Kalish, Foothills Fire & Rescue
 - m. Don Enninga, Morgan Community College
 - n. Rich Solomon, Sable Altura Fire Rescue
 - o. Dominic Verquer, Trinidad Ambulance District
 - p. Barry Wilson, Jefferson Como Fire Protection District
 - q. Ed Castellon, Colorado Fire Camp
 - r. Christopher Weaver, Venturing ER Team 911 EMR
 - s. Molly Hunsberger, Arapahoe Community College
 - t. Sheryl Hummel, Ellicott Fire Department
 - u. Kathleen Stevenson, Sugar Loaf Fire Protection District

The Department also reached out to these additional stakeholders:

1. The Emergency Medical Practice Advisory Council
 - a. Will Dunn
 - b. Kevin Weber
 - c. Stein Bronsky
 - d. Bill Hall
 - e. Diana Koelliker
 - f. Jason Kotas
 - g. Kevin McVane
 - h. Michelle Flemmings
 - i. Art Kanowitz
 - j. Jeff Beckman
2. The Regional Medical Directors group
 - a. Marc Burdick
 - b. Peter Vellman
 - c. Eugene Eby
 - d. Erica Douglass
 - e. Stein Bronsky
 - f. Kevin Weber
3. Regional Emergency Medical and Trauma Advisory Councils (RETACs) at their quarterly forum in December 2016

The Department has posted the proposed rules to the coems.info website and sent notice out in the weekly EMTS on the Go newsletter with a link to the rules since Nov. 16, 2016. This newsletter is sent to over 1,000 individuals.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

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

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

The stakeholders have been generally supportive of the move of the EMR program from DPS to the Department. During legislative testimony, no parties testified against the bill. Comments received on the bill have been procedural questions related to being recognized as an EMR training program or center and seeking clarification of the voluntary registration versus being a non-registered EMR.

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 voluntary registration of EMRs has no impact on health equity and environmental justice. Currently, EMRs are in use across the state and will be able to continue in their roles. There will

be a higher one time cost associated with taking the NREMT test and obtaining a finger-print based background check; however, application for registration with the Department will be free.

Excerpt from House Bill 16-1034

§ 25-3.5-1103. Registration - rules - funds

(1) On and after July 1, 2017, the department shall administer a voluntary registration program for emergency medical responders. A person shall not hold himself or herself out as a registered emergency medical responder, providing care or services as identified in national guidelines for emergency medical response as approved by the department, unless the person meets the requirements set forth in this part 11; except that a person may function as a good samaritan pursuant to section 13-21-116, C.R.S.

(2) The board shall adopt rules for the administration of the emergency medical responder registration program, which rules shall include, at a minimum, the following:

(a) Requirements for emergency medical responder registration, which include certification of the applicant through a nationally recognized emergency responder certification organization approved by the department;

(b) The period of time for which the registration as an emergency medical responder is valid;

(c) Registration renewal requirements;

(d) Training requirements for new and renewing registrants;

(e) Provisions governing national and state criminal history record checks for new and renewing registrants and the use of the results of the checks by the department to determine the action to take on a registration application. Notwithstanding section 24-5-101, C.R.S., these provisions must allow the department to consider whether the applicant has been convicted of a felony or misdemeanor involving moral turpitude and the pertinent circumstances connected with the conviction and to make a determination whether any such conviction disqualifies the applicant from registration.

(f) Disciplinary sanctions, which may include provisions for the denial, revocation, probation, and suspension, including summary suspension, of registration and of education program recognition; and

(g) An appeal process consistent with sections 24-4-104 and 24-4-105, C.R.S., that is applicable to department decisions in connection with sanctions.

(3) Rules promulgated by the department of public safety remain in effect until superceded by rules duly adopted pursuant to this part 11.

(4)

(a) The department may issue a provisional registration to an applicant for registration as an emergency medical responder who requests issuance of a provisional registration and who pays a fee authorized under rules adopted by the board. A provisional registration is valid for not more than ninety days.

(b) The department may not issue a provisional registration unless the applicant satisfies the requirements for registration established in rules of the board. If the department finds that an emergency medical responder who has received a provisional registration has violated any requirements for registration, the department may revoke the provisional registration and prohibit the registration of the emergency medical responder.

(c) The department may issue a provisional registration to an applicant whose fingerprint-based criminal history record check has not yet been completed. The department shall require the applicant to submit a name-based criminal history record check prior to issuing a provisional registration.

(d) The board shall adopt rules as necessary to implement this subsection (4), including rules establishing a fee to be charged to applicants seeking a provisional registration. The department

shall deposit any fee collected for a provisional registration in the emergency medical services account created in section 25-3.5-603.

(5)

(a) The department shall acquire a fingerprint-based criminal history record check from the Colorado bureau of investigation to investigate the holder of or applicant for an emergency medical responder registration. The department may acquire a name-based criminal history record check for a registrant or an applicant who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. Notwithstanding paragraph (b) of this subsection (5), if a person submitted to a fingerprint-based criminal history record check at the time of initial registration or registration renewal, the person shall not be required to submit to a subsequent fingerprint-based criminal history record check.

(b) If, at the time of application for registry or for renewal, an individual has lived in the state for three years or less, the department shall require the applicant to submit to a federal bureau of investigation fingerprint-based national criminal history record check; except that the department may acquire a national name-based criminal history record check for an applicant who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unclassifiable. The department shall be the authorized agency to receive and disseminate information regarding the result of any national criminal history record check.

§ 25-3.5-1104. Training programs - rules

(1) The board shall adopt rules regarding the recognition by the department of education programs that provide initial training and continued competency education for emergency medical responders.

(2) The receipt of a certificate or other document of course completion issued by an education program or national certification organization is not deemed state licensure, approval, or registration.



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***

Jan. 12, 2017

Mr. Tony Capello, 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. Capello:

At the Jan. 12, 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 Emergency Medical Services Chapter 1 - Rules Pertaining to EMS Education and Certification, were reviewed and discussed. This rule revision creates a voluntary registration process for emergency medical responders as required by House Bill 16-1034. A motion was made and passed to approve the proposed revisions.

Sincerely yours,

Chief Rich Martin
Chairman



DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Health Facilities and Emergency Medical Services Division

EMERGENCY MEDICAL SERVICES

6 CCR 1015-3

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

CHAPTER ONE – RULES PERTAINING TO EMS AND EMR EDUCATION, EMS CERTIFICATION, AND EMR REGISTRATION

Section 1 – Purpose and Authority for Rules

1.1 These rules address the recognition process for emergency medical services (EMS) AND EMERGENCY MEDICAL RESPONDER (EMR) education programs; the certification process for all levels of EMS Providers; THE REGISTRATION PROCESS FOR EMERGENCY MEDICAL RESPONDERS; and the procedures for denial, revocation, suspension, limitation, or modification of a certificate OR REGISTRATION.

1.2 The authority for the promulgation of these rules is set forth in Section 25-3.5-101 et seq., C.R.S.

Section 2 – Definitions

2.1 All definitions that appear in Section 25-3.5-103, C.R.S., shall apply to these rules.

2.2 “Advanced Cardiac Life Support (ACLS)” - A course of instruction designed to prepare students in the practice of advanced emergency cardiac care.

2.3 “Advanced Emergency Medical Technician (AEMT)”- An individual who has a current and valid AEMT certificate issued by the Department and who is authorized to provide limited acts of advanced emergency medical care in accordance with the Rules Pertaining to EMS Practice and Medical Director Oversight.

2.4 “Basic Cardiac Life Support (CPR)” – A course of instruction designed to prepare students in cardiopulmonary resuscitation techniques.

2.5 “Board for Critical Care Transport Paramedic Certification (BCCTPC)”- a non-profit organization that develops and administers the Critical Care Paramedic Certification and Flight Paramedic Certification exam.

2.6 “Certificate” – Designation as having met the requirements of Section 5 of these rules, issued to an individual by the Department. Certification is equivalent to licensure for purposes of the state Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

2.7 “Certificate Holder” – An individual who has been issued a certificate as defined above.

2.8 “Continuing Education” - Education required for the renewal of a certificate OR REGISTRATION.

2.9 “Department” - Colorado Department of Public Health and Environment.

2.10 “Emergency Medical Practice Advisory Council (EMPAC)” – The council established pursuant to Section 25-3.5-206, C.R.S., that is responsible for advising the Department regarding the

appropriate scope of practice for EMS Providers and for the criteria for physicians to serve as EMS medical directors.

2.11 “EMERGENCY MEDICAL RESPONDER (EMR)” – AN INDIVIDUAL WHO HAS SUCCESSFULLY COMPLETED THE TRAINING AND EXAMINATION REQUIREMENTS FOR EMERGENCY MEDICAL RESPONDERS AND WHO PROVIDES ASSISTANCE TO THE INJURED OR ILL UNTIL MORE HIGHLY TRAINED AND QUALIFIED PERSONNEL ARRIVE.

2.12 “Emergency Medical Technician (EMT)” - An individual who has a current and valid EMT certificate issued by the Department and who is authorized to provide basic emergency medical care in accordance with the Rules Pertaining to EMS Practice and Medical Director Oversight. For the purposes of these rules, EMT includes the historic EMS Provider level of EMT-Basic (EMT-B).

2.13 “Emergency Medical Technician Intermediate (EMT-I)” - An individual who has a current and valid EMT-I certificate issued by the Department and who is authorized to provide limited acts of advanced emergency medical care in accordance with the Rules Pertaining to EMS Practice and Medical Director Oversight. For the purposes of these rules, EMT-I includes the historic EMS Provider level of EMT-Intermediate (EMT-I or EMT-I 99).

2.14 “Emergency Medical Technician with IV Authorization (EMT-IV)” – An individual who has a current and valid EMT certificate issued by the Department and who has met the conditions defined in the Rules Pertaining to EMS Practice and Medical Director Oversight relating to IV authorization.

2.15 “EMR EDUCATION CENTER” - A STATE-RECOGNIZED PROVIDER OF INITIAL COURSES, EMR CONTINUING EDUCATION TOPICS AND/OR REFRESHER COURSES THAT QUALIFY GRADUATES FOR THE NATIONAL REGISTRY OF EMERGENCY MEDICAL TECHNICIAN'S EMR CERTIFICATION.

2.16 “EMR EDUCATION GROUP” – A STATE-RECOGNIZED PROVIDER OF EMR CONTINUING EDUCATION TOPICS AND/OR REFRESHER COURSES THAT QUALIFY INDIVIDUALS FOR RENEWAL OF A NATIONAL REGISTRY EMR CERTIFICATION

2.17 “EMS Education Center” - A state-recognized provider of initial courses, EMS continuing education topics and/or refresher courses that qualify graduates for state and/or National Registry EMS provider certification.

2.18 “EMS Education Group” - A state-recognized provider of EMS continuing education topics and/or refresher courses that qualify individuals for renewal of a state and/or National Registry EMS provider certification.

2.19 “Education Program” - A state-recognized provider of EMS AND/OR EMR education including a recognized education group or center.

2.20 “Education Program Standards” - Department approved minimum standards for EMS OR EMR education that shall be met by state-recognized EMS OR EMR education programs.

2.21 “EMS Provider” – Means an individual who holds a valid emergency medical service provider certificate issued by the Department and includes Emergency Medical Technician, Advanced Emergency Medical Technician, Emergency Medical Technician Intermediate and Paramedic.

2.22 “Graduate Advanced Emergency Medical Technician” - A certificate holder who has successfully completed a Department recognized AEMT education course but has not yet successfully completed the AEMT certification requirements set forth in these rules.

2.23 “Graduate Emergency Medical Technician Intermediate” - A certificate holder who has successfully completed a Department recognized EMT-I education course but has not yet successfully completed the EMT-I certification requirements set forth in these rules.

- 77 2.24 "Graduate Paramedic" – A certificate holder who has successfully completed a Department
78 recognized Paramedic education course but has not yet successfully completed the Paramedic
79 certification requirements set forth in these rules.
- 80 2.25 "Initial Course" - A course of study based on the Department approved curriculum that meets the
81 education requirements for issuance of a certificate **OR REGISTRATION** for the first time.
- 82 2.26 "Initial Certification" - First time application for and issuance by the Department of a certificate at
83 any level **AS AN EMS PROVIDER**. This shall include applications received from persons holding
84 any level of **EMS** certification issued by the Department who are applying for either a higher or
85 lower level certificate.
- 86 2.27 **"INITIAL REGISTRATION" – FIRST TIME APPLICATION FOR AND ISSUANCE BY THE**
87 **DEPARTMENT OF A REGISTRATION AS AN EMR. THIS SHALL INCLUDE APPLICATIONS**
88 **RECEIVED FROM PERSONS HOLDING ANY LEVEL OF EMS CERTIFICATION ISSUED BY**
89 **THE DEPARTMENT WHO ARE APPLYING FOR REGISTRATION**
- 90 2.28 "Letter of Admonition" - A form of disciplinary sanction that is placed in an **EMS PROVIDER'S** or
91 **EMR's** file and represents an adverse action against the certificate holder.
- 92 2.29 "Medical Director" – For the purposes of these rules, a physician licensed in good standing who
93 authorizes and directs, through protocols and standing orders, the performance of students-in-
94 training enrolled in Department-recognized EMS **OR EMR** education programs and/or **EMS**
95 certificate holders who perform medical acts, and who is specifically identified as being
96 responsible to assure the performance competency of those EMS Providers as described in the
97 physician's medical continuous quality improvement program.
- 98 2.30 "National Registry of Emergency Medical Technicians (NREMT)" - A national non-governmental
99 organization that certifies entry-level and ongoing competency of EMS providers **AND EMRS**.
- 100 2.31 "Paramedic" - An individual who has a current and valid Paramedic certificate issued by the
101 Department and who is authorized to provide acts of advanced emergency medical care in
102 accordance with the Rules Pertaining to EMS Practice and Medical Director Oversight. For the
103 purposes of these rules, Paramedic includes the historic EMS Provider level of EMT-Paramedic
104 (EMT-P).
- 105 2.32 "Paramedic with Critical Care Endorsement (P-CC)" – An individual who has a current and valid
106 Paramedic certificate issued by the Department and who has met the conditions defined in the
107 Rules Pertaining to EMS Practice and Medical Director Oversight relating to critical care.
- 108 2.33 "Practical Skills Examination" - A skills test conducted at the end of an initial course and prior to
109 application for national or state certification.
- 110 2.34 "Provisional Certification" - A certification, valid for not more than 90 days, that may be issued by
111 the Department to an **EMS PROVIDER** applicant seeking certification.
- 112 2.35 **"PROVISIONAL REGISTRATION" – A REGISTRATION, VALID FOR NOT MORE THAN 90**
113 **DAYS, THAT MAY BE ISSUED BY THE DEPARTMENT TO AN EMR APPLICANT SEEKING**
114 **REGISTRATION.**
- 115 2.36 "Refresher Course" - A course of study based on the Department approved curriculum that
116 contributes in part to the education requirements for renewal of a certificate **OR REGISTRATION**.
- 117 2.37 **"REGISTERED EMERGENCY MEDICAL RESPONDER (EMR)" - AN INDIVIDUAL WHO HAS**
118 **SUCCESSFULLY COMPLETED THE TRAINING AND EXAMINATION REQUIREMENTS FOR**
119 **EMRS, WHO PROVIDES ASSISTANCE TO THE INJURED OR ILL UNTIL MORE HIGHLY**
120 **TRAINED AND QUALIFIED PERSONNEL ARRIVE, AND WHO IS REGISTERED WITH THE**
121 **DEPARTMENT PURSUANT TO SECTION 6 OF THESE RULES.**

2.38 “Rules Pertaining to EMS Practice and Medical Director Oversight” - Rules adopted by the Executive Director or Chief Medical Officer of the Department upon the advice of the EMPAC that establish the responsibilities of medical directors and all authorized acts of EMS certificate holders, located at 6 CCR 1015-3, Chapter Two.

2.39 “State Emergency Medical and Trauma Services Advisory Council (SEMTAC)” – A council created in the Department pursuant to Section 25-3.5-104, C.R.S., that advises the Department on all matters relating to emergency medical and trauma services.

Section 3 - State Recognition of Education Programs

3.1 Specialized Education Curricula

3.1.1 The specialized education curricula established by the Department include but are not limited to the following:

A) EMR INITIAL AND REFRESHER COURSES

B) EMT initial and refresher courses

C) Intravenous therapy (IV) and medication administration course

D) AEMT initial and refresher courses

E) EMT-I initial and refresher courses

F) Paramedic initial and refresher courses

3.2 Application for State Recognition as an Education Program

3.2.1 The Department may grant recognition for any of the following types of education programs:

A) EMR EDUCATION CENTER

B) EMR EDUCATION GROUP

C) EMT education center

D) EMT education group

E) EMT IV education group

F) AEMT education center

G) AEMT education group

H) EMT-I education center

I) EMT-I education group

J) Paramedic education center

K) Paramedic education group

3.2.2 An education program recognized as an education center at any level shall also be authorized to serve as an education group at the same level(s).

- 3.2.3 AN education program recognized prior to the effective date of these rules shall be authorized to continue providing services at the same level(s) for the remainder of the current recognition period.
- 3.2.4 EMS education programs recognized at the EMT-I level shall also be authorized to provide services at the AEMT level for the remainder of the current recognition period.
- 3.2.5 Any education provider seeking to prepare graduates for EMS certification OR EMR REGISTRATION shall apply for state recognition as described IN SECTION 3.2.11, below.
- 3.2.6 Initial education program recognition shall be valid for a period of three (3) years from the date of the Department's written notice of recognition.
- 3.2.7 Education programs shall utilize personnel who meet the qualification requirements in the Department's EMS OR EMR education program standards.
- 3.2.8 State-recognized EMS education programs are required to present the Rules Pertaining to EMS Practice and Medical Director Oversight at 6 CCR 1015-3, Chapter Two, including the current Colorado EMS scope of practice content as established in those rules, within every initial and refresher course.
- 3.2.9 EMS education centers that provide initial education at the Paramedic level shall obtain accreditation from the Commission on Accreditation of Allied Health Education Programs (CAAHEP). The EMS education center shall provide the Department with verification that an application for accreditation has been submitted to CAAHEP prior to the EMS education center initiating a second course.
- 3.2.10 EMS education centers that provide initial education at the Paramedic level shall maintain accreditation from CAAHEP. Loss of CAAHEP accreditation by an EMS education center shall result in proceedings for the revocation, suspension, limitation or modification of state recognition as an EMS education program.
- 3.2.11 Applicants for education program recognition shall submit the following documentation to the Department:
- A) a completed application form provided by the Department;
 - B) a personnel roster, to include a current resume for the program director and medical director;
 - C) a description of the facilities to be used for course didactic, lab, and clinical instruction and a listing of all education aids and medical equipment available to the program;
 - D) program policies and procedures, which at a minimum shall address:
 - 1) admission requirements;
 - 2) attendance requirements;
 - 3) course schedule that lists as separate elements the didactic, lab, clinical, skills and written testing criteria of the education program;
 - 4) discipline/counseling of students;
 - 5) grievance procedures;
 - 6) successful course completion requirements;

196 7) testing policies;

197 8) tuition policy statement;

198 9) infection control plan;

199 10) description of insurance coverage for students, both personal liability and
200 worker's compensation;

201 11) practical skills testing policies and procedures;

202 12) a continuous quality improvement plan: and

203 13) recognition of continuing medical education provided by outside parties
204 including, but not limited to, continuing medical education completed by
205 members of the armed forces or reserves of the United States or the
206 National Guard, military reserves or naval militia of any state.

207 3.2.12 After receipt of the application and other documentation required by these rules, the
208 Department shall notify the applicant of recognition or denial as an education program, or
209 shall specify a site review or modification of the materials submitted by the applicant.

210 3.2.13 If the Department requires a site visit, the applicant shall introduce staff, faculty, and
211 medical director, and show all documentation, equipment, supplies and facilities.

212 3.2.14 Applications determined to be incomplete shall be returned to the applicant.

213 3.2.15 The Department shall provide written notice of education program recognition or denial of
214 recognition to the applicant. The Department's determination shall include, but not be
215 limited to, consideration of the following factors:

216 A) fulfillment of all application requirements;

217 B) demonstration of ability to conduct education, **AT THE REQUESTED LEVEL**, in
218 compliance with the Department's education program standards;

219 C) demonstration of necessary professional staff, equipment and supplies to provide
220 the education.

221 3.2.16 Denial of recognition shall be in accordance with Section 4 of these rules.

222 3.3 Education Program Recognition Renewal

223 3.3.1 Renewal of recognition shall be valid for a period of five (5) years from the date of the
224 Department's notice of recognition renewal and shall be based upon satisfactory past
225 performance and submission of an updated application form.

226 3.3.2 Additional information as specified in Section 3.2.11 may be required by the Department.
227 The Department may require a site review in conjunction with the renewal application.

228 3.4 Incorporation by Reference

229 3.4.1 These rules incorporate by reference the Commission on Accreditation of Allied Health
230 Education Programs (CAAHEP) Standards and Guidelines for the Accreditation of
231 Educational Programs in the Emergency Medical Services Professions as revised in
232 2005. Such incorporation does not include later amendments to or editions of the
233 referenced material. The Health Facilities and Emergency Medical Services Division of
234 the Department maintains copies of the incorporated material for public inspection during
235 regular business hours, and shall provide certified copies of any non-copyrighted material

to the public at cost upon request. Information regarding how the incorporated material 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

3.4.2 The incorporated material may be obtained at no cost from the website of the Committee on Accreditation of Education Programs for the Emergency Medical Services Professions at www.coaemsp.org/standards.htm.

Section 4 - Disciplinary Sanctions and Appeal Procedures for Education Program Recognition

4.1 The Department, in accordance with the State Administrative Procedure Act, Section 24-4-101, et seq., C.R.S., may initiate proceedings to deny, revoke, suspend, limit or modify education program recognition for, but not limited to, the following reasons:

4.1.1 the applicant fails to meet the application requirements specified in Section 3 of these rules.

4.1.2 the applicant does not possess the necessary qualifications to conduct an education program in compliance with **THE DEPARTMENT'S** education program standards.

4.1.3 the applicant fails to demonstrate access to adequate clinical or internship services as required **BY THE DEPARTMENT'S** education program standards.

4.1.4 fraud, misrepresentation, or deception in applying for or securing education program recognition.

4.1.5 failure to conduct the education program in compliance with **THE DEPARTMENT'S** education program standards.

4.1.6 failure to notify the Department of changes in the program director or medical director.

4.1.7 providing false information to the Department with regard to successful completion of education or practical skill examination.

4.1.8 failure to comply with the provisions in Section 3 of these rules.

4.2 If the Department initiates proceedings to deny, revoke, suspend, limit or modify an education program recognition, the Department shall provide notice of the action to the education program (or program applicant) and shall inform the program (or program applicant) of its right to appeal and the procedure for appealing. Appeals of Departmental actions shall be conducted in accordance with the State Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.

SECTION 6 - EMERGENCY MEDICAL RESPONDER REGISTRATION

6.1 GENERAL REQUIREMENTS

273 6.1.1 AN EMR CERTIFIED WITH THE DEPARTMENT OF PUBLIC SAFETY PRIOR TO JULY
274 1, 2017 WILL BE A REGISTERED EMR FOR THE REMAINDER OF HIS OR HER
275 CURRENT CERTIFICATION PERIOD, AFTER WHICH, TO REMAIN REGISTERED, AN
276 APPLICANT WILL NEED TO MEET THE REQUIREMENTS IN SECTION 6.3 BELOW,
277 FOR RENEWAL OF REGISTRATION.

278 6.1.2 AN EMR MAY REGISTER WITH THE DEPARTMENT ON A VOLUNTARY BASIS BY
279 MEETING REGISTRATION REQUIREMENTS INCLUDED IN THIS SECTION.

280 A) REGISTRATION IS NOT REQUIRED TO PERFORM AS AN EMR.

281 B) REGISTRATION PROVIDES RECOGNITION THAT AN EMR HAS
282 SUCCESSFULLY COMPLETED THE TRAINING FROM A RECOGNIZED
283 EDUCATION PROGRAM, PASSED THE NREMT EMR EXAMINATION, AND
284 UNDERGONE A FINGERPRINT-BASED CRIMINAL HISTORY RECORD
285 CHECK BY THE DEPARTMENT.

286 6.1.3 NO PERSON SHALL HOLD HIM OR HERSELF OUT AS A REGISTERED EMR
287 UNLESS THAT PERSON HAS REGISTERED WITH THE DEPARTMENT IN
288 ACCORDANCE WITH THIS SECTION.

289 6.1.4 REGISTRATIONS SHALL BE EFFECTIVE FOR A PERIOD OF THREE (3) YEARS
290 AFTER THE REGISTRATION DATE. THE REGISTRATION DATE SHALL BE
291 DETERMINED BY THE DATE THE DEPARTMENT APPROVES THE APPLICATION.

292 6.2 INITIAL REGISTRATION

293 6.2.1 APPLICANTS FOR INITIAL REGISTRATION SHALL BE NO LESS THAN 16 YEARS OF
294 AGE AT THE TIME OF APPLICATION.

295 6.2.2 APPLICANTS FOR INITIAL REGISTRATION SHALL SUBMIT TO THE DEPARTMENT
296 A COMPLETED APPLICATION PROVIDED BY THE DEPARTMENT, INCLUDING THE
297 APPLICANT'S SIGNATURE IN A FORM AND MANNER AS DETERMINED BY THE
298 DEPARTMENT, WHICH CONTAINS THE FOLLOWING:

299 A) EVIDENCE OF COMPLIANCE WITH CRIMINAL HISTORY RECORD CHECK
300 REQUIREMENTS:

301 1) IF THE APPLICANT HAS LIVED IN COLORADO FOR MORE THAN
302 THREE (3) YEARS AT THE TIME OF APPLICATION, THE APPLICANT
303 IS REQUIRED TO SUBMIT TO A FINGERPRINT-BASED CRIMINAL
304 HISTORY RECORD CHECK GENERATED BY THE CBI.

305 2) IF THE APPLICANT HAS LIVED IN COLORADO FOR THREE (3)
306 YEARS OR LESS AT THE TIME OF APPLICATION, THE APPLICANT
307 SHALL SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY
308 RECORD CHECK GENERATED BY THE FEDERAL BUREAU OF
309 INVESTIGATIONS (FBI) AND PROCESSED THROUGH THE CBI.

310 3) IF, IN ACCORDANCE WITH SUBPARAGRAPHS 1 OR 2 ABOVE, AN
311 APPLICANT HAS TWICE SUBMITTED TO A FINGERPRINT-BASED
312 CRIMINAL HISTORY RECORD CHECK AND THE FBI OR CBI HAS
313 BEEN UNABLE TO CLASSIFY THE FINGERPRINTS, THEN THE
314 DEPARTMENT MAY ACCEPT A CBI AND/OR FBI NAME-BASED
315 CRIMINAL HISTORY REPORT GENERATED THROUGH THE CBI.

316 B) PROOF OF ADEQUATE TRAINING AND EDUCATION WITH A CURRENT AND
317 VALID CERTIFICATION FROM THE NREMT AT THE EMR LEVEL.

C) EVIDENCE OF CURRENT AND VALID PROFESSIONAL LEVEL BASIC CPR COURSE COMPLETION FROM A NATIONAL OR LOCAL ORGANIZATION APPROVED BY THE DEPARTMENT.

D) EVIDENCE OF LAWFUL PRESENCE IN THE UNITED STATES.

6.3 RENEWAL OF REGISTRATION

6.3.1 GENERAL REQUIREMENTS

A) UPON THE EXPIRATION OF AN EMR REGISTRATION, THE REGISTRATION IS NO LONGER VALID AND THE INDIVIDUAL SHALL NOT HOLD HIM OR HERSELF OUT AS A REGISTERED EMR.

B) PERSONS WHO HAVE PERMITTED THEIR REGISTRATION TO EXPIRE FOR A PERIOD NOT TO EXCEED SIX (6) MONTHS FROM THE EXPIRATION DATE MAY RENEW THEIR REGISTRATION BY COMPLYING WITH THE PROVISIONS OF SECTION 6.3 OF THESE RULES (RENEWAL OF REGISTRATION).

C) PERSONS WHO HAVE PERMITTED THEIR REGISTRATION TO EXPIRE FOR A PERIOD OF GREATER THAN SIX (6) MONTHS FROM THE EXPIRATION DATE SHALL NOT BE ELIGIBLE FOR RENEWAL AND SHALL COMPLY WITH THE PROVISIONS OF SECTION 6.2 OF THESE RULES (INITIAL CERTIFICATION).

D) ALL REGISTRATIONS RENEWED BY THE DEPARTMENT SHALL BE VALID FOR THREE (3) YEARS FROM THE DATE OF REGISTRATION.

E) REGISTRATION DATE IS THE DATE OF RENEWAL APPLICATION APPROVAL BY THE DEPARTMENT, EXCEPT, FOR APPLICANTS SUCCESSFULLY COMPLETING THE RENEWAL OF REGISTRATION REQUIREMENTS DURING THE LAST SIX (6) MONTHS PRIOR TO THEIR REGISTRATION EXPIRATION DATE, THE REGISTRATION DATE SHALL BE THE EXPIRATION DATE OF THE CURRENT VALID REGISTRATION BEING RENEWED.

F) PURSUANT TO SECTION 24-4-104(7), C.R.S., OF THE STATE ADMINISTRATIVE PROCEDURE ACT, IF A REGISTERED EMR HAS MADE TIMELY AND SUFFICIENT APPLICATION FOR REGISTRATION RENEWAL AND THE DEPARTMENT FAILS TO TAKE ACTION ON THE APPLICATION PRIOR TO THE REGISTRATION'S EXPIRATION DATE, THE EXISTING REGISTRATION SHALL NOT EXPIRE UNTIL THE DEPARTMENT ACTS UPON THE APPLICATION. THE DEPARTMENT, IN ITS SOLE DISCRETION, SHALL DETERMINE WHETHER THE APPLICATION WAS TIMELY AND SUFFICIENT.

6.3.2 APPLICATION FOR RENEWAL OF REGISTRATION

AN APPLICANT FOR REGISTRATION RENEWAL SHALL:

A) SUBMIT TO THE DEPARTMENT A COMPLETED APPLICATION FORM PROVIDED BY THE DEPARTMENT, INCLUDING THE APPLICANT'S SIGNATURE IN A FORM AND MANNER AS DETERMINED BY THE DEPARTMENT;

B) SUBMIT TO THE DEPARTMENT WITH A COMPLETED APPLICATION FORM ALL OF THE FOLLOWING:

- 364 1) EVIDENCE OF COMPLIANCE WITH CRIMINAL HISTORY RECORD
365 CHECK REQUIREMENTS:
- 366 a. THE APPLICANT IS NOT REQUIRED TO SUBMIT TO A
367 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK IF
368 THE APPLICANT HAS LIVED IN COLORADO FOR MORE THAN
369 THREE (3) YEARS AT THE TIME OF APPLICATION AND THE
370 APPLICANT HAS SUBMITTED TO A FINGERPRINT-BASED
371 CRIMINAL HISTORY RECORD CHECK THROUGH THE
372 COLORADO BUREAU OF INVESTIGATIONS (CBI) FOR A
373 PREVIOUS COLORADO EMR REGISTRATION APPLICATION.
- 374 b. IF THE APPLICANT HAS LIVED IN COLORADO FOR MORE THAN
375 THREE (3) YEARS AT THE TIME OF APPLICATION AND HAS
376 NOT SUBMITTED TO A FINGERPRINT-BASED CRIMINAL
377 HISTORY RECORD CHECK AS DESCRIBED IN SUBPARAGRAPH
378 A ABOVE, THE APPLICANT SHALL SUBMIT TO A FINGERPRINT-
379 BASED CRIMINAL HISTORY RECORD CHECK GENERATED BY
380 THE CBI.
- 381 c. IF THE APPLICANT HAS LIVED IN COLORADO FOR THREE (3)
382 YEARS OR LESS AT THE TIME OF APPLICATION, THE
383 APPLICANT SHALL SUBMIT TO A FINGERPRINT-BASED
384 CRIMINAL HISTORY RECORD CHECK GENERATED BY THE
385 FEDERAL BUREAU OF INVESTIGATIONS (FBI) THROUGH THE
386 CBI.
- 387 d. IF, IN ACCORDANCE WITH SUBPARAGRAPHS B OR C ABOVE,
388 AN APPLICANT HAS TWICE SUBMITTED TO A FINGERPRINT-
389 BASED CRIMINAL HISTORY RECORD CHECK AND THE FBI OR
390 CBI HAS BEEN UNABLE TO CLASSIFY THE FINGERPRINTS,
391 THEN THE DEPARTMENT MAY ACCEPT A CBI AND/OR FBI
392 NAME-BASED CRIMINAL HISTORY REPORT GENERATED
393 THROUGH THE CBI.
- 394 2) EVIDENCE OF CURRENT AND VALID PROFESSIONAL LEVEL BASIC
395 CPR COURSE COMPLETION FROM A NATIONAL OR LOCAL
396 ORGANIZATION APPROVED BY THE DEPARTMENT.
- 397 3) EVIDENCE OF LAWFUL PRESENCE IN THE UNITED STATES.
- 398 C) COMPLETE ONE OF THE FOLLOWING TRAINING REQUIREMENTS:
- 399 1) CURRENT AND VALID NREMT CERTIFICATION AT THE EMR LEVEL.
- 400 2) APPROPRIATE LEVEL REFRESHER COURSE AS DESCRIBED IN
401 SECTION 6.3.3 CONDUCTED OR APPROVED THROUGH
402 SIGNATURE OF A DEPARTMENT-RECOGNIZED EMR EDUCATION
403 PROGRAM REPRESENTATIVE AND SKILL COMPETENCY AS
404 ATTESTED TO BY SIGNATURE OF MEDICAL DIRECTOR OR
405 DEPARTMENT-RECOGNIZED EMR EDUCATION PROGRAM
406 REPRESENTATIVE.
- 407 3) THE MINIMUM NUMBER OF EDUCATION HOURS AS DESCRIBED IN
408 SECTION 6.3.3 COMPLETED OR APPROVED THROUGH
409 SIGNATURE OF A DEPARTMENT-RECOGNIZED EMR EDUCATION
410 PROGRAM REPRESENTATIVE AND SKILL COMPETENCY AS
411 ATTESTED TO BY SIGNATURE OF MEDICAL DIRECTOR OR
412 DEPARTMENT-RECOGNIZED EMR EDUCATION PROGRAM
413 REPRESENTATIVE.

414 6.3.3 EDUCATION REQUIREMENT TO RENEW A REGISTRATION WITHOUT THE USE OF
415 A CURRENT AND VALID NREMT CERTIFICATION

416 A) FOR RENEWAL OF A REGISTRATION WITHOUT THE USE OF A CURRENT
417 AND VALID NREMT EMR CERTIFICATION, THE FOLLOWING EDUCATION IS
418 REQUIRED:

419 1) EDUCATION REQUIRED FOR THE RENEWAL OF AN EMR
420 REGISTRATION SHALL BE NO LESS THAN TWELVE (12) HOURS
421 AND SHALL BE COMPLETED THROUGH ONE OF THE FOLLOWING:

422 a. A REFRESHER COURSE AT THE EMR LEVEL CONDUCTED OR
423 APPROVED BY A DEPARTMENT-RECOGNIZED EMR
424 EDUCATION PROGRAM PLUS ADDITIONAL CONTINUING
425 EDUCATION TOPICS SUCH THAT THE TOTAL EDUCATION
426 HOURS IS NO LESS THAN TWELVE (12) HOURS.

427 b. CONTINUING EDUCATION TOPICS CONSISTING OF NO LESS
428 THAN TWELVE (12) HOURS OF EDUCATION THAT IS
429 CONDUCTED OR APPROVED THROUGH A DEPARTMENT-
430 RECOGNIZED EMR EDUCATION PROGRAM CONSISTING OF
431 THE FOLLOWING MINIMUM CONTENT REQUIREMENTS:

432 i. ONE (1) HOUR OF PREPARATORY CONTENT THAT MAY
433 INCLUDE SCENE SAFETY, QUALITY IMPROVEMENT,
434 HEALTH AND SAFETY OF EMRS, OR MEDICAL LEGAL
435 CONCEPTS.

436 ii. TWO (2) HOURS OF AIRWAY ASSESSMENT AND
437 MANAGEMENT

438 iii. TWO (2) HOURS OF PATIENT ASSESSMENT

439 iv. THREE (3) HOURS OF CIRCULATION TOPICS

440 v. THREE (3) HOURS OF ILLNESS AND INJURY TOPICS

441 vi. ONE (1) HOUR OF CHILDBIRTH AND PEDIATRIC TOPICS

442 6.3.4 IN SATISFACTION OF THE REQUIREMENTS OF SECTION 6.3.3 ABOVE, THE
443 DEPARTMENT MAY ACCEPT CONTINUING MEDICAL EDUCATION, TRAINING, OR
444 SERVICE COMPLETED BY A MEMBER OF THE ARMED FORCES OR RESERVES OF
445 THE UNITED STATES OR THE NATIONAL GUARD, MILITARY RESERVES OR
446 NAVAL MILITIA OF ANY STATE, UPON PRESENTATION OF SATISFACTORY
447 EVIDENCE BY THE APPLICANT FOR RENEWAL OF CERTIFICATION.

448 A) SATISFACTORY EVIDENCE MAY INCLUDE BUT IS NOT LIMITED TO THE
449 CONTENT OF THE EDUCATION, METHOD OF DELIVERY, LENGTH OF
450 PROGRAM, QUALIFICATIONS OF THE INSTRUCTOR AND METHOD(S)
451 USED TO EVALUATE THE EDUCATION PROVIDED.

452 6.4 PROVISIONAL REGISTRATION

453 6.4.1 GENERAL REQUIREMENTS

454 A) THE DEPARTMENT MAY ISSUE A PROVISIONAL REGISTRATION TO AN
455 APPLICANT WHOSE FINGERPRINT-BASED CRIMINAL HISTORY RECORD
456 CHECK HAS NOT BEEN RECEIVED BY THE DEPARTMENT AT THE TIME OF
457 APPLICATION FOR REGISTRATION.

- 458 B) TO BE ELIGIBLE FOR A PROVISIONAL REGISTRATION, THE APPLICANT
459 SHALL, AT THE TIME OF APPLICATION, HAVE SATISFIED ALL
460 REQUIREMENTS IN THESE RULES FOR INITIAL OR RENEWAL
461 REGISTRATION.
- 462 C) A PROVISIONAL REGISTRATION SHALL BE VALID FOR NOT MORE THAN
463 NINETY DAYS.
- 464 D) THE DEPARTMENT MAY IMPOSE DISCIPLINARY SANCTIONS PURSUANT
465 TO THESE RULES IF THE DEPARTMENT FINDS THAT AN EMR WHO HAS
466 RECEIVED A PROVISIONAL REGISTRATION HAS VIOLATED ANY
467 REQUIREMENTS FOR REGISTRATION OR ANY OF THESE RULES.
- 468 E) ONCE A PROVISIONAL REGISTRATION BECOMES INVALID, AN APPLICANT
469 MAY NOT HOLD HIM OR HERSELF OUT AS A REGISTERED EMR UNLESS
470 AN INITIAL OR RENEWAL REGISTRATION HAS BEEN ISSUED BY THE
471 DEPARTMENT TO THE APPLICANT.

472 6.4.2 APPLICATION FOR PROVISIONAL REGISTRATION

473 AN APPLICANT FOR A PROVISIONAL REGISTRATION SHALL:

- 474 A) SUBMIT TO THE DEPARTMENT A COMPLETED APPLICATION FORM
475 PROVIDED BY THE DEPARTMENT.
- 476 1) THE APPLICANT SHALL REQUEST A PROVISIONAL
477 REGISTRATION.
- 478 B) SUBMIT TO A FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK
479 AS PROVIDED IN SECTIONS 6.2.2 AND 6.3.2 OF THESE RULES. AT THE
480 TIME OF APPLICATION, THE APPLICANT SHALL HAVE ALREADY
481 SUBMITTED THE REQUIRED MATERIALS TO THE CBI TO INITIATE THE
482 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK.
- 483 C) SUBMIT TO THE DEPARTMENT WITH A COMPLETED APPLICATION FORM
484 ALL OF THE FOLLOWING:
- 485 1) A FEE IN THE AMOUNT OF \$23.00.
- 486 2) A NAME-BASED CRIMINAL HISTORY RECORD CHECK.
- 487 a. IF THE APPLICANT HAS LIVED IN COLORADO FOR MORE
488 THAN THREE (3) YEARS AT THE TIME OF APPLICATION, A
489 NAME-BASED CRIMINAL HISTORY REPORT CONDUCTED
490 BY THE CBI, INCLUDING A CRIMINAL HISTORY REPORT
491 FROM AN INTERNET-BASED SYSTEM ON CBI'S WEBSITE,
492 OR OTHER NAME-BASED REPORT AS DETERMINED BY
493 THE DEPARTMENT.
- 494 b. IF THE APPLICANT HAS LIVED IN COLORADO FOR THREE
495 (3) YEARS OR LESS AT THE TIME OF APPLICATION, A
496 NAME-BASED CRIMINAL HISTORY REPORT FOR EACH
497 STATE IN WHICH THE APPLICANT HAS LIVED FOR THE
498 PAST THREE (3) YEARS, CONDUCTED BY THE
499 RESPECTIVE STATES' BUREAUS OF INVESTIGATION OR
500 EQUIVALENT STATE-LEVEL LAW ENFORCEMENT AGENCY,
501 OR OTHER NAME-BASED REPORT AS DETERMINED BY
502 THE DEPARTMENT.

- c. ANY NAME-BASED CRIMINAL HISTORY REPORT PROVIDED TO THE DEPARTMENT FOR PURPOSES OF THIS PARAGRAPH C SHALL HAVE BEEN OBTAINED BY THE APPLICANT NOT MORE THAN 90 DAYS PRIOR TO THE DEPARTMENT'S RECEIPT OF A COMPLETED APPLICATION.

Section 7 - Disciplinary Sanctions and Appeal Procedures for EMS Provider Certification OR EMR REGISTRATION

- 7.1 For good cause, the Department may deny, revoke, suspend, limit, modify, or refuse to renew AN EMS PROVIDER certificate OR EMR REGISTRATION, may impose probation on a certificate OR REGISTRATION holder, or may issue a letter of admonition in accordance with the State Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.
- 7.2 Good cause for disciplinary sanctions listed above shall include, but not be limited to:
- 7.2.1 failure to meet the requirements of these rules pertaining to issuance and renewal of certification OR REGISTRATION.
 - 7.2.2 fraud, misrepresentation, or deception in applying for or securing certification OR REGISTRATION.
 - 7.2.3 aiding and abetting in the procurement of certification OR REGISTRATION for any person not eligible for certification OR REGISTRATION.
 - 7.2.4 utilizing NREMT certification that has been illegally obtained, suspended or revoked, to obtain a state certification OR REGISTRATION.
 - 7.2.5 unlawful use, possessing, dispensing, administering, or distributing controlled substances.
 - 7.2.6 driving an emergency vehicle in a reckless manner, or while under the influence of alcohol or other performance altering substances.
 - 7.2.7 responding to or providing patient care while under the influence of alcohol or other performance altering substances.
 - 7.2.8 demonstrating a pattern of alcohol or other substance abuse.
 - 7.2.9 materially altering any Department certificate OR REGISTRATION, or using and/or possessing any such altered certificate OR REGISTRATION.
 - 7.2.10 having ANY CERTIFICATE, LICENSE, OR REGISTRATION RELATED TO PATIENT CARE suspended or revoked in Colorado or in another state or country.
 - 7.2.11 unlawfully discriminating in the provision of services.
 - 7.2.12 representing qualifications at any level other than the person's current EMS Provider certification level.
 - 7.2.13 representing oneself to others as a certificate holder or providing medical care without possessing a current and valid certificate issued by the Department.
 - 7.2.14 REPRESENTING ONESELF TO OTHERS AS A REGISTERED EMR WITHOUT BEING CURRENTLY REGISTERED WITH THE DEPARTMENT.
 - 7.2.15 failing to follow accepted standards of care in the management of a patient, or in response to a medical emergency.

- 543 7.2.16 failing to administer medications or treatment in a responsible manner in accordance with
544 the medical director's orders or protocols.
- 545 7.2.17 failing to maintain confidentiality of patient information.
- 546 7.2.18 failing to provide the Department with the current place of residence or failing to promptly
547 notify the Department of a change in current place of residence or change of name.
- 548 7.2.19 a pattern of behavior that demonstrates routine response to medical emergencies without
549 being under the policies and procedures of a designated emergency medical response
550 agency and/or providing patient care without medical direction when required.
- 551 7.2.20 performing medical acts not authorized by the Rules Pertaining to EMS Practice and
552 Medical Director Oversight and in the absence of any other lawful authorization to
553 perform such medical acts.
- 554 7.2.21 PERFORMING MEDICAL ACTS REQUIRING AN EMS PROVIDER CERTIFICATION
555 WHILE HOLDING ONLY A VALID EMR REGISTRATION.
- 556 7.2.22 failing to provide care or discontinuing care when a duty to provide care has been
557 established.
- 558 7.2.23 appropriating or possessing without authorization medications, supplies, equipment, or
559 personal items of a patient or employer.
- 560 7.2.24 falsifying entries or failing to make essential entries in a patient care report, EMS OR
561 EMR education document, or medical record.
- 562 7.2.25 falsifying or failing to comply with any collection or reporting required by the state.
- 563 7.2.26 failing to comply with the terms of any agreement or stipulation regarding certification OR
564 REGISTRATION entered into with the Department.
- 565 7.2.27 violating any state or federal statute or regulation, the violation of which would jeopardize
566 the health or safety of a patient or the public.
- 567 7.2.28 unprofessional conduct at the scene of an emergency that hinders, delays, eliminates, or
568 deters the provision of medical care to the patient or endangers the safety of the public.
- 569 7.2.29 failure by a certificate holder OR REGISTERED EMR to report to the Department any
570 violation by another certificate holder OR REGISTERED EMR of the good cause
571 provisions of this section when the certificate holder knows or reasonably believes a
572 violation has occurred.
- 573 7.2.30 committing or permitting, aiding or abetting the commission of an unlawful act that
574 substantially relates to performance of a certificate holder OR REGISTERED EMR's
575 duties and responsibilities as determined by the Department.
- 576 7.2.31 committing patient abuse including the willful infliction of injury, unreasonable
577 confinement, intimidation, or punishment, with resulting physical harm, pain, or mental
578 anguish, or patient neglect, including the failure to provide goods and services necessary
579 to attain and maintain physical and mental well-being.
- 580 7.3 Good cause for disciplinary sanctions also includes conviction of, or a plea of guilty, or of no
581 contest, to a felony or misdemeanor that relates to the duties and responsibilities of a certificate
582 OR REGISTRATION holder, including patient care and public safety. For purposes of this
583 paragraph, "conviction" includes the imposition of a deferred sentence.
- 584 7.3.1 The following crimes set forth in the Colorado Criminal Code (Title 18, C.R.S.) are
585 considered to relate to the duties and responsibilities of a certificate holder:

- 586 A) offenses under Article 3 - offenses against a person.
- 587 B) offenses under Article 4 - offenses against property.
- 588 C) offenses under Article 5 - offenses involving fraud.
- 589 D) offenses under Article 6 - offenses involving the family relations.
- 590 E) offenses under Article 6.5 - wrongs to at-risk adults.
- 591 F) offenses under Article 7 - offenses related to morals.
- 592 G) offenses under Article 8 - offenses - governmental operations.
- 593 H) offenses under Article 9 - offenses against public peace, order and decency.
- 594 I) offenses under Article 17 - Colorado Organized Crime Control Act.
- 595 J) offenses under Article 18 - Uniform Controlled Substances Act of 1992.
- 596 7.3.2 The offenses listed above are not exclusive. The Department may consider other pleas or
- 597 criminal convictions, including those from other state, federal, foreign or military
- 598 jurisdictions.
- 599 7.3.3 In determining whether to impose disciplinary sanctions based on a plea or on a felony or
- 600 misdemeanor conviction, the Department may consider, but is not limited to, the following
- 601 information:
- 602 A) the nature and seriousness of the crime including but not limited to whether the
- 603 crime involved violence to or abuse of another person and whether the crime
- 604 involved a minor or a person of diminished capacity;
- 605 B) the relationship of the crime to the purposes of requiring a certificate OR
- 606 REGISTRATION;
- 607 C) the relationship of the crime to the ability, capacity or fitness required to perform
- 608 the duties and discharge the responsibilities of an EMS Provider OR
- 609 REGISTERED EMR; and
- 610 D) the time frame in which the crime was committed.
- 611 7.4 Appeals
- 612 7.4.1 If the Department denies certification OR REGISTRATION, the Department shall provide
- 613 the applicant with notice of the grounds for denial and shall inform the applicant of the
- 614 applicant's right to request a hearing.
- 615 A) A request for a hearing shall be submitted to the Department in writing within
- 616 sixty (60) calendar days from the date of the notice.
- 617 B) If a hearing is requested, the applicant shall file an answer within sixty (60)
- 618 calendar days from the date of the notice.
- 619 C) If a request for a hearing is made, the hearing shall be conducted in accordance
- 620 with the State Administrative Procedure Act, Section 24-4-101 et seq., C.R.S.
- 621 D) If the applicant does not request a hearing in writing within sixty (60) calendar
- 622 days from the date of the notice, the applicant is deemed to have waived the
- 623 opportunity for a hearing.

624 7.4.2 If the Department proposes disciplinary sanctions as provided in this section, the
625 Department shall notify the certificate OR REGISTRATION holder by first class mail to
626 the last address furnished to the Department by the certificate OR REGISTRATION
627 holder. The notice shall state the alleged facts and/or conduct warranting the proposed
628 action and state that the certificate OR REGISTRATION holder may request a hearing.

629 A) The certificate OR REGISTRATION holder shall file a written answer within thirty
630 (30) calendar days of the date of mailing of the notice.

631 B) A request for a hearing shall be submitted to the Department in writing within
632 thirty (30) calendar days from the date of mailing of the notice.

633 C) If a request for a hearing is made, the hearing shall be conducted in accordance
634 with the State Administrative Procedure Act, Section 24-4-101 et seq., C.R.S.

635 D) If the certificate OR REGISTRATION holder does not request a hearing in writing
636 within thirty (30) calendar days of the date of mailing of the notice, the certificate
637 OR REGISTRATION holder is deemed to have waived the opportunity for a
638 hearing.

639 7.4.3 If the Department summarily suspends a certificate OR REGISTRATION, the Department
640 shall provide the certificate OR REGISTRATION holder notice of such in writing, which
641 shall be sent by first class mail to the last address furnished to the Department by the
642 certificate OR REGISTRATION holder. The notice shall state that the certificate OR
643 REGISTRATION holder is entitled to a prompt hearing on the matter. The hearing shall
644 be conducted in accordance with the State Administrative Procedure Act, Section 24-4-
645 101, et seq., C.R.S.



Notice of Public Rule-Making Hearing

April 19, 2017

ID #: 94

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

Date: April 19, 2017

Time: 10:00 AM

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

To consider the promulgation/amendments or repeal of:

CCR Number(s)

6 CCR 1015-3, Emergency Medical Services, Chapter 1, EMS Education and Certification

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)

§25-3.5-1103, C.R.S.

§25-3.5-1104 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, April 13, 2017.

Deborah Nelson, Board of Health Administrator

Date: 2017-02-16T14:21:17

Notice of Proposed Rulemaking

Tracking number

2017-00098

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

04/19/2017

Time

10:00 AM

Location

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

Subjects and issues involved

To consider proposed amendments to Chapter 5, Air Ambulance Licensing.

Statutory authority

§ 25-3.5-307; § 25-3.5-307.5(1) and (5), C.R.S.

Contact information

Name

Alexandra Haas

Title

Policy Advisor

Telephone

303-692-6339

Email

alexandra.haas@state.co.us



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: Marschall Smith, Emergency Medical and Trauma Services Branch, Professional Standards Section Manager

Through: D. Randy Kuykendall, Health Facilities and Emergency Medical Services, Division Director, D.R.K.

Date: February 15, 2017

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1015-3 Emergency Medical Services Chapter 5 - Air Ambulance Licensing with a request for a rulemaking hearing to be set for April of 2017

Air ambulance regulation is shared by federal and state authorities and determining jurisdiction can be complex. Based on statutory language prior to 2016 and the existing regulations, the only way for an air ambulance service to operate in Colorado is to obtain accreditation by the Commission on Accreditation of Medical Transport Systems (CAMTS). As one of the few private national organizations that accredit air ambulance services, the CAMTS standards cover a wide range of issues including some that fall within the federal government's purview, such as aircraft safety.

The United States Department of Transportation (U.S. DOT) oversees the Federal Aviation Administration. In April 2015, The U.S. DOT issued a guidance letter responding to a question by Congressman Rob Woodall (Georgia) stating that "wholesale requirements of CAMTS accreditation as a prerequisite for transporting patients from the State is preempted under principles of express and field preemption." Two federal laws, the Airline Deregulation Act (ADA) and the Federal Aviation Act (FAA), preempt state regulation over air ambulance services in certain areas. The ADA expressly preempts any state action having a connection with or reference to airline "rates, routes or services," even if only indirectly. The FAA preempts state regulation related to air safety. States are authorized to regulate and provide oversight as long as the regulation and oversight is primarily concerned with medical and patient care objectives.

Following the U.S. DOT guidance letter, recognizing the complexity of developing appropriate state regulations, the National Association of State EMS Officials (NASEMSO) began working on a set of model regulations for air medical transports. By September 2015, the Department had created a task force through the State Emergency Medical and Trauma Services Advisory Council (SEMTAC) to work on creating a statutory change to align Colorado requirements with the federal law.

House Bill 16-1280 was signed into law on June 1, 2016. The legislation, which aligns federal and state law, requires rulemaking related to the medical and patient safety aspects of air medical transports. On June 16, 2016, the task force reconvened to begin working on the necessary regulatory changes. While the Department and task force worked on the creation of rules that avoid areas of preemption, NASEMSO finalized the "State Model Rules for the Regulation of Air Medical Services." Relying on the work of NASEMSO, other states' regulatory structures, and the expertise of the task force, the task force worked in a collaborative and thoughtful manner to create proposed rules that meet all of the directives set by HB 16-1280 and are within the jurisdictional limits set by federal law.

STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY
for Amendments to
6 CCR 1015-3 Emergency Medical Services, Chapter 5 - Air Ambulance Licensing

Basis and Purpose.

House Bill 16-1280 was signed into law on June 1, 2016. The legislation requires the Board of Health to promulgate rules that delineate the minimum licensure requirements for air ambulance services needed to ensure public health and safety. The proposed rules were developed collaboratively by the department and a task force consisting of representatives of affected entities created by the State Emergency Medical and Trauma Services Advisory Council.

The rules delineate the requirements for:

- issuance of initial and renewal licenses, conditional licenses, provisional licenses, and other necessary licenses;
- the approval of accrediting organizations;
- defining exigent circumstances;
- when the Department can waive the rules and authorize an unlicensed air ambulance service to provide a particular transport;
- recognizing another jurisdiction's license, including a restriction on the number of allowable flights per year in Colorado under that license, a fee for such recognition, and a process to rescind the recognition upon a showing of good cause;
- establishing reasonable fees for licensure and for on-site inspections, investigations, changes of ownership, and other activities related to licensure. (Due to the changes in the licensing structure, fees have been updated to demonstrate the additional workload the Department will now be undertaking. Fees will be lower for those agencies that are licensed through accreditation versus those that obtain licensure through a state inspection process);
- malpractice and liability insurance for injuries to persons, in amounts determined by the board, and workers' compensation coverage as required by Colorado law;
- medical crew qualifications and training;
- qualifications, training, and roles and responsibilities for a medical director for an air ambulance service;
- communication equipment, reporting capabilities, patient safety, and crew safety and staffing;
- medical equipment in an air ambulance;
- data collection and submission, including reporting requirements as determined by the department;
- maintaining program quality;
- management of patient and medical staff safety with regard to clinical staffing and shift time;
- investigating complaints against an air ambulance service and procedures for data collection and reporting to the department by an air ambulance service unless the investigation is performed by an accrediting organization approved by the department; and
- specifying the procedure and grounds for the suspension, revocation, or denial of a license.

The proposed rules do not include activities preempted by the federal aviation administration, including the federal "Airline Deregulation Act", 49 U.S.C. sec. 1301 et seq.

This rule was reviewed in 2016 pursuant to Executive Order D2012-002, Section 24-4- 103.3, C.R.S. and the Department's Regulatory Efficiency Review policy. The efficiencies identified in the rule review have been incorporated into these proposed amendments.

The Department requests a July 1, 2017 effective date. In October 2014, the Board of Health promulgated rules that waived the fee requirements for January 1, 2015 through July 1, 2017. A July 1, 2017 effective date allows for a seamless transition from the fee waiver to the new fee structure proposed in the rule.

Specific Statutory Authority.

These rules are promulgated pursuant to the following statutes:

§ 25-3.5-307; § 25-3.5-307.5(1) and (5), C.R.S.

Is this rulemaking due to a change in state statute?

☒ Yes, the bill number is HB 16-1280. Rules are ☐ authorized ☒ required.
☐ No

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

☐ Yes
☒ No

Does this rule incorporate materials by reference?

☒ Yes
☐ No

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
☐ No

REGULATORY ANALYSIS
for Amendments to
6 CCR 1015-3 Emergency Medical Services, Chapter 5 - Air Ambulance Licensing

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 affect air ambulance organizations that wish to operate within the state of Colorado.

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 rules create two methods of obtaining licensure to operate in Colorado, through an accreditation by a national body approved by the Department or through a state inspection and review process. The proposed rules enable the Department to recognize air ambulance organizations that are licensed by other states and will only be flying patients from Colorado 12 times a year.

On October 15, 2014, to address an excessive uncommitted reserve in the Fixed-wing and Rotary Wing Ambulance Fund, the Board adopted a rule that waived the air ambulance licensing from January 1, 2015 through July 1, 2017. The fund is now in compliance with Section 24-75-402, C.R.S.

Prior to January 1, 2015 the fee structure was \$860 for each air ambulance service, plus \$100 for each aircraft used by the air ambulance service. Applicants, who were awaiting Commission on Accreditation of Medical Transport Systems (CAMTS) accreditation, paid an additional \$525 to cover the Department's costs. Data from 2016 indicates that twenty-four air ambulance operators accredited with CAMTS are licensed by the Department to operate in Colorado. These air ambulance operators have 87 aircraft and about half are located in Colorado, with the remainder located in other states in the region and nationwide, but serving Colorado.

To implement HB 16-1280, a new fee structure is proposed. The fee structure has multiple tiers to recognize the multiple pathways under-which an organization can lawfully operate in Colorado. These changes may result in an increase in the number of air ambulance organizations operating within Colorado.

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 fee structure covers costs related to the applicant agency and its aircrafts, inspection costs, administrative costs to recognize out-of-state licenses and changes in ownership, travel costs and minimal legal costs associated with complaints and adverse licensing. Along with current licensees maintaining licensure, the Department anticipates an additional 14-20 air ambulance operators will seek or modify their Colorado licensure each year for the next two to three years.

For licenses other than provisional or out-of-state licenses, the license is valid for two years. On-site inspections are on a three-year cycle after the initial inspection has occurred. The three-year cycle recognizes the state resources needed for a site visit and balances this cost with the need for reasonable fees so Coloradans can receive air ambulance services. The complaint process, which is relied upon by other Health Facilities

Emergency Medical Services Division programs, enables the Department to investigate and take appropriate measures to ensure public health and safety between inspections.

The Department anticipates a state revenue increase of \$177,660 in FY 2017-18 and \$114,660 in FY 2018-19. The Department will be hiring additional staff to process air ambulance licenses based on the changes made necessary under HB 16-1280. This position will be funded through application fees collected from the air ambulance organizations.

Estimated Revenues			
Type of Revenue	Year 1	Year 2	2-year Total
Accredited Agency Licenses	\$81,600	\$0	\$81,600
Aircraft Fees—Accredited Licensees	\$36,800	\$0	\$36,800
State Pathway Licenses	\$23,800	\$0	\$23,800
Aircraft Fees—State Pathway Licenses	\$8,400	\$0	\$8,400
Other State License Recognition	\$20,400	\$20,400	\$40,800
Aircraft Fees—Other State Recognition	\$4,600	\$4,600	\$9,200
Total	\$175,600	\$25,000	\$200,600
Estimated Expenditures			
Type of Expenditure	Year 1	Year 2	2-year Total
Personnel Costs	\$72,000	\$72,000	\$144,000
Indirect Costs	\$25,000	\$25,000	\$50,000
Operating, Capital Outlay, and Legal	\$3,000	\$3,000	\$6,000
Total	\$100,000	\$100,000	\$200,000

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

Inaction is not an option. House Bill 16-1280 requires promulgation of rules by December 31, 2017.

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

The Department and the task force carefully studied different licensure models. The proposed rule reflects the minimum need to implement HB 16-1280 and ensure public health and safety.

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

House Bill 16-1280 requires promulgation of rules by December 31, 2017. The task force has been meeting over the course of several months to reach the current rule language.

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.

States are authorized to exercise regulatory authority and oversight over air ambulance operations to the extent State oversight is concerned primarily with medical and patient care objectives and does not stray into topics preempted by federal law, including aviation and aircraft safety, and rates, service and routes, even if only indirectly.

The Department and task force considered the Commission on Accreditation of Medical Transport Systems (CAMTS) accreditation standards, the Airline Deregulation Act (ADA) and the Federal Aviation Act (FAA) and related federal guidance, other states' regulatory statutes, and the National Association of State EMS Officials "State Model Rules for the Regulation of Air Medical Services" and state statutes to develop the proposed rules.

The short-term and long-term consequences are compliance with federal and state law by focusing the regulations on standards that advance and protect patient care, and expanded pathways to air ambulance licensure that protect the health, safety and welfare of the public.

STAKEHOLDER COMMENTS
for Amendments to
6 CCR 1015-3 Emergency Medical Services, Chapter 5 - Air Ambulance Licensing

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 task force is comprised of the following 13 individuals:

- Jason Knudson representing the air ambulance service REACH Air Medical Services/CareConnect;
- Duane Rorie representing the air ambulance service Air Link at Medical Center of the Rockies;
- Kathy Shoemaker representing the Colorado Hospital Association, from an urban hospital;
- Karl Gills representing the Colorado Hospital Association, from a rural hospital;
- Pamela Howes representing the State Emergency Medical and Trauma Services Advisory Council (SEMTAC);
- David Dreitlein representing SEMTAC;
- Kim Schallenberger representing an urban Regional Emergency Medical and Trauma Advisory Council (RETAC);
- Marci Linton representing a rural RETAC;
- David Kearns representing the Colorado Advanced Transport Committee;
- Ray Jennings representing the Emergency Medical and Trauma Services Advisory Council (EMSAC);
- Lew Gaiter representing Colorado Counties Inc.;
- Sean Caffrey representing EMS (Emergency Medical Services) for Children; and
- Jeanne-Marie Bakehouse as the ex officio, non-voting member from the Colorado Department of Public Health and Environment

All task force meetings were open to the public and often attended by air ambulance organizations and representatives from accrediting bodies. Updates on the task force work were presented to SEMTAC on a quarterly basis on Oct. 7-8, 2015; Jan. 13-14, 2016; July 13-14, 2016; Oct. 12-13, 2016; and Jan 11-12, 2017. Additional updates were also provided to RETACS during their quarterly meetings on Dec. 9-10, 2015; March 2-3, 2016; June 1-2, 2016; Sept. 7-8, 2016; and Dec 7-8, 2016.

Stakeholder Group Notification

The stakeholder group was provided notice of the rulemaking hearing and provided a copy of the proposed rules or the internet location where the rules may be viewed. Notice was provided prior to the date the notice of rulemaking was published in the Colorado Register (typically, the 10th of the month following the Request for Rulemaking).

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

☐ Yes.

Summarize Major Factual and Policy Issues Encountered and the Stakeholder Feedback Received. If there is a lack of consensus regarding the proposed rule, please also identify the Department's

efforts to address stakeholder feedback or why the Department was unable to accommodate the request.

The primary challenge for the Department, task force and stakeholders was understanding the scope of the federal preemption and developing rules that did not infringe upon the federal authority while ensuring the licensing structure resulted in patient care and the related medical objectives. The task force was appreciative of the Department's research and reached consensus on the drafted rules.

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 revisions create licensing structure and pathways to support air ambulance organizations operations within Colorado. Some topics that advance health equity, such as price transparency and aspects of base location, could not be addressed because these topics fall under federal jurisdiction. The rules support patient care and enable air ambulance operations in the state. The rules benefit individuals in urban communities but importantly, air ambulance services ensure individuals in rural and remote areas of the state can receive care from a facility that will meet their medical needs.



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

State Emergency Medical and Trauma Services Advisory Council

Jan. 12, 2017

Mr. Tony Capello, 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. Capello:

At the Jan. 12, 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 Emergency Medical Services Chapter 5 - Air Ambulance, were reviewed and discussed. This rule revision creates minimum requirements for air ambulances to operate within the state of Colorado, as required by House Bill 16-1280. Additionally, the rules update the fees to demonstrate the additional workload the department will now be undertaking. A motion was made and passed to approve the proposed revisions.

Sincerely yours,

Chief Rich Martin
Chairman



1
2 **DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**

3 **Health Facilities and Emergency Medical Services Division**

4 **EMERGENCY MEDICAL SERVICES**

5 **6 CCR 1015-3**

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

6 *****

7 **CHAPTER FIVE – RULES PERTAINING TO AIR AMBULANCE LICENSING**

8
9 **Section 1 – Purpose**

- 10
11 1.1 These rules are promulgated pursuant to Section 25-3.5-307 and 25-3.5-307.5, C.R.S.
- 12
13 1.2 PURSUANT TO §25-3.5-307.5 (2), C.R.S., THESE RULES DO NOT INCLUDE ACTIVITIES
14 PREEMPTED BY THE FEDERAL AVIATION ADMINISTRATION OR THE FEDERAL “AIRLINE
15 DEREGULATION ACT”, 49 U.S.C. SEC. 1301 ET SEQ. THEREFORE, ANY REGULATIONS
16 ADOPTED BY THE BOARD PURSUANT TO SECTION 25-3.5-307 AND 307.5 ESTABLISHING
17 REASONABLE MINIMUM STANDARDS FOR LICENSING AND OPERATION OF AN AIR
18 AMBULANCE SERVICE MUST:
- 19
20 1.2.1 EXCEPT AS OTHERWISE PROVIDED IN 1.2.2, BE BASED ON THE MEDICAL
21 ASPECTS OF THE OPERATION OF AN AIR AMBULANCE, AND
- 22
23 1.2.2 NOT BE BASED ON ECONOMIC FACTORS, INCLUDING, WITHOUT LIMITATION,
24 FACTORS RELATED TO THE PRICES, ROUTES, OR NONMEDICAL SERVICES OF
25 AN AIR AMBULANCE.
- 26
27 1.3 AN AIR AMBULANCE SERVICE MAY BE AUTHORIZED TO OPERATE IN COLORADO BY
28 EITHER:
- 29
30 A) HOLDING AN ACCREDITATION BY AN ACCREDITING ORGANIZATION
31 APPROVED BY THE DEPARTMENT AND COMPLYING WITH SECTION 5.1;
- 32
33 B) MEETING THE STANDARDS SET FORTH IN THESE RULES (SECTIONS 5.1
34 AND 5.3); OR
- 35
36 C) AN AIR AMBULANCE SERVICE MAY OBTAIN A RECOGNITION INSTEAD OF
37 LICENSE IF IT PICKS UP PATIENTS WITHIN THE STATE OF COLORADO
38 FOR OUT OF STATE TRANSPORT NO MORE THAN 12 TIMES PER
39 CALENDAR YEAR AS SET FORTH IN SECTION 4.
- 40

41 **Section 2- Definitions**

- 42
43 2.1 Air Ambulance: A fixed-wing or rotor-wing aircraft that is equipped to provide air transportation
44 and is specifically designed to accommodate the medical needs of individuals who are ill, injured,
45 or otherwise mentally or physically incapacitated and who require in-flight medical supervision.
- 46
47 ~~2.2 Air Ambulance License: A legal document issued by the department as evidence that an air~~
48 ~~ambulance service meets the requirements for licensing as defined in these rules.~~
- 49
50 ~~2.32.2 Air Ambulance Service OR SERVICE: Any governmental-PUBLIC or private ENTITY organization~~
51 ~~that transports in an aircraft patient(s) who require in-flight medical supervision-THAT USES AN~~
52 ~~AIR AMBULANCE TO TRANSPORT PATIENTS to a medical facility.~~

2.4.2.3 Aircraft: A rotor or fixed wing vehicle.

~~2.5 Commission on Accreditation of Medical Transport Systems (CAMTS): A national not for profit organization that provides accreditation services for air medical and inter facility transport services.~~

2.4 BASE LOCATION(S): PHYSICAL ADDRESS AND/OR LOCATION WHERE THE CREW, MEDICAL EQUIPMENT AND SUPPLIES, AND THE SERVICE'S AIR AMBULANCE(S) ARE LOCATED.

~~2.6~~ 2.5 Department: The Colorado Department of Public Health and Environment.

~~2.7 Federal Aviation Regulations (FAR): Regulations promulgated by the Federal Aviation Administration of the U.S. Department of Transportation, governing the operation of all aircraft in the United States.~~

2.6 LICENSEE: THE PERSON, BUSINESS ENTITY OR AGENCY THAT IS GRANTED A LICENSE TO OPERATE AN AIR AMBULANCE SERVICE AND THAT BEARS LEGAL RESPONSIBILITY FOR COMPLIANCE WITH ALL APPLICABLE FEDERAL AND STATE STATUTES AND REGULATIONS.

2.7 Medical Protocol OR GUIDELINES: Written standards for patient medical assessment and management.

~~2.9~~ 2.8 Patient Care Report (PCR): A medical record of an encounter between any patient and a provider of medical care.

~~2.10~~ 2.9 Rescue Unit: Any organized group chartered by this state as a corporation not for profit or otherwise existing as a nonprofit organization whose purpose is the search for and the rescue of lost or injured persons and includes, but is not limited to, such groups as search and rescue, mountain rescue, ski patrols, (either volunteer or professional), law enforcement posses, civil defense units, or other organizations of governmental designation responsible for search and rescue.

Section 3 – Licensing

3.1 Licensing Required

~~Upon the effective date of these rules, no~~ EXCEPT AS PROVIDED IN SECTIONS 3.2 , 3.3 and 4.2 OF THESE RULES, NO person, agency, or entity, private or public, shall transport a sick or injured person by aircraft from any point within Colorado, to any point within or outside Colorado unless that person, agency, or entity holds a valid air ambulance license to do so that has been issued by the department. ~~except as provided in Sections 3.2 and 3.3 of these rules.~~

3.2 Exception from Licensing-Exigent Circumstances

Upon request, the department may authorize an air ambulance service that does not hold an air ambulance license to provide a particular transport upon a showing of exigent circumstances. Exigent circumstances include but are not limited to:

- A) A humanitarian transport as determined by the department. In determining whether to authorize a humanitarian transport, the department shall consider the following factors:
 - 1) Whether the transport is provided directly or indirectly by an organization whose mission is primarily dedicated toward non-profit or charitable or community care services;
 - 2) Other available options for the transport;
 - 3) Whether the transport will be of no cost to the patient;
 - 4) Whether the transport is subsidized by a person or entity associated with the patient;

- 5) The qualifications of the transport personnel;
 - 6) Information obtained from facilities and/or staff involved in the transport;
 - 7) The air ambulance service's membership in organizations that support safe medical care;
 - 8) Air ambulance service insurance coverage as applicable;
 - 9) Authorization under local and federal laws to conduct operations;
 - 10) Licensure in other states or by other governmental agencies;
 - 11) The air ambulance service's safety record;
 - 12) Whether or not the air ambulance service has been subject to disciplinary sanctions in ~~other~~ ANY jurisdictions;
 - 13) The air ambulance service's prior contacts with the department, if any; and
 - 14) Any other considerations deemed relevant by the department on a case-by-case basis.
- B) A disaster or mass casualty event in Colorado that limits OR EXCEEDS the availability of licensed air ambulance services;
 - C) A need for specialized equipment not otherwise readily available through Colorado licensed air ambulance services.

3.3 Licensing Not Required

- 3.3.1 An air ambulance service that solely transports patients from points originating outside Colorado is not required to be licensed in Colorado.
- 3.3.2 Rescue unit aircraft that are not 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.
- 3.3.3 AN AIR AMBULANCE OR AIR AMBULANCE SERVICE OPERATED BY AN AGENCY OF THE UNITED STATES GOVERNMENT.

Section 4 – Out Of State Air Ambulance Services Licensing AND OUT OF STATE LICENSE RECOGNITION Requirements

- 4.1 Air ambulance services that are based outside the state, but pick up patients in Colorado, are required to be licensed in Colorado by the department, except as provided in Sections 3.2 and 3.3, ABOVE, AND 4.2, BELOW, of these rules.
- 4.2 APPLICATION FOR RECOGNITION OF OUT OF STATE LICENSE IN LIMITED CIRCUMSTANCES AND RECOGNITION PROCESS
 - 4.2.1 THE DEPARTMENT MAY RECOGNIZE AN AIR AMBULANCE SERVICE LICENSE ISSUED BY ANOTHER STATE IF THAT AIR AMBULANCE SERVICE MAKES NO MORE THAN TWELVE (12) FLIGHTS PER CALENDAR YEAR TO PICK UP A PATIENT(S) IN COLORADO AND TRANSPORT THE PATIENT(S) OUT OF COLORADO.
 - 4.2.2 TO RECEIVE OUT OF STATE LICENSURE RECOGNITION, THE AIR AMBULANCE SERVICE MUST:

- 175
176 A) NOT HAVE A BASE LOCATION IN COLORADO;
177
178 B) HOLD A CURRENT LICENSE IN GOOD STANDING WITHOUT
179 RESTRICTIONS OR CONDITIONS FROM THE STATE IN WHICH IT HAS A
180 BASE LOCATION AND SUBMIT A COPY OF THE LICENSE TO THE
181 DEPARTMENT; AND
182
183 C) SUBMIT A COMPLETED APPLICATION ON THE FORM REQUIRED BY THE
184 DEPARTMENT AND SUBMIT THE FEE AS SET FORTH IN SECTION 6 TO
185 THE DEPARTMENT PRIOR TO TRANSPORTING A PATIENT OUT OF
186 COLORADO FOR THE FIRST TIME.
187

188 4.2.3 OUT OF STATE LICENSURE RECOGNITION IS VALID FOR ONE YEAR FROM THE
189 DATE OF ISSUANCE UNLESS REVOKED OR SUSPENDED BY THE DEPARTMENT.
190

191 4.2.4 AN AIR AMBULANCE SERVICE THAT IS GRANTED OUT OF STATE LICENSURE
192 RECOGNITION SHALL SUBMIT AN ANNUAL REPORT TO THE DEPARTMENT
193 DETAILING THE NUMBER OF FLIGHTS, PATIENTS AND THE HEALTH CARE
194 FACILITIES IN COLORADO THE PATIENTS WERE TRANSPORTED FROM DURING
195 THE PREVIOUS YEAR, IN THE FORM AND MANNER PRESCRIBED BY THE
196 DEPARTMENT.
197

198 4.2.5 AS IT RELATES TO THE MEDICAL ASPECTS OF THE OPERATION OF AN AIR
199 AMBULANCE SERVICE, THE DEPARTMENT MAY CONDUCT AN INSPECTION AT
200 ANY TIME OF THE AIR AMBULANCE SERVICE AND ITS AIRCRAFT TO ASSURE
201 COMPLIANCE WITH THESE RULES AND AS NEEDED, THE DEPARTMENT MAY
202 CONDUCT COMPLAINT AND OTHER INVESTIGATIONS OF AN AIR AMBULANCE
203 SERVICE RECOGNIZED BY THE DEPARTMENT.
204

205 4.2.6 THE AIR AMBULANCE SERVICE SHALL IMMEDIATELY NOTIFY THE DEPARTMENT
206 OF ANY DISCIPLINARY OR LICENSING ACTION TAKEN AGAINST IT BY THE
207 LICENSING AUTHORITY IN ANY STATE.
208

209 4.2.7 IF THE DEPARTMENT DEEMS IT NECESSARY, THE DEPARTMENT MAY REQUEST
210 AND THE APPLICANT SHALL PROVIDE ANY OF THE INFORMATION SET FORTH IN
211 SECTION 5.2.
212

213 4.2.8 IF THE LICENSEE HAS MADE A TIMELY AND SUFFICIENT APPLICATION FOR
214 RENEWAL OF THE OUT OF STATE LICENSURE RECOGNITION, THE EXISTING
215 RECOGNITION SHALL NOT EXPIRE UNTIL THE DEPARTMENT HAS ACTED UPON
216 THE RENEWAL APPLICATION.
217

218 **Section 5 – Application for COLORADO Licensing, LICENSING PROCESSES, AND BASE** 219 **LOCATIONS** 220

221 **5.1 MANDATORY REQUIREMENTS FOR ALL APPLICANTS SEEKING COLORADO LICENSURE**

222 ~~At the time of application, applicants must be in compliance with all Federal Aviation Regulations~~
223 ~~such as proof of insurance, aircraft inspection certificates, Federal Aviation Administration part 135~~
224 ~~certificate and Federal Communications Commission part 90~~
225

226 5.1.1 ALL APPLICANTS MUST:

- 227 A) DEMONSTRATE COMPLIANCE WITH APPLICABLE FEDERAL, STATE AND
228 LOCAL LAWS AND REGULATIONS TO OPERATE AN AIR AMBULANCE
229 SERVICE IN COLORADO, INCLUDING BUT NOT LIMITED TO, LAWS AND
230 REGULATIONS GOVERNING MEDICAL PERSONNEL AND EMERGENCY
231 MEDICAL SERVICE PROVIDERS, LICENSING AND CERTIFICATIONS, AND
232 PROFESSIONAL LIABILITY INSURANCE. APPLICANTS ARE NOT REQUIRED
233 TO PROVE COMPLIANCE WITH THOSE PROVISIONS OF FEDERAL LAW
234 THAT GOVERN ACTIVITIES PREEMPTED BY THE FEDERAL AVIATION ACT,

49 U.S.C. §40101, ET SEQ., OR THE FEDERAL "AIRLINE DEREGULATION ACT OF 1978" 49 U.S.C. § 41713(B)(1).

- B) SUBMIT TO THE DEPARTMENT A COMPLETED APPLICATION FORM AND THE APPLICATION FEE AS SET FORTH IN SECTION 6 OF THESE RULES.
- C) UPON REQUEST, SUBMIT TO THE DEPARTMENT COPIES OF THE AIR AMBULANCE SERVICE'S WRITTEN POLICY AND PROCEDURE MANUAL, OPERATION/MEDICAL PROTOCOLS, AND OTHER DOCUMENTATION THE DEPARTMENT MAY DEEM NECESSARY.
- D) SUBMIT A COPY OF AIR AMBULANCE SERVICE LICENSE(S) CONCURRENTLY ISSUED AND ON FILE WITH OTHER STATES.
- E) PROVIDE THE DEPARTMENT WITH RESULTS OF ANY INVESTIGATIONS, DISCIPLINARY ACTIONS, OR EXCLUSIONS THAT IMPACT OR HAVE THE POTENTIAL TO IMPACT THE QUALITY OF MEDICAL CARE PROVIDED TO PATIENTS AS REQUESTED BY THE DEPARTMENT.
- F) FOR AN AIR AMBULANCE SERVICE THAT IS NOT GRANTED QUALIFIED IMMUNITY UNDER THE COLORADO GOVERNMENTAL IMMUNITY ACT, C.R.S. 24-10-101 ET SEQ., SHALL PROVIDE PROOF OF PROFESSIONAL MALPRACTICE AND LIABILITY INSURANCE FOR INJURIES TO PERSONS IN AMOUNTS OF AT LEAST \$1,000,000 FOR EACH INDIVIDUAL CLAIM AND A TOTAL OF \$3,000,000 FOR ALL CLAIMS MADE AGAINST THE AIR AMBULANCE SERVICE OR ITS MEDICAL PERSONNEL FROM AN INSURANCE COMPANY AUTHORIZED TO WRITE LIABILITY INSURANCE IN COLORADO OR THROUGH A SELF-INSURANCE PROGRAM.
 - 1) THE AIR AMBULANCE SERVICE SHALL PROVIDE THE DEPARTMENT WITH A COPY OF ITS CERTIFICATE OF INSURANCE DEMONSTRATING COMPLIANCE WITH THIS SECTION OR PROOF OF FINANCIAL VIABILITY IF SELF-INSURED; AND
- G) ANY AIR AMBULANCE SERVICE THAT IS GRANTED QUALIFIED IMMUNITY UNDER THE COLORADO GOVERNMENTAL IMMUNITY ACT, C.R.S. 24-10-101 ET SEQ, SHALL PROVIDE PROOF OF PROFESSIONAL MALPRACTICE AND LIABILITY INSURANCE COVERAGE, OR PROOF OF SELF-INSURANCE TO THE MAXIMUM EXTENT REQUIRED BY C.R.S. 24-10-114.
- H) PROVIDE PROOF OF WORKER'S COMPENSATION COVERAGE AS REQUIRED BY COLORADO LAW.
- I) PROVIDE A LIST OF ALL AIR AMBULANCES TO BE LICENSED AND INSPECTED FOR MEDICAL COMPLIANCE BY THE DEPARTMENT, INCLUDING TAIL NUMBER (N-NUMBER) AND DESIGNATION OF (ROTOR OR FIXED WING) CAPABILITIES.
- J) PROVIDE A STATEMENT SIGNED AND DATED CONTEMPORANEOUSLY WITH THE APPLICATION STATING WHETHER, WITHIN THE PREVIOUS TEN (10) YEARS OF THE DATE OF APPLICATION, THE APPLICANT HAS BEEN THE SUBJECT OF, OR A PARTY TO, ONE OF MORE OF THE FOLLOWING EVENTS, REGARDLESS OF WHETHER ACTION HAS BEEN STAYED IN A JUDICIAL APPEAL OR OTHERWISE SETTLED BETWEEN THE PARTIES.
 - 1) BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE UNDER THE LAWS OF ANY STATE OR OF THE UNITED STATES. A GUILTY VERDICT, A PLEA OF GUILTY OR A PLEA OF NOLO CONTENDERE (NO CONTEST) ACCEPTED BY THE COURT IS CONSIDERED A CONVICTION.

- 296 2) HAD A STATE LICENSE OR FEDERAL CERTIFICATION DENIED,
297 REVOKED, OR SUSPENDED BY ANOTHER JURISDICTION.
298
299 3) HAD A CIVIL JUDGMENT OR A CRIMINAL CONVICTION IN A CASE
300 BROUGHT BY FEDERAL, STATE OR LOCAL AUTHORITIES THAT
301 RESULTED FROM THE OPERATION, MANAGEMENT, OR
302 OWNERSHIP OF A HEALTH FACILITY OR OTHER ENTITY RELATED
303 TO SUBSTANDARD PATIENT CARE OR HEALTH CARE FRAUD.
304

305 K) IF APPLICABLE, PROVIDE ANY STATEMENT REGARDING THE
306 INFORMATION REQUESTED IN PARAGRAPH (J) TO INCLUDE THE
307 FOLLOWING:
308

- 309 1) IF THE EVENT IS AN ACTION BY FEDERAL, STATE OR LOCAL
310 AUTHORITIES; THE FULL NAME OF THE AUTHORITY, ITS
311 JURISDICTION, THE CASE NAME, AND THE DOCKET, PROCEEDING
312 OR CASE NUMBER BY WHICH THE EVENT IS DESIGNATED, AND A
313 COPY OF THE CONSENT DECREE, ORDER OR DECISION.
314
315 2) IF THE EVENT IS A FELONY OR MISDEMEANOR CONVICTION
316 INVOLVING MORAL TURPITUDE, THE COURT, ITS JURISDICTION,
317 THE CASE NAME, THE CASE NUMBER, A DESCRIPTION OF THE
318 MATTER OR A COPY OF THE INDICTMENT OR CHARGES, AND ANY
319 PLEA OR VERDICT ENTERED BY THE COURT.
320
321 3) IF THE EVENT INVOLVES A CIVIL ACTION OR ARBITRATION
322 PROCEEDING, THE COURT OR ARBITER, THE JURISDICTION, THE
323 CASE NAME, THE CASE NUMBER, A DESCRIPTION OF THE
324 MATTER OR A COPY OF THE COMPLAINT, AND A COPY OF THE
325 VERDICT, THE COURT OR ARBITRATION DECISION.
326

327 5.1.2 AIR AMBULANCE SERVICE LICENSES ARE NOT TRANSFERABLE.
328

329 5.1.3 THE DEPARTMENT HAS THE AUTHORITY TO CONDUCT AN INSPECTION OR
330 REINSPECTION OF THE MEDICAL ASPECTS OF THE AIR AMBULANCE SERVICE
331 OPERATION INCLUDING EQUIPMENT AND DOCUMENTATION, AT ANY TIME IT
332 DEEMS NECESSARY TO ENSURE COMPLIANCE WITH THESE RULES AND TO
333 PROTECT THE PUBLIC HEALTH AND MEDICAL SAFETY.
334

335 5.1.4 THE APPLICANT SHALL PROVIDE ACCURATE AND TRUTHFUL INFORMATION TO
336 THE DEPARTMENT DURING INSPECTIONS, INVESTIGATIONS AND LICENSING
337 ACTIVITIES.
338

339 **5.2 MANDATORY REPORTING REQUIREMENTS FOR ALL EXISTING LICENSEES**

340

341 5.2.1 EXCEPT FOR REQUIRING PROOF OF COMPLIANCE WITH THOSE PROVISIONS OF
342 FEDERAL LAW THAT GOVERN ACTIVITIES PREEMPTED BY THE FEDERAL
343 AVIATION ACT , 49 U.S.C. §40101, ET SEQ., OR THE FEDERAL "AIRLINE
344 DEREGULATION ACT OF 1978" 49 U.S.C. § 41713(B)(1), ALL LICENSED AIR
345 AMBULANCE SERVICES MUST NOTIFY THE DEPARTMENT:
346

- 347 A) AT LEAST THIRTY (30) CALENDAR DAYS PRIOR TO THE EFFECTIVE DATE
348 OF THE CHANGE OF ANY NAME OF THE AIR AMBULANCE SERVICE AND
349 SUBMIT A NEW AIR AMBULANCE SERVICE APPLICATION AND
350 APPLICABLE FEES.
351
352 B) AT LEAST THIRTY (30) CALENDAR DAYS PRIOR TO THE EFFECTIVE DATE
353 OF ANY CHANGE OF OWNERSHIP, PURSUANT TO SECTION 5.8, THE NEW
354 OWNER OR OPERATOR MUST FILE FOR AND OBTAIN AN AIR AMBULANCE
355 LICENSE FROM THE DEPARTMENT PRIOR TO BEGINNING OPERATIONS.
356

- 357 C) WITHIN FIVE (5) CALENDAR DAYS WHEN THERE HAS BEEN A REDUCTION
358 OR LOSS OF INSURANCE COVERAGE.
359
- 360 D) WITHIN SIXTY (60) CALENDAR DAYS OF ALL OTHER CHANGES IN
361 INSURANCE COVERAGE.
362
- 363 E) WITHIN SEVEN (7) CALENDAR DAYS OF KNOWING ABOUT ANY OF THE
364 FOLLOWING EVENTS IMPACTING PATIENT MEDICAL CARE OCCURRING
365 ON OR DURING TRANSPORT ONTO OR OFF OF AN AIR AMBULANCE,
366 REPORT TO THE DEPARTMENT AND THE APPROVED ACCREDITATION
367 ORGANIZATION, IF APPLICABLE:
368
- 369 1) INVASIVE PROCEDURE PERFORMED ON THE WRONG SITE.
370
 - 371 2) WRONG OTHER PROCEDURE PERFORMED ON A PATIENT.
372
 - 373 3) UNINTENDED RETENTION OF A FOREIGN OBJECT IN A PATIENT
374 AFTER AN INVASIVE PROCEDURE.
375
 - 376 4) IMMEDIATELY POST PROCEDURE DEATH IN AN AMERICAN
377 SOCIETY OF ANESTHESIOLOGISTS CLASS I PATIENT.
378
 - 379 5) PATIENT DEATH OR SERIOUS INJURY ASSOCIATED WITH THE
380 USE OF CONTAMINATED DRUGS, DEVICES, OR BIOLOGICS
381 PROVIDED BY THE SERVICE.
382
 - 383 6) PATIENT DEATH OR SERIOUS INJURY ASSOCIATED WITH THE
384 USE OR FUNCTION OF A DEVICE IN WHICH THE DEVICE IS USED
385 IN A MANNER OTHER THAN AS INTENDED.
386
 - 387 7) PATIENT DEATH OR SERIOUS INJURY ASSOCIATED WITH
388 INTRAVASCULAR AIR EMBOLISM.
389
 - 390 8) RELEASE OF A PATIENT OF ANY AGE, WHO IS UNABLE TO MAKE
391 DECISIONS, TO OTHER THAN AN AUTHORIZED PERSON.
392
 - 393 9) PATIENT SUICIDE, ATTEMPTED SUICIDE, OR SELF-HARM THAT
394 RESULTS IN SERIOUS INJURY.
395
 - 396 10) PATIENT DEATH OR SERIOUS INJURY ASSOCIATED WITH ANY
397 MEDICATION ERROR.
398
 - 399 11) PATIENT DEATH OR SERIOUS INJURY ASSOCIATED WITH ANY
400 UNSAFE ADMINISTRATION OF BLOOD PRODUCTS.
401
 - 402 12) MATERNAL DEATH OR SERIOUS INJURY ASSOCIATED WITH
403 LABOR OR DELIVERY IN A LOW-RISK PREGNANCY.
404
 - 405 13) DEATH OR SERIOUS INJURY OF A NEONATE ASSOCIATED WITH
406 LABOR OR DELIVERY IN A LOW-RISK PREGNANCY.
407
 - 408 14) PATIENT DEATH OR SERIOUS INJURY RESULTING FROM FAILURE
409 TO FOLLOW UP OR COMMUNICATE LABORATORY, PATHOLOGY,
410 OR RADIOLOGY TEST RESULTS.
411
 - 412 15) PATIENT OR STAFF DEATH OR SERIOUS INJURY ASSOCIATED
413 WITH AN ELECTRIC SHOCK IN THE COURSE OF PATIENT CARE.
414
 - 415 16) ANY INCIDENT IN WHICH SYSTEMS DESIGNATED FOR OXYGEN
416 OR OTHER GAS TO BE DELIVERED TO A PATIENT CONTAINS NO

GAS, THE WRONG GAS, OR ARE CONTAMINATED BY TOXIC SUBSTANCES.

- 17) PATIENT OR STAFF DEATH OR SERIOUS INJURY ASSOCIATED WITH A BURN INCURRED FROM ANY SOURCE IN THE COURSE OF PATIENT CARE.
- 18) PATIENT DEATH OR SERIOUS INJURY ASSOCIATED WITH THE USE OF PHYSICAL RESTRAINTS DURING THE COURSE OF PATIENT CARE.
- 19) DEATH OR SERIOUS INJURY OF A PATIENT OR STAFF ASSOCIATED WITH THE INTRODUCTION OF A METALLIC OBJECT INTO THE MRI AREA.
- 20) ANY INSTANCE OF CARE ORDERED BY OR PROVIDED BY SOMEONE IMPERSONATING A LICENSED HEALTH CARE PROVIDER.
- 21) ANY INSTANCE OF ALLEGED UNLAWFUL SEXUAL BEHAVIOR ON A PATIENT OR STAFF MEMBER, AS DEFINED BY SECTION 18-3-401 ET SEQ., C.R.S.
- 22) PATIENT OR STAFF DEATH OR SERIOUS INJURY RESULTING FROM A PHYSICAL ASSAULT.
- 23) APPROPRIATING OR POSSESSING WITHOUT AUTHORIZATION MEDICATIONS, SUPPLIES, EQUIPMENT, OR PERSONAL ITEMS OF A PATIENT OR EMPLOYER.

5.3 STATE LICENSING PROCESS.

5.3.1 WITH RESPECT TO THOSE APPLICANTS SEEKING TO ACQUIRE LICENSURE PURSUANT TO THIS SECTION, THE DEPARTMENT SHALL REVIEW THE APPLICANT'S FITNESS TO PROVIDE APPROPRIATE MEDICAL CARE AS A LICENSED AIR AMBULANCE SERVICE. THE DEPARTMENT SHALL DETERMINE BY ON-SITE INSPECTION OR OTHER APPROPRIATE INVESTIGATION THE APPLICANT'S COMPLIANCE WITH APPLICABLE STATUTES AND REGULATIONS CONCERNING THE MEDICAL ASPECTS OF THE AIR AMBULANCE SERVICE. THE DEPARTMENT SHALL CONSIDER THE INFORMATION CONTAINED IN THE AIR AMBULANCE SERVICE'S APPLICATION AND MAY REQUEST ACCESS TO AND CONSIDER OTHER INFORMATION CONCERNING THE MEDICAL ASPECTS OF THE AIR AMBULANCE SERVICE OPERATION INCLUDING, WITHOUT LIMITATION, ASPECTS RELATED TO PATIENT CARE, SUCH AS:

- A) WHETHER THE APPLICANT HAS LEGAL STATUS TO PROVIDE THE MEDICAL AND RELATED PATIENT CARE SERVICES FOR WHICH THE LICENSE IS SOUGHT AS CONFERRED BY ARTICLES OF INCORPORATION, STATUTE OR OTHER GOVERNMENTAL DECLARATION,
- B) THE APPLICANT'S PREVIOUS COMPLIANCE HISTORY, INCLUDING COMPLIANCE WITH REQUIREMENTS OF OTHER STATES OR ACCREDITATION ORGANIZATIONS WHERE THE APPLICANT WAS LICENSED OR ACCREDITED WITHIN THE PREVIOUS 5 YEARS,
- C) THE APPLICANT'S POLICIES AND PROCEDURES AS DELINEATED IN SECTION 9 OF THESE RULES,
- D) THE APPLICANT'S QUALITY IMPROVEMENT PLANS, OTHER QUALITY IMPROVEMENT DOCUMENTATION AS MAY BE APPROPRIATE, AND ACCREDITATION REPORTS,

- 478
479 E) CREDENTIALS OF PATIENT CARE STAFF,
480
481 F) INTERVIEWS WITH STAFF, AND
482
483 G) OTHER DOCUMENTS DEEMED APPROPRIATE BY THE DEPARTMENT.
484

485 5.3.2 WHERE AN AIR AMBULANCE SERVICE IS LICENSED AND SUBJECT TO
486 INSPECTION, CERTIFICATION, OR REVIEW BY OTHER AGENCIES, STATES OR
487 ACCREDITING ORGANIZATIONS, THE AIR AMBULANCE SERVICE SHALL
488 PROVIDE AND/OR RELEASE TO THE DEPARTMENT, UPON REQUEST, ANY
489 CORRESPONDENCE, REPORTS OR RECOMMENDATIONS CONCERNING THE AIR
490 AMBULANCE SERVICE APPLICANT THAT WERE PREPARED BY SUCH
491 ORGANIZATIONS.
492

493 5.3.3 THE APPLICANT SHALL PROVIDE, UPON REQUEST, ACCESS TO SUCH
494 INDIVIDUAL PATIENT RECORDS AS THE DEPARTMENT REQUIRES FOR THE
495 PERFORMANCE OF ITS LICENSING AND REGULATORY OVERSIGHT
496 RESPONSIBILITIES.
497

498 5.3.4 AN APPLICANT SHALL PROVIDE, UPON REQUEST, ACCESS TO OR COPIES OF
499 REPORTS AND INFORMATION REQUIRED BY THE DEPARTMENT INCLUDING, BUT
500 NOT LIMITED TO, MEDICAL STAFFING REPORTS, STATISTICAL INFORMATION,
501 AND SUCH OTHER RECORDS PERTAINING TO MEDICAL AND PATIENT CARE
502 OBJECTIVES AS THE DEPARTMENT REQUIRES FOR THE PERFORMANCE OF ITS
503 LICENSING AND REGULATORY OVERSIGHT RESPONSIBILITIES.
504

505 5.3.5 THE DEPARTMENT SHALL NOT RELEASE TO ANY UNAUTHORIZED PERSON ANY
506 INFORMATION DEFINED AS CONFIDENTIAL UNDER STATE LAW OR THE HEALTH
507 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996, CODIFIED AT 42
508 U.S.C. SECTION 300gg, 42 U.S.C. 1320d ET SEQ., and 29 U.S.C. SECTION 1181, ET
509 SEQ.
510

511 5.3.6 AS IT RELATES TO THE MEDICAL ASPECTS OF THE OPERATION OF AN AIR
512 AMBULANCE SERVICE, THE DEPARTMENT MAY CONDUCT AN INSPECTION OF
513 THE AIR AMBULANCE SERVICE AND ITS AIRCRAFT TO ASSURE COMPLIANCE
514 WITH THESE RULES, AND AS NEEDED, THE DEPARTMENT MAY CONDUCT
515 COMPLAINT AND OTHER INVESTIGATIONS OF AN AIR AMBULANCE SERVICE.
516

517 5.3.7 THE APPLICANT SHALL SUBMIT TO THE DEPARTMENT THE APPLICABLE FEE(S)
518 SET FORTH IN SECTION 6 OF THESE RULES.
519

520 **5.4 LICENSURE THROUGH Accreditation by ORGANIZATION APPROVED BY DEPARTMENT.**
521

522 5.4.1 ~~Except as provided in Section 5.3 below, applicants~~ IN ADDITION TO MEETING THE
523 REQUIREMENTS IN 5.1, APPLICANTS that are currently accredited by CAMTSAN
524 ORGANIZATION APPROVED BY THE DEPARTMENT PURSUANT TO SECTION 5.5
525 may receive an air ambulance license upon completion of the documentation and
526 PAYMENT OF fees that are required by the department. THE AIR AMBULANCE
527 SERVICE SHALL AUTHORIZE THE ACCREDITING ORGANIZATION TO SUBMIT
528 DIRECTLY TO THE DEPARTMENT COPIES OF ANY DOCUMENTATION WITHIN THE
529 ACCREDITING ORGANIZATION'S CONTROL CONCERNING ITS EVALUATION OF
530 THE AIR AMBULANCE SERVICE'S COMPLIANCE WITH THE ORGANIZATION'S
531 STANDARDS DURING THE PREVIOUS ACCREDITATION CYCLE. SUCH
532 DOCUMENTATION SHALL INCLUDE BUT IS NOT LIMITED TO, SURVEYS,
533 INSPECTIONS, FINAL AUDIT REPORTS, PLANS OF CORRECTION, AND THE MOST
534 RECENT LETTER OF ACCREDITATION SHOWING THE SERVICE HAS RECEIVED
535 ACCREDITATION STATUS.
536

537 5.4.2 AS IT RELATES TO THE MEDICAL ASPECTS OF THE OPERATION OF AN AIR
538 AMBULANCE SERVICE, THE DEPARTMENT MAY CONDUCT AN INSPECTION OF

THE AIR AMBULANCE SERVICE AND ITS AIRCRAFT TO ASSURE COMPLIANCE WITH THESE RULES AND, AS NEEDED, THE DEPARTMENT MAY CONDUCT COMPLAINT AND OTHER INVESTIGATIONS OF AN AIR AMBULANCE SERVICE ACCREDITED BY AN ORGANIZATION APPROVED BY THE DEPARTMENT.

- A) ANY AIR AMBULANCE SERVICE LICENSED UNDER THIS SECTION SHALL IMMEDIATELY NOTIFY THE DEPARTMENT IN THE EVENT THAT IT RECEIVES ANY NOTICE THAT ITS ACCREDITATION HAS BEEN WITHDRAWN, REVOKED, SUSPENDED OR MODIFIED, OR THAT IT IS NO LONGER ACCREDITED BY THE ACCREDITATION ORGANIZATION APPROVED BY THE DEPARTMENT.
- B) IF THE LICENSED AIR AMBULANCE SERVICE VOLUNTARILY SURRENDERS ITS ACCREDITATION, OR IS NOTIFIED BY THE ACCREDITING ORGANIZATION THAT THE SERVICE'S ACCREDITATION IS AT RISK OF BEING REVOKED, SUSPENDED, WITHDRAWN, PRELIMINARILY DENIED, DEFERRED, OR MODIFIED IN ANY WAY—SUCH AS BEING PLACED ON PROBATION, PLACED UNDER REVIEW OR UNDER SPECIAL REVIEW, OR PLACED ON-HOLD--THE LICENSED SERVICE MUST PROVIDE THE DEPARTMENT WITHIN ONE (1) BUSINESS DAY WITH INFORMATION DESCRIBING THE CIRCUMSTANCES THE ACCREDITING ORGANIZATION STATES FOR THE REASON(S) FOR THE POSSIBLE ACTION. THE DEPARTMENT MAY:
 - 1) INITIATE APPROPRIATE ACTIONS IT DEEMS NECESSARY TO EVALUATE THE LICENSED SERVICE'S PERFORMANCE;
 - 2) ELECT TO REVOKE OR SUMMARILY SUSPEND THE SERVICE'S COLORADO LICENSE THAT IS BASED ON THE ACCREDITATION IN SECTION 5.4; AND/OR
 - 3) REQUIRE THE LICENSED SERVICE TO IMMEDIATELY APPLY FOR STATE LICENSURE THROUGH THE PROCESS SET FORTH IN SECTION 5.3.
- C) IF THE LICENSED AIR AMBULANCE SERVICE'S ACCREDITATION HAS BEEN WITHDRAWN OR REVOKED, THE LICENSED SERVICE MUST PROVIDE THE DEPARTMENT WITH INFORMATION DESCRIBING THE CIRCUMSTANCES THE ACCREDITING ORGANIZATION STATES FOR THE REASON(S) FOR THE ACTION. THE SERVICE SHALL IMMEDIATELY CEASE OPERATIONS. IF THE AIR AMBULANCE SERVICE WISHES TO CONTINUE TO OPERATE IT MUST SUBMIT AN APPLICATION AND RECEIVE A STATE LICENSE AS SET FORTH IN SECTION 5.3, BEFORE IT MAY CONTINUE TO OPERATE UNDER THESE RULES AS A LICENSED AIR AMBULANCE SERVICE.
 - 1) THE DEPARTMENT MAY ALLOW THE SERVICE TO CONTINUE OPERATING UNDER A PROVISIONAL LICENSE AS DESCRIBED IN SECTION 5.6, BELOW.
 - 2) IF THE DEPARTMENT ALLOWS THE SERVICE TO OPERATE UNDER A PROVISIONAL LICENSE, THE PROVISIONAL LICENSE PERIOD SHALL BEGIN ON THE DATE OF THE ACCREDITATION WITHDRAWAL OR REVOCATION. IN NO EVENT SHALL THE SERVICE BE ALLOWED TO OPERATE UNDER A PROVISIONAL LICENSE FOR MORE THAN ONE HUNDRED EIGHTY (180) DAYS.

5.4.3 IF THE DEPARTMENT DEEMS IT NECESSARY, THE DEPARTMENT MAY REQUEST, AND THE APPLICANT SHALL PROVIDE, ANY OF THE INFORMATION SET FORTH IN SECTION 5.2.

- 600 5.4.4 THE DEPARTMENT SHALL PUBLISH A LIST OF THE ACCREDITING
601 ORGANIZATIONS THAT IT HAS APPROVED ON ITS WEBSITE.
602
- 603 5.4.5 THE APPLICANT SHALL SUBMIT TO THE DEPARTMENT THE APPLICABLE FEE(S)
604 SET FORTH IN SECTION 6 OF THESE RULES.
605
- 606 5.4.6 IF THE LICENSED AIR AMBULANCE HAS MADE A TIMELY AND SUFFICIENT
607 APPLICATION FOR RENEWAL OF THE LICENSE, THE EXISTING LICENSE SHALL
608 NOT EXPIRE UNTIL THE DEPARTMENT HAS ACTED UPON THE RENEWAL
609 APPLICATION.
610

611 **5.5. REQUIREMENTS FOR APPROVAL OF ACCREDITATION ORGANIZATION**
612

- 613 5.5.1 TO BE APPROVED BY THE DEPARTMENT AS AN ACCEPTABLE ACCREDITATION
614 ORGANIZATION FOR THE PURPOSES OF SECTION 5.4, THE ACCREDITING
615 ORGANIZATION MUST MEET THE FOLLOWING MINIMUM STANDARDS:
616
- 617 A) HAS STANDARDS THAT ARE EQUIVALENT TO OR EXCEED THE
618 STANDARDS IN THIS CHAPTER.
619
 - 620 B) PROVIDES ACCREDITATION FOR NO MORE THAN THREE CONSECUTIVE
621 YEARS WITHOUT AN UPDATED INSPECTION AND REACCREDITATION.
622
 - 623 C) HAS A MULTIDISCIPLINARY BOARD OF DIRECTORS WITH MEMBERS
624 CONSISTING OF, AT A MINIMUM, INDIVIDUALS WHO ARE MEDICAL
625 TRANSPORT PROFESSIONALS AND RELATED HEALTH PROFESSIONALS
626 THAT:
627
 - 628 1) SEEK INPUT AND GUIDANCE FROM NATIONAL PROFESSIONAL
629 MEDICAL ORGANIZATIONS IN THE DEVELOPMENT OF ITS
630 STANDARDS, AND
631
 - 632 2) ASSURE THAT THE ORGANIZATION ALLOWS FOR
633 MULTIDISCIPLINARY INPUT IN THE DEVELOPMENT AND
634 IMPLEMENTATION OF ITS STANDARDS AND REVIEW PROCESSES.
635
 - 636 D) USES TRAINED SITE-SURVEYORS WITH EXPERIENCE IN MEDICAL
637 TRANSPORT AT THE LEVEL OF ACCREDITATION AND LICENSE.
638
 - 639 E) ASSURES THAT AIR AMBULANCE SERVICES WITH IDENTIFIED
640 DEFICIENCIES WILL IMPLEMENT CORRECTIVE ACTION OR
641 IMPROVEMENT PLANS TO CORRECT ANY DEFICIENCIES.
642
 - 643 F) HAS AN OPEN PROCESS THAT ENCOURAGES AND ACCEPTS COMMENTS
644 ON ITS ACCREDITATION STANDARDS.
645
 - 646 G) PROVIDES TRANSPARENCY TO THE PUBLIC ON ITS STANDARDS AND
647 PROCEDURES.
648
 - 649 H) MAINTAINS INSURANCE (GENERAL LIABILITY, MEDICAL PROFESSIONAL
650 LIABILITY, DIRECTORS & OFFICERS AND TRAVEL) AND BE ABLE TO
651 PRESENT ITS CURRENT CERTIFICATES OF INSURANCE TO THE
652 DEPARTMENT.
 - 653 I) IN ADDITION TO ITS RIGHT TO CONDUCT INDEPENDENT INSPECTIONS
654 OF EQUIPMENT AND DOCUMENTATION PURSUANT TO SECTION 5.1.3 OF
655 THESE RULES, ALLOWS A DEPARTMENT REPRESENTATIVE TO
656 ACCOMPANY ACCREDITATION SURVEYORS ON SITE SURVEYS OR
657 DURING ANY ACCREDITATION INSPECTIONS AT THE REQUEST OF THE
658 DEPARTMENT.

J) HAS A CLEAR CONFLICT OF INTEREST POLICY.

5.6 PROVISIONAL LICENSE.

5.6.1 THE DEPARTMENT MAY ISSUE A PROVISIONAL LICENSE TO AN APPLICANT FOR AN INITIAL LICENSE TO OPERATE AN AIR AMBULANCE SERVICE IF:

- A) THE APPLICANT IS TEMPORARILY UNABLE TO CONFORM TO ALL THE MINIMUM STANDARDS REQUIRED UNDER TITLE 25, PART 3.5 AND THESE RULES;
- B) THE OPERATION OF THE APPLICANT'S AIR AMBULANCE SERVICE WILL NOT ADVERSELY AFFECT PATIENT CARE OR THE HEALTH, SAFETY AND WELFARE OF THE PUBLIC; AND
- C) THE APPLICANT AIR AMBULANCE SERVICE DEMONSTRATES IT IS MAKING ITS BEST EFFORTS TO ACHIEVE COMPLIANCE WITH THE APPLICABLE RULES.

5.6.2 A PROVISIONAL LICENSE ISSUED BY THE DEPARTMENT SHALL BE VALID FOR A PERIOD NOT TO EXCEED NINETY (90) CALENDAR DAYS, EXCEPT THAT THE DEPARTMENT MAY ISSUE A SECOND PROVISIONAL LICENSE FOR THE SAME DURATION AND SHALL CHARGE THE SAME FEE AS FOR THE FIRST PROVISIONAL LICENSE. IF THE LICENSEE HAS MADE A TIMELY AND SUFFICIENT APPLICATION FOR RENEWAL OF THE PROVISIONAL LICENSE, THE EXISTING LICENSE SHALL NOT EXPIRE UNTIL THE DEPARTMENT HAS ACTED UPON THE RENEWAL APPLICATION. THE DEPARTMENT MAY NOT ISSUE A THIRD OR SUBSEQUENT PROVISIONAL LICENSE TO THE APPLICANT, AND IN NO EVENT SHALL A SERVICE BE PROVISIONALLY LICENSED FOR A PERIOD TO EXCEED ONE HUNDRED EIGHTY (180) CALENDAR DAYS.

5.6.3 THE APPLICANT SHALL SUBMIT TO THE DEPARTMENT THE APPLICABLE FEE(S) SET FORTH IN SECTION 6 OF THESE RULES.

5.7 CONDITIONAL LICENSE

5.7.1 THE DEPARTMENT MAY IMPOSE CONDITIONS OR LIMITATIONS UPON A LICENSE PRIOR TO ISSUING AN INITIAL OR RENEWAL LICENSE OR DURING AN EXISTING LICENSE TERM. IF THE DEPARTMENT IMPOSES CONDITIONS OR LIMITATIONS ON A LICENSE, THE LICENSEE SHALL IMMEDIATELY COMPLY WITH ALL CONDITIONS OR LIMITATIONS UNTIL AND UNLESS SAID CONDITIONS ARE OVERTURNED OR STAYED ON APPEAL.

- A) IF CONDITIONS OR LIMITATIONS ARE IMPOSED AT THE SAME TIME AS AN INITIAL OR RENEWAL LICENSE, THE APPLICANT SHALL PAY THE APPLICABLE INITIAL OR RENEWAL LICENSE FEE PLUS THE CONDITIONAL FEE AS SET FORTH IN SECTION 6 OF THESE RULES. IF CONDITIONS OR LIMITATIONS ARE IMPOSED DURING THE LICENSE TERM, THE LICENSEE SHALL PAY THE CONDITIONAL FEE AND THE CONDITIONS OR LIMITATIONS SHALL RUN CONCURRENTLY WITH THE EXISTING LICENSE TERM. IF THE CONDITIONS ARE RENEWED IN WHOLE OR IN PART FOR THE NEXT LICENSE TERM, THE LICENSEE SHALL PAY THE APPLICABLE RENEWAL FEE ALONG WITH THE CONDITIONAL FEE IN EFFECT AT THE TIME OF RENEWAL.
- B) IF THE DEPARTMENT IMPOSES CONDITIONS OR LIMITATIONS OF CONTINUING DURATION THAT REQUIRE ONLY MINIMAL ADMINISTRATIVE OVERSIGHT, IT MAY WAIVE THE CONDITIONAL FEE AFTER THE LICENSEE HAS COMPLIED WITH THE CONDITIONS OR LIMITATIONS FOR A FULL LICENSE TERM.

720
721 5.7.2 UNLESS CONSENTED TO BY THE AIR AMBULANCE SERVICE, A LIMITATION
722 IMPOSED PRIOR TO ISSUANCE OF AN INITIAL OR RENEWAL LICENSE SHALL BE
723 TREATED AS A DENIAL. A MODIFICATION OF AN EXISTING LICENSE DURING ITS
724 TERM, UNLESS CONSENTED TO BY THE AIR AMBULANCE SERVICE, SHALL BE
725 TREATED AS A REVOCATION.
726

727 **5.8 CHANGE OF OWNERSHIP/MANAGEMENT**

728
729 5.8.1 WHEN A CURRENTLY LICENSED AIR AMBULANCE SERVICE ANTICIPATES A
730 CHANGE OF OWNERSHIP, THE CURRENT LICENSEE SHALL NOTIFY THE
731 DEPARTMENT WITHIN THE SPECIFIED TIME FRAME AND THE PROSPECTIVE
732 NEW LICENSEE SHALL SUBMIT AN APPLICATION FOR CHANGE OF OWNERSHIP
733 ALONG WITH THE REQUISITE FEES AND DOCUMENTATION WITHIN THE SAME
734 TIME FRAME. THE TIME FRAME FOR SUBMITTAL OF SUCH NOTIFICATION AND
735 DOCUMENTATION SHALL BE AT LEAST THIRTY (30) CALENDAR DAYS BEFORE A
736 CHANGE OF OWNERSHIP INVOLVING ANY AIR AMBULANCE SERVICE.
737

738 5.8.2 IN GENERAL, THE CONVERSION OF AN AIR AMBULANCE SERVICE'S LEGAL
739 STRUCTURE, OR THE LEGAL STRUCTURE OF AN ENTITY THAT HAS A DIRECT OR
740 INDIRECT OWNERSHIP INTEREST IN THE AIR AMBULANCE SERVICE IS NOT A
741 CHANGE OF OWNERSHIP UNLESS THE CONVERSION ALSO INCLUDES A
742 TRANSFER OF AT LEAST 50 PERCENT OF THE LICENSED AIR AMBULANCE
743 SERVICE'S DIRECT OR INDIRECT OWNERSHIP INTEREST TO ONE OR MORE NEW
744 OWNERS. SPECIFIC INSTANCES OF WHAT DOES OR DOES NOT CONSTITUTE A
745 CHANGE OF OWNERSHIP ARE SET FORTH BELOW IN SECTION 5.8.3.
746

747 5.8.3 THE DEPARTMENT SHALL CONSIDER THE FOLLOWING CRITERIA IN
748 DETERMINING WHETHER THERE IS A CHANGE OF OWNERSHIP OF AN AIR
749 AMBULANCE SERVICE THAT REQUIRES A NEW LICENSE:
750

751 A) SOLE PROPRIETORS:

752
753 1) THE TRANSFER OF AT LEAST 50 PERCENT OF THE OWNERSHIP
754 INTEREST IN AN AIR AMBULANCE SERVICE FROM A SOLE
755 PROPRIETOR TO ANOTHER INDIVIDUAL, WHETHER OR NOT THE
756 TRANSACTION AFFECTS THE TITLE TO REAL PROPERTY, SHALL
757 BE CONSIDERED A CHANGE OF OWNERSHIP.
758

759 2) CHANGE OF OWNERSHIP DOES NOT INCLUDE FORMING A
760 CORPORATION FROM THE SOLE PROPRIETORSHIP WITH THE
761 PROPRIETOR AS THE SOLE SHAREHOLDER.
762

763 B) PARTNERSHIPS:

764
765 1) DISSOLUTION OF THE PARTNERSHIP AND CONVERSION INTO
766 ANY OTHER LEGAL STRUCTURE SHALL BE CONSIDERED A
767 CHANGE OF OWNERSHIP IF THE CONVERSION ALSO INCLUDES A
768 TRANSFER OF AT LEAST 50 PERCENT OF THE DIRECT OR
769 INDIRECT OWNERSHIP TO ONE OR MORE NEW OWNERS.
770

771 2) CHANGE OF OWNERSHIP DOES NOT INCLUDE DISSOLUTION OF
772 THE PARTNERSHIP TO FORM A CORPORATION WITH THE SAME
773 PERSONS RETAINING THE SAME SHARES OF OWNERSHIP IN THE
774 NEW CORPORATION.
775

776 C) CORPORATIONS:

777
778 1) CONSOLIDATION OF TWO OR MORE CORPORATIONS RESULTING
779 IN THE CREATION OF A NEW CORPORATE ENTITY SHALL BE
780 CONSIDERED A CHANGE OF OWNERSHIP IF THE CONSOLIDATION

781 INCLUDES A TRANSFER OF AT LEAST 50 PERCENT OF THE
782 DIRECT OR INDIRECT OWNERSHIP TO ONE OR MORE NEW
783 OWNERS.

784
785 2) FORMATION OF A CORPORATION FROM A PARTNERSHIP, A SOLE
786 PROPRIETORSHIP OR A LIMITED LIABILITY COMPANY SHALL BE
787 CONSIDERED A CHANGE OF OWNERSHIP IF THE CHANGE
788 INCLUDES A TRANSFER OF AT LEAST 50 PERCENT OF THE
789 DIRECT OR INDIRECT OWNERSHIP TO ONE OR MORE NEW
790 OWNERS.

791
792 3) THE TRANSFER, PURCHASE OR SALE OF SHARES IN THE
793 CORPORATION SUCH THAT AT LEAST 50 PERCENT OF THE
794 DIRECT OR INDIRECT OWNERSHIP OF THE CORPORATION IS
795 SHIFTED TO ONE OR MORE NEW OWNERS SHALL BE
796 CONSIDERED A CHANGE OF OWNERSHIP.

797
798 D) LIMITED LIABILITY COMPANIES:

799
800 1) THE TRANSFER OF AT LEAST 50 PERCENT OF THE DIRECT OR
801 INDIRECT OWNERSHIP INTEREST IN THE COMPANY SHALL BE
802 CONSIDERED A CHANGE OF OWNERSHIP.

803
804 2) THE TERMINATION OR DISSOLUTION OF THE COMPANY AND THE
805 CONVERSION THEREOF INTO ANY OTHER ENTITY SHALL BE
806 CONSIDERED A CHANGE OF OWNERSHIP IF THE CONVERSION
807 ALSO INCLUDES A TRANSFER OF AT LEAST 50 PERCENT OF THE
808 DIRECT OR INDIRECT OWNERSHIP TO ONE OR MORE NEW
809 OWNERS.

810
811 3) CHANGE OF OWNERSHIP DOES NOT INCLUDE TRANSFERS OF
812 OWNERSHIP INTEREST BETWEEN EXISTING MEMBERS IF THE
813 TRANSACTION DOES NOT INVOLVE THE ACQUISITION OF
814 OWNERSHIP INTEREST BY A NEW MEMBER. FOR THE PURPOSES
815 OF THIS SUBSECTION, "MEMBER" MEANS A PERSON OR ENTITY
816 WITH AN OWNERSHIP INTEREST IN THE LIMITED LIABILITY
817 COMPANY.

818
819 5.8.4. MANAGEMENT CONTRACTS, LEASES OR OTHER OPERATIONAL
820 ARRANGEMENTS:

821
822 A) IF THE OWNER OF AN AIR AMBULANCE SERVICE ENTERS INTO A LEASE
823 ARRANGEMENT OR MANAGEMENT AGREEMENT WHEREBY THE OWNER
824 RETAINS NO AUTHORITY OR RESPONSIBILITY FOR THE OPERATION AND
825 MANAGEMENT OF THE AIR AMBULANCE SERVICE, THE ACTION SHALL BE
826 CONSIDERED A CHANGE OF OWNERSHIP THAT REQUIRES A NEW
827 LICENSE.

828
829 5.8.5 EACH APPLICANT FOR A CHANGE OF OWNERSHIP SHALL PROVIDE THE
830 FOLLOWING INFORMATION:

831
832 A) THE LEGAL NAME OF THE ENTITY AND ALL OTHER NAMES USED BY IT
833 TO PROVIDE HEALTH CARE SERVICES. THE APPLICANT HAS A
834 CONTINUING DUTY TO NOTIFY THE DEPARTMENT OF ALL NAME
835 CHANGES AT LEAST THIRTY (30) CALENDAR DAYS PRIOR TO THE
836 EFFECTIVE DATE OF THE CHANGE.

837
838 B) CONTACT INFORMATION FOR THE ENTITY INCLUDING MAILING
839 ADDRESS, TELEPHONE AND FACSIMILE NUMBERS, E-MAIL ADDRESS
840 AND WEBSITE ADDRESS, AS APPLICABLE.

841

- 842 C) THE IDENTITY OF ALL PERSONS AND BUSINESS ENTITIES WITH A
843 CONTROLLING INTEREST IN THE AIR AMBULANCE SERVICE, INCLUDING
844 ADMINISTRATORS, DIRECTORS, MANAGERS AND MANAGEMENT
845 CONTRACTORS.
- 846
- 847 1) A NON-PROFIT CORPORATION SHALL LIST THE GOVERNING
848 BODY AND OFFICERS.
- 849
- 850 2) A FOR-PROFIT CORPORATION SHALL LIST THE NAMES OF THE
851 OFFICERS AND STOCKHOLDERS WHO DIRECTLY OR INDIRECTLY
852 OWN OR CONTROL FIVE PERCENT OR MORE OF THE SHARES OF
853 THE CORPORATION.
- 854
- 855 3) A SOLE PROPRIETOR SHALL INCLUDE PROOF OF LAWFUL
856 PRESENCE IN THE UNITED STATES IN COMPLIANCE WITH
857 SECTION 24-76.5-103(4), C.R.S.
- 858
- 859 D) THE NAME, ADDRESS AND BUSINESS TELEPHONE NUMBER OF EVERY
860 PERSON IDENTIFIED IN SECTION 5.8.5 (C) AND THE INDIVIDUAL
861 DESIGNATED BY THE APPLICANT AS THE CHIEF EXECUTIVE OFFICER OF
862 THE ENTITY.
- 863
- 864 1) IF THE ADDRESSES AND TELEPHONE NUMBERS PROVIDED
865 ABOVE ARE THE SAME AS THE CONTACT INFORMATION FOR THE
866 ENTITY ITSELF, THE APPLICANT SHALL ALSO PROVIDE AN
867 ALTERNATE ADDRESS AND TELEPHONE NUMBER FOR AT LEAST
868 ONE INDIVIDUAL FOR USE IN THE EVENT OF AN EMERGENCY OR
869 CLOSURE OF THE AIR AMBULANCE SERVICE.
- 870
- 871 E) PROOF OF PROFESSIONAL LIABILITY INSURANCE OBTAINED AND HELD
872 IN THE NAME OF THE LICENSE APPLICANT AS REQUIRED BY SECTION
873 5.1.1 (F) & (G) OF THESE RULES. SUCH COVERAGE SHALL BE
874 MAINTAINED FOR THE DURATION OF THE LICENSE TERM AND THE
875 DEPARTMENT SHALL BE NOTIFIED OF ANY CHANGE IN THE AMOUNT,
876 TYPE OR PROVIDER OF PROFESSIONAL LIABILITY INSURANCE
877 COVERAGE DURING THE LICENSE TERM.
- 878
- 879 F) ARTICLES OF INCORPORATION, ARTICLES OF ORGANIZATION,
880 PARTNERSHIP AGREEMENT, OR OTHER ORGANIZING DOCUMENTS
881 REQUIRED BY THE SECRETARY OF STATE TO CONDUCT BUSINESS IN
882 COLORADO; AND BY-LAWS OR EQUIVALENT DOCUMENTS THAT GOVERN
883 THE RIGHTS, DUTIES AND CAPITAL CONTRIBUTIONS OF THE BUSINESS
884 ENTITY.
- 885
- 886 G) THE ADDRESS OF THE ENTITY'S PHYSICAL LOCATION AND THE NAME(S)
887 OF THE OWNER(S) OF EACH STRUCTURE ON THE CAMPUS WHERE
888 LICENSED SERVICES ARE PROVIDED IF DIFFERENT FROM THOSE
889 IDENTIFIED IN PARAGRAPH (C) OF THIS SECTION.
- 890
- 891 H) A COPY OF ANY MANAGEMENT AGREEMENT PERTAINING TO
892 OPERATION OF THE ENTITY THAT SETS FORTH THE FINANCIAL AND
893 ADMINISTRATIVE RESPONSIBILITIES OF EACH PARTY.
- 894
- 895 I) IF AN APPLICANT LEASES ONE OR MORE BUILDING(S) TO OPERATE AS A
896 LICENSED AIR AMBULANCE SERVICE, A COPY OF THE LEASE SHALL BE
897 FILED WITH THE LICENSE APPLICATION AND SHOW CLEARLY IN ITS
898 CONTEXT WHICH PARTY TO THE AGREEMENT IS TO BE HELD
899 RESPONSIBLE FOR THE PHYSICAL CONDITION OF THE PROPERTY.
- 900
- 901 J) A STATEMENT SIGNED AND DATED CONTEMPORANEOUSLY WITH THE
902 APPLICATION STATING WHETHER, WITHIN THE PREVIOUS TEN (10)

YEARS, ANY OF THE NEW OWNERS HAVE BEEN THE SUBJECT OF, OR A PARTY TO, ONE OF MORE OF THE FOLLOWING EVENTS, REGARDLESS OF WHETHER ACTION HAS BEEN STAYED IN A JUDICIAL APPEAL OR OTHERWISE SETTLED BETWEEN THE PARTIES.

- 1) BEEN CONVICTED OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE UNDER THE LAWS OF ANY STATE OR OF THE UNITED STATES. A GUILTY VERDICT, A PLEA OF GUILTY OR A PLEA OF NOLO CONTENDERE (NO CONTEST) ACCEPTED BY THE COURT IS CONSIDERED A CONVICTION.
- 2) HAD A STATE LICENSE OR FEDERAL CERTIFICATION DENIED, REVOKED, OR SUSPENDED BY ANOTHER JURISDICTION.
- 3) HAD A CIVIL JUDGMENT OR A CRIMINAL CONVICTION IN A CASE BROUGHT BY FEDERAL, STATE OR LOCAL AUTHORITIES THAT RESULTED FROM THE OPERATION, MANAGEMENT, OR OWNERSHIP OF A HEALTH FACILITY OR OTHER ENTITY RELATED TO SUBSTANDARD PATIENT CARE OR HEALTH CARE FRAUD.

K) ANY STATEMENT REGARDING THE INFORMATION REQUESTED IN PARAGRAPH (J) SHALL INCLUDE THE FOLLOWING, IF APPLICABLE:

- 1) IF THE EVENT IS AN ACTION BY FEDERAL, STATE OR LOCAL AUTHORITIES; THE FULL NAME OF THE AUTHORITY, ITS JURISDICTION, THE CASE NAME, AND THE DOCKET, PROCEEDING OR CASE NUMBER BY WHICH THE EVENT IS DESIGNATED, AND A COPY OF THE CONSENT DECREE, ORDER OR DECISION.
- 2) IF THE EVENT IS A FELONY OR MISDEMEANOR CONVICTION INVOLVING MORAL TURPITUDE, THE COURT, ITS JURISDICTION, THE CASE NAME, THE CASE NUMBER, A DESCRIPTION OF THE MATTER OR A COPY OF THE INDICTMENT OR CHARGES, AND ANY PLEA OR VERDICT ENTERED BY THE COURT.
- 3) IF THE EVENT INVOLVES A CIVIL ACTION OR ARBITRATION PROCEEDING, THE COURT OR ARBITER, THE JURISDICTION, THE CASE NAME, THE CASE NUMBER, A DESCRIPTION OF THE MATTER OR A COPY OF THE COMPLAINT, AND A COPY OF THE VERDICT, THE COURT OR ARBITRATION DECISION.

5.8.6 THE EXISTING LICENSEE SHALL BE RESPONSIBLE FOR CORRECTING ALL RULE VIOLATIONS AND DEFICIENCIES IN ANY CURRENT PLAN OF CORRECTION BEFORE THE CHANGE OF OWNERSHIP BECOMES EFFECTIVE. IN THE EVENT THAT SUCH CORRECTIONS CANNOT BE ACCOMPLISHED IN THE TIME FRAME SPECIFIED, THE PROSPECTIVE LICENSEE SHALL BE RESPONSIBLE FOR ALL UNCORRECTED RULE VIOLATIONS AND DEFICIENCIES INCLUDING ANY CURRENT PLAN OF CORRECTION SUBMITTED BY THE PREVIOUS LICENSEE UNLESS THE PROSPECTIVE LICENSEE SUBMITS A REVISED PLAN OF CORRECTION, APPROVED BY THE DEPARTMENT, BEFORE THE CHANGE OF OWNERSHIP BECOMES EFFECTIVE.

5.8.7 IF THE DEPARTMENT ISSUES A LICENSE TO THE NEW OWNER, THE PREVIOUS OWNER SHALL RETURN ITS LICENSE TO THE DEPARTMENT WITHIN FIVE (5) CALENDAR DAYS OF THE NEW OWNER'S RECEIPT OF ITS LICENSE.

5.9 BASE LOCATIONS IN COLORADO.

5.9.1 IF AN AIR AMBULANCE SERVICE HAS A BASE LOCATED WITHIN COLORADO, THE AIR AMBULANCE SERVICE SHALL AT ALL TIMES:

- 964 A) MAINTAIN OR HAVE READILY AVAILABLE RECORDS OF OPERATION;
965
966 B) HAVE SECURITY MEASURES IN PLACE TO PROTECT THE AIR
967 AMBULANCE FROM TAMPERING AND THE UNAUTHORIZED ACCESS TO
968 MEDICAL EQUIPMENT AND SUPPLIES, INCLUDING PHARMACEUTICALS.
969 THIS WOULD INCLUDE DIRECT VISUAL MONITORING OR CLOSED
970 CIRCUIT TELEVISION OR THE AIR AMBULANCE MUST BE IN A SECURED
971 LOCATION WITH LOCKED PERIMETER FENCING OR HANGAR;
972
973 C) DISPLAY ITS COLORADO AIR AMBULANCE SERVICE LICENSE WITHIN A
974 BUILDING AT THE BASE LOCATION;
975
976 D) DISPLAY ITS DRUG ENFORCEMENT AGENCY REGISTRATION IN THE
977 BUILDING WHERE CONTROLLED SUBSTANCES, IF ANY, ARE STORED;
978
979 E) MAINTAIN A CURRENT POST-ACCIDENT INCIDENT PLAN;
980
981 F) COMPLY WITH APPLICABLE STATE AND LOCAL BUILDING AND FIRE
982 CODES;
983
984 G) MAINTAIN OR HAVE READILY AVAILABLE DOCUMENTATION OF THE
985 PROFESSIONAL CERTIFICATIONS AND/OR LICENSES AND CONTINUING
986 EDUCATION DOCUMENTATION FOR STAFF RESPONSIBLE FOR
987 PROVIDING PATIENT CARE.
988

989 5.9.2 AN AIR AMBULANCE SERVICE THAT HAS A BASE LOCATION IN COLORADO IS
990 NOT ELIGIBLE FOR OUT OF STATE LICENSURE RECOGNITION PURSUANT TO
991 SECTION 4 OF THESE RULES.
992

993 Section 6 - Fees

994
995 6.1 All applicants seeking air ambulance licensure by the department under these rules shall submit
996 the following non-refundable fees REQUIRED BY THIS SECTION 6 with each initial or renewal
997 licensure application:.

998
999 ~~6.1.1 \$860 for each air ambulance service, plus \$100 for each aircraft used by the air ambulance~~
1000 ~~service.~~

1001 ~~6.1.2 For applicants who are not CAMTS accredited, the applicant shall pay a fee of \$525 to the~~
1002 ~~department in addition to the fee set forth in Subsection 6.1.1 above.~~

1003 6.2 From January 1, 2015 until July 1, 2017, the fees set forth in Subsection 6.1 are waived.

1004 6.2 LICENSING FEES.

1005
1006 6.2.1 EACH AIR AMBULANCE SERVICE SEEKING INITIAL OR RENEWAL LICENSURE
1007 PURSUANT TO SECTION 5.3 OR 5.4 SHALL SUBMIT A LICENSING FEE OF \$3,400
1008 TO THE DEPARTMENT.
1009

1010 6.2.2 ALL APPLICANTS SEEKING AN INITIAL OR RENEWAL RECOGNITION OF OUT OF
1011 STATE LICENSURE PURSUANT TO SECTION 4 SHALL PAY AN ANNUAL FEE OF
1012 \$1700 TO THE DEPARTMENT.
1013

1014 6.2.3 ALL APPLICANTS SEEKING A PROVISIONAL LICENSE PURSUANT TO SECTION 5.6
1015 SHALL PAY A FEE OF \$1700 TO THE DEPARTMENT. AN APPLICANT SEEKING A
1016 SECOND PROVISIONAL LICENSE SHALL PAY THE SAME FEE AMOUNT AS
1017 RENDERED FOR THE FIRST PROVISIONAL LICENSE.
1018

1019 6.2.4 ALL APPLICANTS SUBJECT TO A CONDITIONAL LICENSE PURSUANT TO 5.7 MAY
1020 BE ASSESSED A FEE BASED ON THE DIRECT AND INDIRECT COSTS INCURRED
1021 BY THE DEPARTMENT IN ADDITION TO THE REQUIRED INITIAL OR RENEWAL FEE
1022 IN 6.2.1 OF THESE RULES.
1023

1024 6.3 PER AIRCRAFT FEES.

- 1025
- 1026 6.3.1 IN ADDITION TO LICENSING FEES SET FORTH IN 6.2.1, EACH AIR AMBULANCE
- 1027 SERVICE SEEKING INITIAL OR RENEWAL LICENSURE PURSUANT TO SECTIONS
- 1028 5.3 AND 5.4 OF THESE RULES SHALL PAY A PER AIRCRAFT FEE OF \$400 TO THE
- 1029 DEPARTMENT FOR EACH AIRCRAFT USED BY THE AIR AMBULANCE SERVICE.
- 1030
- 1031 6.3.2 IN ADDITION TO THE LICENSING FEES SET FORTH IN 6.2.2, EACH AIR
- 1032 AMBULANCE SERVICE SEEKING AN INITIAL OR RENEWAL RECOGNITION OF OUT
- 1033 OF STATE LICENSURE PURSUANT TO SECTION 4 SHALL PAY A PER AIRCRAFT
- 1034 FEE OF \$200 TO THE DEPARTMENT FOR EACH AIRCRAFT USED BY THE AIR
- 1035 AMBULANCE SERVICE IN THE STATE.
- 1036
- 1037 6.3.3 IN ADDITION TO THE LICENSING FEES SET FORTH IN 6.2.3, EACH AIR
- 1038 AMBULANCE SERVICE SEEKING AN INITIAL OR SECOND PROVISIONAL LICENSE
- 1039 PURSUANT TO 5.6 SHALL PAY A PER AIRCRAFT FEE OF \$400 TO THE
- 1040 DEPARTMENT FOR EACH AIRCRAFT USED BY THE AIR AMBULANCE SERVICE.
- 1041
- 1042 6.3.4 IN ADDITION TO THE LICENSING FEES SET FORTH IN 6.2.4, EACH AIR
- 1043 AMBULANCE SERVICE SUBJECT TO A CONDITIONAL LICENSE PURSUANT TO
- 1044 SECTION 5.7 SHALL PAY A PER AIRCRAFT FEE OF \$400 TO THE DEPARTMENT
- 1045 FOR EACH AIRCRAFT USED BY THE AIR AMBULANCE SERVICE.
- 1046
- 1047 6.4 IN ADDITION TO THE APPLICABLE FEES SET FORTH IN 6.2 AND 6.3 OF THESE RULES,
- 1048 THE DEPARTMENT SHALL ASSESS A VARIABLE ON-SITE INSPECTION FEE FOR ALL
- 1049 APPLICANTS SEEKING STATE LICENSURE PURSUANT TO SECTION 5.3.
- 1050
- 1051 6.5 IF, AFTER OBTAINING A LICENSE, AN AIR AMBULANCE SERVICE EXPANDS ITS FLEET OF
- 1052 AIRCRAFT LICENSED IN COLORADO, THE SERVICE SHALL PAY THE APPROPRIATE PER
- 1053 AIRCRAFT FEE AS SET FORTH IN 6.2 FOR EVERY ADDITIONAL AIRCRAFT AT THE TIME IT
- 1054 IS PLACED IN SERVICE. MOREOVER, IF THE DEPARTMENT DEEMS IT NECESSARY TO
- 1055 INSPECT THE ADDITIONAL AIRCRAFT IT SHALL ASSESS UPON THE LICENSEE THE
- 1056 INSPECTION FEE AS SET FORTH IN 6.4.
- 1057
- 1058 6.6 ANY AIR AMBULANCE SERVICE CHANGING OWNERSHIP PURSUANT TO SECTION 5.8
- 1059 SHALL PAY THE DEPARTMENT A FEE OF \$3400.
- 1060
- 1061 6.7 ANY AIR AMBULANCE SERVICE CHANGING ITS NAME SHALL PAY THE DEPARTMENT A
- 1062 FEE OF \$600.
- 1063

1064 **Section 7—Licensing Process (REPEALED)**

- 1065 ~~7.1 To become licensed and maintain licensed status, an air ambulance service shall:~~
- 1066 ~~7.1.1 Achieve and maintain CAMTS accreditation.~~
- 1067 ~~7.1.2 Demonstrate compliance with applicable federal, state, and local laws and regulations to~~
- 1068 ~~operate a business in Colorado.~~
- 1069 ~~7.1.3 Submit to the department a completed application form and the required application fee.~~
- 1070 ~~7.1.4 Demonstrate compliance with these rules.~~
- 1071 ~~7.1.5 Upon request, submit to the department copies of the air ambulance service's written policy~~
- 1072 ~~and procedure manual, operation/medical protocols, and other documentation the~~
- 1073 ~~department may deem necessary.~~
- 1074 ~~7.2 The department may conduct an inspection of the air ambulance service and its aircraft to assure~~
- 1075 ~~compliance with these rules.~~

7.3 ~~When change of ownership of an air ambulance service licensed by the department occurs, the new owner or operator must file for and obtain an air ambulance license from the department prior to beginning operations.~~

Section 7 – Licensing Period

7.1 EXCEPT AS PROVIDED IN SECTIONS 4.2.3 AND 5.6.2, A any air ambulance license issued by the department shall be valid for a period not to exceed TWO (2) yearS.

Section 8 – Licensing RENEWAL AND RECOGNITION OF OUT OF STATE LICENSE Renewal

8.1 To renew an existing air ambulance license, the licensee shall submit a renewal application and fees, as set by the department, no later than ~~three (3) months~~ THIRTY (30) CALENDAR DAYS prior to the date of air ambulance license expiration.

8.2 A renewal inspection may be required by the department to assure air ambulance service compliance with these rules.

8.3 EXCEPT AS OTHERWISE PROVIDED IN SECTION 5.6 OF THESE RULES, THE DEPARTMENT SHALL RENEW A LICENSE WHEN IT IS SATISFIED THAT THE REQUIREMENTS OF THESE RULES HAVE BEEN MET. IF THE LICENSEE HAS MADE A TIMELY AND SUFFICIENT APPLICATION FOR RENEWAL OF THE LICENSE, THE EXISTING LICENSE SHALL NOT EXPIRE UNTIL THE DEPARTMENT HAS ACTED UPON THE RENEWAL APPLICATION.

8.4 IF AN AIR AMBULANCE SERVICE IS AUTHORIZED TO OPERATE IN COLORADO BECAUSE OF THE DEPARTMENT'S RECOGNITION OF OUT OF STATE LICENSURE PURSUANT TO SECTION 4, THE LICENSEE SHALL SUBMIT A RENEWAL APPLICATION, DOCUMENTATION OF CURRENT OUT OF STATE LICENSURE AND FEES, AS SET FORTH IN SECTION 6, NO LATER THAN THIRTY (30) CALENDAR DAYS PRIOR TO THE DATE OF THE COLORADO AIR AMBULANCE RECOGNITION EXPIRATION.

~~Section 10 – DESIGNATION AND NUMBER OF AIR AMBULANCES (REPEALED)~~

~~10.1 In order to identify the types of services to be provided, air ambulance licenses shall be issued for each of the following types of service.~~

~~10.1.1 Rotor wing advanced life support (RW-ALS)~~

~~10.1.2 Rotor wing critical care (RW-CC)~~

~~10.1.3 Rotor wing specialty care (RW-SC)~~

~~10.1.4 Fixed wing basic life support (FW-BLS)~~

~~10.1.5 Fixed wing advanced life support (FW-ALS)~~

~~10.1.6 Fixed wing critical care (FW-CC)~~

~~10.1.7 Fixed wing specialty care (FW-SC)~~

Section 9 – General MEDICAL Operational Requirements for Air Ambulance Services Licensed by the Department

9.1 POLICIES AND PROCEDURES

9.1.1 TO ASSESS THE ADEQUACY OF PATIENT CARE, EVERY APPLICANT OR LICENSEE SHALL MAKE AVAILABLE FOR REFERENCE AND INSPECTION A DETAILED MANUAL OF ITS POLICIES AND PROCEDURES. SERVICE PERSONNEL SHALL BE FAMILIAR AND COMPLY WITH POLICIES CONTAINED WITHIN THE MANUAL. THE MANUAL SHALL INCLUDE:

1128

- 1129 A) PROCEDURES FOR ACCEPTANCE OF REQUESTS, REFERRALS, AND/OR
1130 DENIAL OF SERVICE FOR MEDICALLY RELATED REASONS;
1131
- 1132 B) A WRITTEN DESCRIPTION OF THE GEOGRAPHICAL BOUNDARIES AND
1133 FEATURES FOR THE SERVICE AREA, AND A COPY OF THE SERVICE
1134 AREA MAP;
1135
- 1136 C) SCHEDULED HOURS OF OPERATION;
1137
- 1138 D) CRITERIA FOR THE MEDICAL CONDITIONS AND INDICATIONS OR
1139 MEDICAL CONTRAINDICATIONS FOR FLIGHT;
1140
- 1141 E) FIELD TRIAGE CRITERIA FOR ALL TRAUMA PATIENTS;
1142
- 1143 F) MEDICAL COMMUNICATION PROCEDURES, INCLUDING BUT NOT LIMITED
1144 TO MEDICALLY-RELATED DISPATCH PROTOCOL, CALL VERIFICATION
1145 AND ADVISORIES TO THE REQUESTING PARTY, TO INCLUDE
1146 PROCEDURES FOR INFORMING REQUESTING PARTY OF FLIGHT
1147 PROCEDURES, ANTICIPATED TIME OF AIRCRAFT ARRIVAL, AND
1148 CANCELLATION OF FLIGHT;
1149
- 1150 G) CRITERIA REGARDING ACCEPTABLE DESTINATIONS BASED UPON
1151 MEDICAL NEEDS OF THE PATIENT;
1152
- 1153 H) NON-AVIATION SAFETY PROCEDURES FOR MEDICAL CREW
1154 ASSIGNMENTS AND NOTIFICATION, INCLUDING ROSTERS OF MEDICAL
1155 PERSONNEL;
1156
- 1157 I) WRITTEN POLICY THAT ENSURES AIR MEDICAL PERSONNEL SHALL NOT
1158 BE ASSIGNED OR ASSUME COCKPIT DUTIES CONCURRENT WITH
1159 PATIENT CARE DUTIES AND RESPONSIBILITIES;
1160
- 1161 J) WRITTEN POLICY THAT DIRECTS AIR AMBULANCE PERSONNEL TO
1162 HONOR A PATIENT REQUEST FOR A SPECIFIC SERVICE OR DESTINATION
1163 WHEN THE CIRCUMSTANCES WILL NOT JEOPARDIZE PATIENT SAFETY;
1164
- 1165 K) ON-GROUND MEDICAL COMMUNICATIONS PROCEDURES;
1166
- 1167 L) FLIGHT REFERRAL PROCEDURES;
1168
- 1169 M) A WRITTEN PLAN THAT ADDRESSES THE ACTIONS TO BE TAKEN IN THE
1170 EVENT OF AN EMERGENCY, DIVERSION, OR PATIENT CRISIS DURING
1171 TRANSPORT OPERATIONS;
1172
- 1173 N) PATIENT TRACKING PROCEDURES THAT SHALL ASSURE AIR/GROUND
1174 POSITION REPORTS AT INTERVALS NOT TO EXCEED FIFTEEN MINUTES
1175 INFLIGHT AND 45 MINUTES WHILE LANDED ON THE GROUND;
1176
- 1177 O) WRITTEN PROCEDURES GOVERNING THE AIR AMBULANCE SERVICE'S
1178 MEDICAL COMPLAINT RESOLUTION PROCESS AND PROTOCOLS. AT
1179 MINIMUM, THE AIR AMBULANCE SERVICE SHALL DESIGNATE
1180 PERSONNEL RESPONSIBLE FOR ITS DISPUTE RESOLUTION PROCESS
1181 AND PROVIDE THE PROTOCOLS IT SHALL FOLLOW WHEN
1182 INVESTIGATING, TRACKING, DOCUMENTING, REVIEWING AND
1183 RESOLVING THE COMPLAINT. THE SERVICE'S COMPLAINT RESOLUTION
1184 PROCEDURES SHALL EMPHASIZE RESOLUTION OF COMPLAINTS AND
1185 PROBLEMS WITHIN A SPECIFIED PERIOD OF TIME; AND
1186

P) POLICY FOR DELINEATING METHODS FOR MAINTAINING MEDICAL COMMUNICATIONS DURING POWER OUTAGES AND IN DISASTER SITUATIONS.

9.1.2. TO ENSURE PROPER PATIENT CARE AND THE EFFECTIVE COORDINATION OF STATEWIDE EMERGENCY MEDICAL AND TRAUMA SERVICES, SERVICES THAT RESPOND TO INCIDENT SCENES AND/OR SUPPORT DISASTER RESPONSE SHALL PROVIDE AIRCRAFT SAFETY AND LANDING ZONE PROCEDURES IN A WRITTEN FORMAT TO ALL FIRE, RESCUE, EMS, PUBLIC SAFETY, LAW ENFORCEMENT AGENCIES AND MEDICAL FACILITY PERSONNEL WHO INTERFACE WITH THE MEDICAL SERVICE THAT INCLUDES BUT IS NOT LIMITED TO THE FOLLOWING:

- A) THE IDENTIFICATION, DESIGNATING AND PREPARATION OF APPROPRIATE LANDING ZONES;
- B) PROVIDER SAFETY IN AND AROUND THE AIRCRAFT;
- C) AIR TO GROUND COMMUNICATIONS; AND
- D) CRASH RECOVERY PROCEDURES

~~Each air ambulance service shall work in coordination with all other air ambulance services to assure optimal minimal response times.~~

~~11.2 Policies for responding to requests for services shall include:~~

~~11.2.1 Consultation with the requesting party regarding how and to whom those flights will be referred, based on the air ambulance service's scope of service, geographical proximity, transport capability and type of call.~~

~~11.2.2 The closest appropriate licensed air ambulance service shall be dispatched unless a specific licensed air ambulance service is requested by the requesting party.~~

~~11.2.3 All air ambulance services must have a communications system in place capable of providing appropriate, timely referrals.~~

~~11.2.4 Factors affecting the estimated time of arrival (ETA) of air ambulance service shall be communicated to the calling party as soon as possible, within five (5) minutes for inter-facility transports and three (3) minutes for scene requests.~~

~~11.2.5 Scene requests shall be referred within three (3) minutes to the next closest, available, appropriate resource if the initial requested air ambulance service does not have an aircraft and crew immediately available.~~

~~11.2.6 Inter-facility transport requests shall be referred within five (5) minutes to the next closest, available, appropriate resource if the initial requested air ambulance service does not have an aircraft and crew immediately available.~~

~~11.2.7 Air ambulance service response policies and times shall be available to the public, upon request.~~

~~11.2.8 In accordance with the Rules Pertaining to Emergency Medical Services Data and Information Collection and Record Keeping at 6 CCR 1015-3, Chapter Three, Colorado licensed air ambulance services shall complete a patient care report (PCR) to include the minimum pre-hospital care data set for each patient that is transported. The minimum data elements identified by the department shall be compiled and submitted to the department in a format and frequency specified by the department~~

1236 9.2. Each licensed air ambulance service shall complete and submit to the department ~~an agency~~
1237 ~~profile to provide~~ A PROFILE THAT INCLUDES information TO BE USED BY THE
1238 DEPARTMENT TO PROVIDE EFFECTIVE COMMUNICATIONS, PLANNING AND
1239 COORDINATION OF STATEWIDE EMERGENCY MEDICAL AND TRAUMA SERVICES. ~~on~~
1240 ~~resources available for planning and coordination of statewide emergency medical and trauma~~
1241 ~~services.~~

1242
1243 9.2.1 ALL AIR AMBULANCE SERVICE AGENCIES LICENSED IN COLORADO SHALL
1244 PROVIDE THE DEPARTMENT WITH THE REQUIRED DATA AND INFORMATION AS
1245 SPECIFIED BELOW IN A FORMAT DETERMINED BY THE DEPARTMENT OR IN AN
1246 ALTERNATE MEDIA ACCEPTABLE TO THE DEPARTMENT.

1247
1248 9.2.2 AIR AMBULANCE SERVICE AGENCIES SHALL PROVIDE ORGANIZATIONAL
1249 PROFILE DATA IN A MANNER DESIGNATED BY THE DEPARTMENT.

1250
1251 9.2.3 AGENCIES SHALL UPDATE ORGANIZATIONAL PROFILE DATA WHENEVER
1252 CHANGES OCCUR AND AT LEAST ANNUALLY.
1253

1254 9.3 MEDICAL TRANSPORT PLANS

1255
1256 9.3.1 TO ENSURE PROPER PATIENT CARE AND THE EFFECTIVE COORDINATION OF
1257 STATEWIDE EMERGENCY MEDICAL AND TRAUMA SERVICES, ALL AIR
1258 AMBULANCE SERVICES SHALL HAVE AN INTEGRATED MEDICAL TRANSPORT
1259 PLAN FOR EACH AIR AMBULANCE LICENSED BY THE DEPARTMENT THAT
1260 DESCRIBES THE FOLLOWING:

1261 A) BASE LOCATION

1262 B) HOURS OF OPERATION

1263 C) EMERGENCY (DISPATCH) AND NON-EMERGENCY (BUSINESS) CONTACT
1264 INFORMATION

1265 D) DESCRIPTION OF PRIMARY AND SECONDARY SERVICE AREAS

1266 E) MEDICAL CRITERIA FOR UTILIZATION

1267 F) DESCRIPTION OF MEDICAL CAPABILITIES (INCLUDING AVAILABILITY OF
1268 SPECIALIZED MEDICAL TRANSPORT EQUIPMENT)

1269 G) COMMUNICATIONS CAPABILITIES INCLUDING (BUT NOT LIMITED TO)
1270 RADIO FREQUENCIES AND TALK GROUPS.

1271 H) PROCEDURES FOR COMMUNICATING WITH THE AIR MEDICAL CREW

1272 I) MUTUAL AID OR BACKUP PROCEDURES WHEN THE SERVICE IS NOT
1273 AVAILABLE

1281 9.4 MEDICALLY-RELATED DISPATCH PROTOCOLS

1282
1283 9.4.1 WHEN AIR AMBULANCE TRANSPORT IS INDICATED, REQUESTS SHALL BE
1284 APPROPRIATELY COORDINATED AFTER CONSULTATION WITH THE
1285 REQUESTING PARTY. ALL AIR AMBULANCE SERVICES SHALL MAINTAIN
1286 COMMUNICATION WITH ALL APPROPRIATE ENTITIES INVOLVED IN THE
1287 RESPONSE, INCLUDING THE RECEIVING FACILITY.
1288

1289 9.5 MEDICAL COMMUNICATIONS

1290
1291 9.5.1 AN AIR AMBULANCE SERVICE SHALL HAVE A TWO-WAY WIRELESS
1292 COMMUNICATIONS SYSTEM WITH RELIABLE EQUIPMENT THAT WILL ALLOW
1293

CLEAR VOICE COMMUNICATION AMONG AND BETWEEN ALL AGENCIES
NECESSARY FOR THE SAFE AND EFFECTIVE TRANSPORT AND MEDICAL CARE
OF THE PATIENT AND CREW.

9.5.2 AN AIR AMBULANCE SERVICE'S TWO-WAY COMMUNICATION EQUIPMENT
SYSTEM SHALL ALLOW FOR OR HAVE:

- A) REAL-TIME PATIENT TRACKING THAT SHALL BE MAINTAINED AND
DOCUMENTED EVERY FIFTEEN (15) MINUTES INCLUDING THE TIME THE
AIR AMBULANCE RETURNS TO SERVICE FOLLOWING TRANSPORT.
- B) APPROPRIATE WIRELESS COMMUNICATIONS CAPABILITIES WITH LOCAL
FIRST RESPONDERS, TO INCLUDE FIRE, RESCUE, EMERGENCY MEDICAL
SERVICES (EMS), AND LAW ENFORCEMENT AS PUBLISHED IN THE STATE
EMS TELECOMMUNICATIONS PLAN.
- C) A SYSTEM OF COMMUNICATIONS, EXCLUSIVE OF THE AIR TRAFFIC
CONTROL SYSTEM, THAT MUST BE CAPABLE OF COMMUNICATIONS
WITH MEDICAL SERVICES (EMS), AND LAW ENFORCEMENT AS
PUBLISHED IN THE STATE EMS TELECOMMUNICATIONS PLAN.
- D) DEDICATED TELEPHONE NUMBER FOR THE AIR AMBULANCE SERVICE
DISPATCH CENTER.
- E) THE AIR AMBULANCE SERVICE COMMUNICATIONS CENTER MUST BE
STAFFED DURING ALL PHASES OF PATIENT TREATMENT AND
TRANSPORT.
- F) AN EMERGENCY PLAN FOR COMMUNICATIONS DURING POWER
OUTAGES AND IN DISASTER SITUATIONS.

9.6 MEDICAL PERSONNEL

9.6.1 AT A MINIMUM AN AIR AMBULANCE SERVICE MUST HAVE THE FOLLOWING
MEDICAL PERSONNEL:

- A) AN AIR AMBULANCE SERVICE MEDICAL DIRECTOR WHO OVERSEES THE
PRACTICE OF EMERGENCY MEDICAL SERVICES DURING PATIENT
TRANSPORT FOR A COLORADO LICENSED SERVICE MUST BE FAMILIAR
WITH COLORADO STATE MEDICAL STANDARDS, PRACTICES, AND
LICENSING REQUIREMENTS. THEREFORE, EXCEPT AS PROVIDED IN
9.6.1(B), A MEDICAL DIRECTOR MUST BE A COLORADO LICENSED
PHYSICIAN IN GOOD STANDING TO SUPERVISE THE MEDICAL CARE
PROVIDED IN AN AIR MEDICAL ENVIRONMENT. THE MEDICAL DIRECTOR
MUST ALSO:
 - 1) BE BOARD CERTIFIED OR BOARD-ELIGIBLE IN EMS, EMERGENCY
MEDICINE, OR OTHER SPECIALTY SERVING THE PATIENT
POPULATION INVOLVED;
 - 2) HAVE EXPERIENCE IN THE CARE OF PATIENTS CONSISTENT
WITH THE LICENSING AND MISSION PROFILE OF THE AIR
AMBULANCE SERVICE;
 - 3) HAVE ACCESS TO MEDICAL SPECIALISTS FOR CONSULTATION
REGARDING PATIENTS WHOSE ILLNESS AND CARE NEEDS ARE
OUTSIDE THE MEDICAL DIRECTOR'S AREA OF PRACTICE;
 - 4) HAVE A CURRENT DEA REGISTRATION; AND

1354 5) HAVE CURRENT CREDENTIALS ACHIEVED THROUGH ACTIVE
1355 PARTICIPATION IN PATIENT CARE AND CONTINUING MEDICAL
1356 EDUCATION ACTIVITIES APPROPRIATE FOR THE ROLE OF AN AIR
1357 AMBULANCE SERVICE MEDICAL DIRECTOR.
1358

1359 B) FOR AIR AMBULANCE SERVICES OPERATING PURSUANT TO SECTION 4
1360 OF THESE RULES, THE MEDICAL DIRECTOR WHO IS LICENSED AND IN
1361 GOOD STANDING, WITHOUT RESTRICTIONS OR CONDITIONS, IN THE
1362 STATE IN WHICH THE SERVICE IS BASED, AND WHO IS EXEMPT FROM
1363 COLORADO LICENSURE REQUIREMENTS PURSUANT TO SECTION 12-36-
1364 106(3)(b), C.R.S., MAY SUPERVISE THE MEDICAL CARE PROVIDED TO A
1365 PATIENT IN AN AIR MEDICAL TRANSPORT THAT EITHER ORIGINATES OR
1366 TERMINATES IN COLORADO. UNDER THESE CIRCUMSTANCES THE
1367 MEDICAL DIRECTOR MUST:

1368 1) BE BOARD CERTIFIED OR BOARD-ELIGIBLE IN EMS, EMERGENCY
1369 MEDICINE, OR OTHER SPECIALTY SERVING THE PATIENT
1370 POPULATION INVOLVED;
1371

1372 2) HAVE EXPERIENCE IN THE CARE OF PATIENTS CONSISTENT
1373 WITH THE LICENSING AND MISSION PROFILE OF THE AIR
1374 AMBULANCE SERVICE;
1375

1376 3) HAVE ACCESS TO MEDICAL SPECIALISTS FOR CONSULTATION
1377 REGARDING FOR PATIENTS WHOSE ILLNESS AND CARE NEEDS
1378 ARE OUTSIDE THE MEDICAL DIRECTOR'S AREA OF PRACTICE;
1379

1380 4) HAVE A CURRENT DEA REGISTRATION; AND
1381

1382 5) HAVE CURRENT CREDENTIALS ACHIEVED THROUGH ACTIVE
1383 PARTICIPATION IN PATIENT CARE AND CME ACTIVITIES
1384 APPROPRIATE FOR THE ROLE OF AN AIR AMBULANCE SERVICE
1385 MEDICAL DIRECTOR.
1386

1387 C) AN AIR AMBULANCE SERVICE MEDICAL DIRECTOR WHO OVERSEES THE
1388 PRACTICE OF EMERGENCY MEDICAL SERVICES DURING TRANSPORT OF
1389 A PATIENT THAT ORIGINATES AND TERMINATES IN COLORADO MUST BE
1390 A COLORADO LICENSED PHYSICIAN IN GOOD STANDING THAT MEETS
1391 THE REQUIREMENTS SET FORTH IN 9.6.1(A).
1392

1393 D) MEDICALLY QUALIFIED COLORADO LICENSED, OR CERTIFIED,
1394 INDIVIDUALS APPROPRIATE TO THE SCOPE AND MISSION OF THE AIR
1395 AMBULANCE SERVICE, OR PROVIDERS RECOGNIZED UNDER AN
1396 INTERSTATE COMPACT OF WHICH COLORADO IS A MEMBER.
1397 ACCEPTABLE MEDICAL PERSONNEL INCLUDE, BUT ARE NOT LIMITED TO
1398 PHYSICIANS, CERTIFIED EMERGENCY MEDICAL SERVICES PROVIDERS,
1399 REGISTERED NURSES, REGISTERED NURSE PRACTITIONERS,
1400 ADVANCED PRACTICE NURSES, PHYSICIAN ASSISTANTS, RESPIRATORY
1401 THERAPISTS, OR OTHER ALLIED HEALTH PROFESSIONALS.
1402

1403 9.6.2 EACH PATIENT TRANSPORT BY A LICENSED AIR AMBULANCE SERVICE SHALL
1404 BE STAFFED BY A MINIMUM OF TWO (2) MEDICAL PERSONNEL WHO ARE
1405 LICENSED OR CERTIFIED ACCORDING TO COLORADO AND/OR PROVIDERS
1406 RECOGNIZED UNDER AN INTERSTATE COMPACT OF WHICH COLORADO IS A
1407 MEMBER WHO PROVIDE DIRECT PATIENT CARE, PLUS A VEHICLE OPERATOR.
1408

1409 A) ONE OF THE MEDICAL PERSONNEL MUST BE THE PRIMARY CARE
1410 PROVIDER, WHO, AS THE TEAM LEADER WITH A HIGHER LEVEL OF
1411 LICENSE, IS ULTIMATELY RESPONSIBLE FOR THE PATIENT.
1412
1413

- (i) THE PRIMARY CARE PROVIDER MAY BE A LICENSED NURSE, A RESIDENT OR STAFF PHYSICIAN, OR A PARAMEDIC.
- (ii) IF THE PRIMARY CARE PROVIDER IS A LICENSED NURSE, S/HE MUST HAVE CEN, CCRN, CFRN OR CTRN [OR EQUIVALENT NATIONAL CERTIFICATION] WITHIN TWO (2) YEARS OF HIRE AND MUST HAVE PRE-HIRE EXPERIENCE IN THE MEDICATIONS AND INTERVENTIONS LISTED NECESSARY FOR THE SERVICE'S SCOPE OF CARE. THE LICENSED NURSE MUST ALSO HAVE THREE (3) YEARS CRITICAL CARE EXPERIENCE, WHICH IS NO LESS THAN 4000 HOURS EXPERIENCE IN AN ICU OR AN EMERGENCY DEPARTMENT.
- (iii) IF THE PRIMARY CARE PROVIDER IS A PARAMEDIC, S/HE MUST HAVE PRE-HIRE EXPERIENCE IN THE MEDICATIONS AND INTERVENTIONS LISTED NECESSARY FOR THE SERVICE'S SCOPE OF CARE. THE PARAMEDIC MUST ALSO HAVE 3 YEARS CRITICAL CARE EXPERIENCE, WHICH IS NO LESS THAN 4000 HOURS EXPERIENCE IN AN ICU OR AN EMERGENCY DEPARTMENT.
- B) IF THE SECOND MEDICAL PROVIDER IS A PARAMEDIC, THEN THE PARAMEDIC MUST HAVE A FP-C OR CCP-C, OR COLORADO CRITICAL CARE ENDORSEMENT, OR EQUIVALENT REQUIRED WITHIN TWO (2) YEARS OF HIRE, ALONG WITH THREE (3) YEARS (MINIMUM OF 4000 HOURS) OF ADVANCED LIFE SUPPORT EXPERIENCE.
- C) IF THE SECOND MEDICAL PROVIDER IS A REGISTERED RESPIRATORY THERAPIST (RRT), THE RRT IS REQUIRED TO HAVE A MINIMUM OF 4000 HOURS OF EMERGENCY DEPARTMENT OR ICU EXPERIENCE.
- D) THE COMPOSITION OF THE MEDICAL TEAM MAY BE ALTERED FOR SPECIALTY MISSIONS AND TEAMS UPON APPROVAL AND CREDENTIALING BY THE AIR AMBULANCE SERVICE MEDICAL DIRECTOR.
- E) THE MEDICAL TEAM MUST DEMONSTRATE AFFECTIVE AND PSYCHOMOTOR EDUCATION SUFFICIENT TO MEET THE CLINICAL NEEDS FOR THE TYPE OF PATIENT SERVED IN AN AIR AMBULANCE MEDICAL ENVIRONMENT WITHOUT RESTRICTIONS.
- F) MEDICAL PERSONNEL SHALL OPERATE ONLY WITHIN THEIR SCOPE OF PRACTICE, INCLUDING AN EMERGENCY MEDICAL SERVICE PROVIDER ACTING IN ACCORDANCE WITH A WAIVER GRANTED PURSUANT TO CHAPTER TWO, 6 CCR 1015-3.

9.6.3 TRAINING REQUIREMENTS

- A) AN AIR AMBULANCE SERVICE SHALL HAVE A TRAINING AND EDUCATIONAL PROGRAM THAT IS REQUIRED FOR ALL MEDICAL AIR AMBULANCE PERSONNEL, INCLUDING THE MEDICAL DIRECTOR.
- B) AT A MINIMUM, THE TRAINING AND EDUCATIONAL PROGRAM SHALL CONTAIN PROGRAM ORIENTATION, INITIAL AND RECURRENT TRAINING WHICH IS CONSISTENT WITH THE AIR AMBULANCE SERVICE'S SCOPE OF CARE, PATIENT POPULATION, MISSION STATEMENT AND MEDICAL DIRECTION. THE AIR AMBULANCE SERVICE SHALL DOCUMENT THAT ITS AIR AMBULANCE MEDICAL PERSONNEL HAVE COMPLETED TRAINING, MET THE LEARNING OBJECTIVES AND HAVE ONGOING CLINICAL EXPERIENCE IN THE FOLLOWING:
- 1) CARE OF PATIENTS IN THE AIR MEDICAL ENVIRONMENT INCLUDING THE IMPACT OF ALTITUDE AND OTHER STRESSORS;

- 2) ADVANCED AIRWAY MANAGEMENT;
- 3) APPLICABLE MEDICAL DEVICE SPECIFIC TRAINING (AUTOMATIC IMPLANTABLE CARDIOVERTER DEFIBRILLATOR (AICD), EXTRACORPOREAL MEMBRANE OXYGENATION (ECMO), INTRA-AORTIC BALLOON PUMP (IABP), LEFT VENTRICULAR ASSIST DEVICE (LVAD), MEDICATION PUMPS, VENTILATORS, ETC.);
- 4) CARDIOLOGY;
- 5) MECHANICAL VENTILATION AND RESPIRATORY PHYSIOLOGY FOR ADULT, PEDIATRIC, AND NEONATAL PATIENTS AS IT RELATES TO THE MISSION STATEMENT AND SCOPE OF CARE OF THE MEDICAL TRANSPORT SERVICE SPECIFIC TO THE EQUIPMENT;
- 6) HIGH RISK OBSTETRICAL EMERGENCIES AND OBSTETRICS CARE;
- 7) PEDIATRICS AND NEONATAL CARE;
- 8) EMERGENCY/CRITICAL CARE FOR ALL APPLICABLE PATIENT POPULATIONS, INCLUDING SPECIAL NEEDS POPULATIONS;
- 9) HAZARDOUS MATERIALS RECOGNITION AND RESPONSE;
- 10) MANAGEMENT OF DISASTER AND MASS CASUALTY EVENTS;
- 11) INFECTION CONTROL AND PREVENTION; AND
- 12) ETHICAL AND LEGAL ISSUES.

C) THE AIR AMBULANCE SERVICE MEDICAL DIRECTOR SHALL HAVE FAMILIARITY IN THE FOLLOWING AREAS:

- 1) CARE OF PATIENTS IN THE AIR MEDICAL ENVIRONMENT, INCLUDING THE IMPACT OF ALTITUDE AND OTHER PATIENT STRESSORS, IN-FLIGHT ASSESSMENT AND CARE, MONITORING CAPABILITIES, AND LIMITATIONS OF THE FLIGHT ENVIRONMENT;
- 2) HAZARDOUS MATERIALS RECOGNITION AND RESPONSE;
- 3) MANAGEMENT OF DISASTER AND MASS CASUALTY EVENTS;
- 4) INFECTION CONTROL AND PREVENTION;
- 5) ADVANCED RESUSCITATION AND CARE OF ADULT, PEDIATRIC AND NEONATAL PATIENTS WITH BOTH TRAUMATIC AND NON-TRAUMATIC DIAGNOSES;
- 6) QUALITY IMPROVEMENT THEORIES AND APPLICATIONS;
- 7) PRINCIPLES OF ADULT LEARNING;
- 8) CAPABILITIES AND LIMITATIONS OF CARE IN AN AIR AMBULANCE;
- 9) APPLICABLE FEDERAL, STATE AND LOCAL LAW, RULES AND PROTOCOLS RELATED TO AIR MEDICAL SERVICES AND STATE TRAUMA RULE GUIDELINES;
- 10) AIR MEDICAL DISPATCH AND COMMUNICATIONS; AND

1536
1537 11) ETHICAL AND LEGAL ISSUES.
1538

1539 9.6.4 AIR AMBULANCE SERVICE MEDICAL DIRECTOR ROLES AND RESPONSIBILITIES
1540

1541 A) THE AIR AMBULANCE SERVICE MEDICAL DIRECTOR ROLES AND
1542 RESPONSIBILITIES SHALL INCLUDE:
1543

- 1544 1) RESPONSIBILITY FOR OVERSIGHT OF MEDICAL CARE PROVIDED
1545 BY THE AIR MEDICAL SERVICE AND ENSURE COMPETENCY AND
1546 CURRENCY OF ALL MEDICAL PERSONNEL;
1547
1548 2) ACTIVE ENGAGEMENT IN THE EVALUATION, CREDENTIALING,
1549 INITIAL TRAINING AND CONTINUING EDUCATION OF ALL
1550 PERSONNEL WHO PROVIDE PATIENT CARE;
1551
1552 3) DEVELOPMENT AND/OR APPROVAL OF WRITTEN PATIENT CARE
1553 GUIDELINES (WHEN AVAILABLE), POLICIES AND PROTOCOLS
1554 INCLUDING BUT NOT LIMITED TO THOSE ADDRESSING THE
1555 ADVERSE IMPACT OF ALTITUDE ON PATIENT PHYSIOLOGY AND
1556 STRESSES OF TRANSPORT; AND
1557
1558 4) ACTIVE ENGAGEMENT IN QUALITY MANAGEMENT, UTILIZATION
1559 REVIEW AND PATIENT CARE AND SAFETY REVIEWS.
1560

1561 **9.7 MEDICAL EQUIPMENT**
1562

1563 9.7.1 EACH AIR AMBULANCE OPERATOR SHALL ENSURE THAT ALL MEDICAL
1564 EQUIPMENT IS APPROPRIATE TO THE AIR MEDICAL SERVICE'S SCOPE AND
1565 MISSION AND MAINTAINED IN WORKING ORDER ACCORDING TO THE
1566 MANUFACTURER'S RECOMMENDATIONS. MEDICAL EQUIPMENT SHALL BE
1567 AVAILABLE ON THE AIRCRAFT TO MEET THE LOCAL/STATE PROTOCOLS FOR
1568 EMS PROVIDERS IN WHICH THE SERVICE INTENDS TO OPERATE AND IN LINE
1569 WITH THE MISSION OF THE AIR AMBULANCE SERVICE.
1570

1571 A) REQUIRED EQUIPMENT
1572

- 1573 1) ISOLATION EQUIPMENT INCLUDING ISOLATION GOGGLES AND
1574 MASKS OR MASK/SHIELD COMBINATION, ISOLATION GOWNS AND
1575 ISOLATION GLOVES
1576
1577 2) HIGH PARTICULATE FILTER WASHES (HEPA FILTER OR N95 MASK-
1578 ASSORTED SIZES
1579
1580 3) CONTAINERS (BAGS) FOR INFECTIOUS MEDICAL WASTE
1581
1582 4) SHARPS CONTAINER
1583
1584 5) DISINFECTANT/GERMICIDAL CLEANERS, WIPES OR SOLUTIONS
1585
1586 6) WATERLESS HAND CLEANER
1587
1588 7) AIRWAY EQUIPMENT, CONSISTING OF:
1589
1590 a. COMPLETE SET OF OROPHARYNGEAL AIRWAY DEVICES:
1591 ADULT AND PEDIATRIC,
1592
1593 b. COMPLETE SET OF NASOPHARYNGEAL AIRWAY DEVICES:
1594 ADULT, PEDIATRIC, AND INFANT

1595		
1596		
1597	c.	COMPLETE SET OF INTUBATION EQUIPMENT-ADULT,
1598		PEDIATRIC, AND INFANT
1599	8)	SYRINGES, ASSORTED SIZES
1600		
1601	9)	MAGILL FORCEPS (ADULT AND PEDIATRIC SIZES)
1602		
1603	10)	THERMOMETER
1604		
1605	11)	INTUBATION EQUIPMENT
1606		
1607	14)	PEDIATRIC WEIGHT BASED DRUG TAPE, CHART OR WHEEL
1608		
1609	15)	WATER SOLUBLE LUBRICANT
1610		
1611	16)	END-TIDAL CO2 MONITOR
1612		
1613	17)	ADVANCED AIRWAY PROCEDURE KIT, AS APPLICABLE
1614		
1615	18)	APPROPRIATE MEDICATIONS AS DEFINED BY CLINICAL
1616		GUIDELINES OR PER MEDICAL TREATMENT GUIDELINES.
1617		
1618	19)	ECG MONITOR/DEFIBRILLATOR AND APPROPRIATE ADULT AND
1619		PEDIATRIC PADS, INCLUDING EXTERNAL PACEMAKER PADS
1620		(SECURE POSITIONING OF CARDIAC MONITORS,
1621		DEFIBRILLATORS, AND EXTERNAL PACERS SO THAT DISPLAYS
1622		ARE VISIBLE TO MEDICAL PERSONNEL)
1623		
1624	20)	PULSE OXIMETER WITH ADULT AND PEDIATRIC PROBES
1625		
1626	21)	SPARE BATTERIES AS APPROPRIATE FOR POWERED MEDICAL
1627		DEVICES
1628		
1629	22)	VENTILATOR AS APPROVED BY MEDICAL DIRECTOR
1630		
1631	23)	BANDAGES AND DRESSINGS
1632		
1633	24)	SUCTION EQUIPMENT INCLUDING TUBING
1634		
1635	a.	WALL MOUNTED SUCTION UNIT
1636		
1637	b.	PORTABLE SUCTION UNIT POWERED OR HAND
1638		OPERATED
1639	25)	PHARYNGEAL HARD TIP SUCTION
1640		
1641	26)	SOFT TIP SUCTION CATHETER SET
1642		
1643	a.	ADULT SIZES
1644		
1645	b.	PEDIATRIC SIZES
1646	27)	SUCTION BAGS OR REPLACEABLE RESERVOIRS

- 1647
- 1648 28) STERILE GLOVES
- 1649
- 1650 29) OXYGEN EQUIPMENT (OXYGEN FLOW CAPABLE OF BEING
- 1651 STOPPED AT THE OXYGEN SOURCE FROM INSIDE THE AIR
- 1652 AMBULANCE AND MEASUREMENT OF THE LITER FLOW AND
- 1653 QUANTITY OF OXYGEN REMAINING IS ACCESSIBLE TO AIR
- 1654 MEDICAL PERSONNEL WHILE IN FLIGHT)
- 1655
- 1656 a. MAIN OXYGEN SOURCE
- 1657 b. WALL MOUNTED OXYGEN FLOW METER 0-15 L/MIN.
- 1658 MINIMUM
- 1659 i. OXYGEN EQUIPMENT SHALL BE FURNISHED CAPABLE
- 1660 OF ADJUSTABLE FLOW FROM 0 TO 15 LITERS PER
- 1661 MINUTE. MASKS AND SUPPLY TUBING FOR ADULT AND
- 1662 PEDIATRIC PATIENTS SHALL ALLOW ADMINISTRATION
- 1663 OF VARIABLE OXYGEN CONCENTRATIONS FROM 24%
- 1664 TO 95% FRACTION INSPIRED OXYGEN. MEDICAL
- 1665 OXYGEN SHALL BE PROVIDED FOR 150% OF THE
- 1666 SCHEDULED FLIGHT TIME BY A UNIT SECURED WITHIN
- 1667 THE AIR AMBULANCE.
- 1668
- 1669
- 1670 30) COMPRESSED AIR AS APPROPRIATE (EACH GAS OUTLET
- 1671 CLEARLY MARKED FOR IDENTIFICATION)
- 1672
- 1673 31) PORTABLE OXYGEN CYLINDER WITH PORTABLE VARIABLE FLOW
- 1674 REGULATOR 0-15 L/MIN. MINIMUM
- 1675
- 1676 32) BAG-VALVE-MASK WITH RESERVOIR TO PROVIDE ONE HUNDRED
- 1677 PER CENT OXYGEN FLOW (ADULT, PEDIATRIC AND INFANT SIZES)
- 1678
- 1679 33) OXYGEN MASKS (ADULT, PEDIATRIC AND INFANT SIZES)
- 1680
- 1681 34) NASAL CANNULAS (ADULT AND PEDIATRIC SIZES)
- 1682
- 1683 35) NEBULIZER AND APPROPRIATE CONNECTING TUBING
- 1684
- 1685 36) ADJUNCT EQUIPMENT
- 1686 a. TRAUMA SHEARS
- 1687 b. STETHOSCOPE (ADULT AND PEDIATRIC)
- 1688 c. TOURNIQUETS
- 1689
- 1690 37) BLOOD PRESSURE CUFFS: (LARGE ADULT, ADULT, PEDIATRIC,
- 1691 INFANT)
- 1692
- 1693
- 1694 38) PATIENT HEARING PROTECTION
- 1695
- 1696 39) ASSORTED TAPE
- 1697
- 1698 40) EXAM GLOVES
- 1699

- 1700
- 1701 41) OBSTETRICAL KIT
- 1702
- 1703 42) NASOGASTRIC TUBES (ADULT AND PEDIATRIC)
- 1704
- 1705 43) PATIENT RESTRAINTS
- 1706
- 1707 44) PEDIATRIC RESTRAINING SYSTEM
- 1708
- 1709 45) INTRAVENOUS EQUIPMENT, INCLUDING BUT LIMITED TO:
- 1710
- 1711 a. ALCOHOL, CHLORHEXIDINE, OR BETADINE SKIN
- 1712 CLEANSER (PREFERABLY PREP PADS)
- 1713
- 1714 b. IV ADMINISTRATION SETS
- 1715
- 1716 c. IV INFUSION PUMP TUBING
- 1717
- 1718 d. IV CATHETERS, ASSORTED SIZES 24-14
- 1719
- 1720 e. INTRAOSSEOUS NEEDLES
- 1721
- 1722 f. IV SOLUTIONS, PER PROTOCOL
- 1723
- 1724 46) NEEDLES, ASSORTED SIZES
- 1725
- 1726 47) ASSOCIATED ADJUNCT EQUIPMENT
- 1727
- 1728 a. INVASIVE LINE SET-UP
- 1729
- 1730 b. PRESSURE BAGS
- 1731 48) ONE OR MORE COTS/STRETCHERS CAPABLE OF BEING
- 1732 SECURED IN THE AIRCRAFT THAT MEET THE FOLLOWING
- 1733 CRITERIA:
- 1734
- 1735 a. ACCOMMODATES AN ADULT OF A HEIGHT AND WEIGHT
- 1736 APPROPRIATE FOR THE CAPACITY OF THE AIR
- 1737 AMBULANCE, AND RESTRAINING DEVICES OR
- 1738 ADDITIONAL APPLIANCES AVAILABLE TO PROVIDE
- 1739 ADEQUATE RESTRAINT OF ALL PATIENTS INCLUDING
- 1740 THOSE UNDER 60 POUNDS OR 36 INCHES IN HEIGHT.
- 1741
- 1742 b. THE HEAD OF THE PRIMARY STRETCHER IS CAPABLE OF
- 1743 BEING ELEVATED UP TO 30 DEGREES. THE ELEVATING
- 1744 SECTION SHALL NOT INTERFERE WITH OR REQUIRE THAT
- 1745 THE PATIENT OR STRETCHER SECURING STRAPS AND
- 1746 HARDWARE BE REMOVED OR LOOSENEED.
- 1747
- 1748 c. STURDY AND RIGID ENOUGH THAT IT CAN SUPPORT
- 1749 CARDIOPULMONARY RESUSCITATION. IF A BACKBOARD
- 1750 OR EQUIVALENT DEVICE IS REQUIRED TO ACHIEVE THIS,
- 1751 SUCH DEVICE WILL BE READILY AVAILABLE.
- 1752
- 1753 d. A PAD OR MATTRESS IMPERVIOUS TO MOISTURE AND
- 1754 EASILY CLEANED AND DISINFECTED ACCORDING TO

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
(OSHA) BLOODBORNE PATHOGEN REQUIREMENTS (29
C.F.R § 1910.1030 2016).

e. A SUPPLY OF LINEN FOR EACH PATIENT.

49) SURVIVAL KIT FOR ALL MEDICAL CREW MEMBERS AND PATIENT

9.8 PATIENT COMPARTMENT

9.8.1 AN APPLICANT OR LICENSEE SHALL ENSURE THAT AN AIR AMBULANCE HAS
THE FOLLOWING:

- A) A CLIMATE CONTROL SYSTEM TO PREVENT TEMPERATURE VARIATIONS
THAT WOULD ADVERSELY AFFECT PATIENT CARE.
- B) AN ADEQUATE INTERIOR LIGHTING SYSTEM SO THAT PATIENT CARE
CAN BE GIVEN AND THE PATIENT'S STATUS MONITORED.
- C) FOR EACH PLACE WHERE A PATIENT MAY BE POSITIONED, AT LEAST
ONE ELECTRICAL POWER OUTLET OR OTHER POWER SOURCE THAT IS
CAPABLE OF OPERATING ALL ELECTRICALLY POWERED MEDICAL
EQUIPMENT WITHOUT COMPROMISING THE OPERATION OF ANY
ELECTRICAL AIR AMBULANCE EQUIPMENT.
- D) A BACK-UP SOURCE OF ELECTRICAL POWER OR BATTERIES CAPABLE
OF OPERATING ALL ELECTRICALLY POWERED LIFE-SUPPORT
EQUIPMENT FOR AT LEAST ONE HOUR.
- E) AN APPROPRIATE POWER SOURCE THAT IS SUFFICIENT TO MEET THE
REQUIREMENTS OF THE COMPLETE SPECIALIZED EQUIPMENT PACKAGE
WITHOUT COMPROMISING THE OPERATION OF ANY ELECTRICAL AIR
AMBULANCE EQUIPMENT.
- F) AN ENTRY THAT ALLOWS FOR PATIENT LOADING AND UNLOADING
WITHOUT EXCESSIVE MANEUVERING AND WITHOUT COMPROMISING
THE OPERATION OF MONITORING SYSTEMS, INTRAVENOUS LINES, OR
MANUAL OR MECHANICAL VENTILATION.
- G) IF AN ISOLETTE IS USED DURING PATIENT TRANSPORT, AN ISOLETTE
THAT IS ABLE TO BE OPENED FROM ITS SECURED IN-FLIGHT POSITION
IN ORDER TO PROVIDE FULL ACCESS TO THE PATIENT.
- H) ADEQUATE ACCESS AND NECESSARY SPACE TO MAINTAIN THE
PATIENT'S AIRWAY AND TO PROVIDE ADEQUATE VENTILATORY
SUPPORT BY AN ATTENDANT FROM THE SECURED, SEAT-BELTED
POSITION WITHIN THE AIR AMBULANCE.
- I) A CONFIGURATION THAT ALLOWS FOR RAPID EXIT OF PERSONNEL AND
PATIENTS, WITHOUT OBSTRUCTION FROM STRETCHERS AND MEDICAL
EQUIPMENT.
- J) AN INTERIOR THAT IS SANITARY AND IN GOOD WORKING ORDER AT ALL
TIMES.
- K) APPROPRIATE STORAGE FOR MEDICATIONS THAT MAINTAINS
TEMPERATURES WITHIN MANUFACTURER RECOMMENDATIONS. GLASS
CONTAINERS SHALL NOT BE USED UNLESS REQUIRED BY MEDICATION
SPECIFICATIONS AND PROPERLY VENTED. MEDICATIONS, FLUIDS AND

CONTROLLED SUBSTANCES SHALL BE SECURELY MAINTAINED BY AIR
AMBULANCE LICENSEES IN COMPLIANCE WITH LOCAL, STATE, AND
FEDERAL DRUG LAWS.

- L) SECURE POSITIONING OF CARDIAC MONITORS, DEFIBRILLATORS, AND
EXTERNAL PACERS SO THAT DISPLAYS ARE VISIBLE TO MEDICAL
PERSONNEL.

9.9 DATA COLLECTION AND SUBMISSION

- 9.9.1 ALL SERVICES SHALL HAVE A SYSTEM IN PLACE TO COLLECT, SUBMIT,
MONITOR, AND TRACK ALL FLIGHT REQUESTS THAT RESULT IN PATIENT
TRANSPORT. THIS INFORMATION SHALL BE SUBMITTED AND MADE READILY
AVAILABLE TO THE DEPARTMENT UPON REQUEST.

- 9.9.2 COLORADO LICENSED AIR AMBULANCE SERVICES SHALL SUBMIT DATA AND
INFORMATION AS REQUIRED IN 6 CCR 1015-3, CHAPTER THREE RULES
PERTAINING TO EMERGENCY MEDICAL SERVICES DATA AND INFORMATION
COLLECTION AND RECORD KEEPING AND SECTION 18 OF THESE RULES, TO
THE EXTENT DATA COLLECTION AND SUBMISSION SERVE A MEDICAL OR
QUALITY IMPROVEMENT PURPOSE.

9.10 CONTINUOUS QUALITY IMPROVEMENT PROGRAM

- 9.10.1 AIR AMBULANCE SERVICES SHALL ESTABLISH A QUALITY MANAGEMENT TEAM
AND A PROGRAM IMPLEMENTED BY THIS TEAM TO ASSESS AND IMPROVE THE
QUALITY AND APPROPRIATENESS OF PATIENT CARE PROVIDED BY THE AIR
AMBULANCE SERVICE. THE PROGRAM SHALL INCLUDE:

- A) DEVELOPMENT OF PROTOCOLS, STANDING ORDERS, TRAINING,
POLICIES, PROCEDURES.
- B) APPROVAL OF MEDICATIONS AND TECHNIQUES PERMITTED FOR FIELD
USE BY SERVICE PERSONNEL IN ACCORDANCE WITH REGULATIONS OF
THE DEPARTMENT.
- C) DIRECT OBSERVATION, FIELD INSTRUCTION, IN-SERVICE TRAINING OR
OTHER MEANS AVAILABLE TO ASSESS QUALITY OF FIELD
PERFORMANCE.

- 9.10.2 ALL SERVICES SHALL HAVE A WRITTEN POLICY THAT OUTLINES A PROCESS TO
IDENTIFY, DOCUMENT AND ANALYZE SENTINEL EVENTS, ADVERSE MEDICAL
EVENTS OR POTENTIALLY ADVERSE EVENTS WITH SPECIFIC GOALS TO
IMPROVE PATIENT MEDICAL SAFETY AND/OR QUALITY OF PATIENT CARE.
GOALS SHALL INCLUDE THE FOLLOWING:

- A) REVIEW OF EVENTS SHOULD ADDRESS THE EFFECTIVENESS AND
EFFICIENCY OF THE ORGANIZATION, ITS SUPPORT SYSTEMS, AS WELL
AS THAT OF INDIVIDUALS WITHIN THE ORGANIZATION.
- B) WHEN A SENTINEL EVENT IS IDENTIFIED, A METHOD OF INFORMATION
GATHERING SHALL BE DEVELOPED. THIS SHALL INCLUDE OUTCOME
STUDIES, CHART REVIEW, CASE DISCUSSION, OR OTHER
METHODOLOGY.
- C) FINDINGS, CONCLUSIONS, RECOMMENDATIONS AND ACTIONS SHALL BE
MADE AND RECORDED. FOLLOW-UP, IF NECESSARY, SHALL BE
DETERMINED, RECORDED, AND PERFORMED.
- D) TRAINING AND EDUCATION NEEDS, INDIVIDUAL PERFORMANCE
EVALUATIONS, EQUIPMENT OR RESOURCE ACQUISITION, PATIENT

MEDICAL SAFETY AND RISK MANAGEMENT ISSUES ALL SHALL BE INTEGRATED WITH THE CONTINUOUS QUALITY IMPROVEMENT PROCESS.

9.10.3 ALL SERVICES SHALL HAVE A WRITTEN POLICY OUTLINING A UTILIZATION REVIEW PROCESS.

9.11 MEDICAL STAFF AND PATIENT SAFETY WELFARE

9.11.1. MEDICAL PERSONNEL SCHEDULING AND INDIVIDUAL WORK SCHEDULES MUST DEMONSTRATE STRATEGIES TO MINIMIZE DUTY-TIME FATIGUE, LENGTH OF SHIFT, NUMBER OF SHIFTS PER WEEK AND DAY-TO-NIGHT ROTATION.

9.11.2 ON-SITE SHIFTS SCHEDULED FOR A PERIOD TO EXCEED TWENTY-FOUR (24) HOURS ARE NOT ACCEPTABLE UNDER MOST CIRCUMSTANCES. THE FOLLOWING CRITERIA MUST BE MET FOR SHIFTS SCHEDULED MORE THAN TWELVE (12) HOURS.

A) MEDICAL PERSONNEL ARE NOT REQUIRED TO ROUTINELY PERFORM ANY DUTIES BEYOND THOSE ASSOCIATED WITH THE TRANSPORT SERVICE.

B) MEDICAL PERSONNEL ARE PROVIDED WITH ACCESS TO AND PERMISSION FOR UNINTERRUPTED REST AFTER DAILY MEDICAL PERSONNEL DUTIES ARE MET.

C) THE PHYSICAL BASE OF OPERATIONS INCLUDES AN APPROPRIATE PLACE FOR UNINTERRUPTED REST.

D) MEDICAL PERSONNEL MUST HAVE THE RIGHT TO CALL "TIME OUT" AND BE GRANTED A REASONABLE REST PERIOD IF THE TEAM MEMBER (OR FELLOW TEAM MEMBER) DETERMINES THAT HE OR SHE IS UNFIT OR UNSAFE TO CONTINUE DUTY, NO MATTER THE SHIFT LENGTH. THERE MUST BE NO ADVERSE PERSONNEL ACTION OR UNDUE PRESSURE TO CONTINUE IN THIS CIRCUMSTANCE.

E) MANAGEMENT MUST MONITOR TRANSPORT VOLUMES AND PERSONNEL'S USE OF A "TIME OUT" POLICY.

9.11.3 SHIFTS EXTENDED OVER SEVERAL DAYS MAY BE SCHEDULED TO ADDRESS LONG COMMUTES AT PROGRAMS WITH LOW VOLUMES. THE PROGRAM MUST CLEARLY DEMONSTRATE AND DOCUMENT IT MEETS THE ABOVE CRITERIA FOR SHIFTS OVER TWELVE (12) HOURS. IN ADDITION:

A) A PROGRAM'S BASE AVERAGES LESS THAN ONE (1) TRANSPORT PER DAY.

B) PROVIDES AT LEAST TEN (10) HOURS OF REST IN EACH TWENTY-FOUR (24) HOUR PERIOD.

C) LOCATION OF THE BASE OR PROGRAM IS REMOTE AND ONE-WAY COMMUTES ARE MORE THAN TWO (2) HOURS.

D) FATIGUE RISK MANAGEMENT TOOLS ARE UTILIZED.

9.11.4. SCHEDULING OF ON-CALL SHIFTS MUST BE EVALUATED TO ADDRESS FATIGUE IN A WRITTEN POLICY BASED ON MONITORING OF DUTY TIMES BY MANAGERS, QUALITY MANAGEMENT TRACKING AND FATIGUE RISK MANAGEMENT.

9.11.5. PHYSICAL WELL-BEING IS PROMOTED THROUGH:

- A) PROTECTIVE CLOTHING AND DRESS CODE PERTINENT TO:
- 1) MISSION PROFILE SUCH AS TURN-OUT GEAR AVAILABLE AT SCENE FOR MEDICAL PERSONNEL WHO ASSIST WITH HEAVY EXTRICATION
 - 2) SAFE OPERATIONS, WHICH SHALL INCLUDE:
 - a. BOOTS OR STURDY FOOTWEAR,
 - b. APPROPRIATE OUTERWEAR TO PROTECT THE PROVIDER FROM ADVERSE ENVIRONMENTAL CONDITIONS AND
 - c. IF MEDICAL CREWS AND VEHICLE OPERATORS RESPOND TO NIGHT SCENES, THE AMBULANCE MEDICAL CREW MEMBERS MUST WEAR HIGH VISIBILITY REFLECTIVE VESTS OR DEPARTMENT OF TRANSPORTATION-APPROVED CLOTHING THAT MEETS INDUSTRY STANDARDS.
 - 3) IN ADDITION TO THE MANDATORY REQUIREMENTS IN 9.11.5.A, SAFE OPERATIONS MAY INCLUDE:
 - a. WEARING REFLECTIVE MATERIAL OR STRIPING ON UNIFORMS FOR NIGHT OPERATIONS; AND
 - b. FLAME RETARDANT CLOTHING (STRONGLY ENCOURAGED FOR ROTORWING SERVICES ACCORDING TO A RISK ASSESSMENT)
- 9.11.6. THE AIR AMBULANCE SERVICE SHALL ESTABLISH AN INFECTION CONTROL PROTOCOL THAT COMPLIES WITH OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) STANDARDS, INCLUDING 29 C.F.R. § 1910.1030 2016, 29 C.F.R. § 1910.132 2016, AND 29 C.F.R. 1910.134 2016.
- 9.11.7 THE AIR AMBULANCE SERVICES SHALL HAVE AN APPROPRIATE DRESS CODE THAT ADDRESSES JEWELRY, HAIR AND OTHER PERSONAL ITEMS OF MEDICAL PERSONNEL THAT MAY INTERFERE WITH PATIENT CARE.

Section 10 – Complaints

- 10.1. Complaints ~~in writing~~ relating to the quality and conduct of any air ambulance service may be made by any person or may be initiated by the department. The department may make inquiry as to the validity of such complaint prior to initiating an investigation. If the department determines that the complaint warrants a more extensive review, an investigation may be initiated. If the complaint does not warrant further review or the inquiry determines that the complaint is not within regulatory jurisdiction of the department, the department will notify the complainant of the results of the inquiry.
- 10.2. THE DEPARTMENT DOES NOT HAVE JURISDICTION OVER BILLING DISPUTES OR ~~AIRCRAFT~~ AVIATION COMPLAINTS.
- 10.3. EVERY LICENSED SERVICE SHALL REPORT PATIENT MEDICAL CARE COMPLAINTS TO THE DEPARTMENT WITHIN SEVEN (7) CALENDAR DAYS OF ITS RECEIPT. EVERY LICENSED SERVICE SHALL PROVIDE THE DEPARTMENT WITH ANY RESPONSE IT MAKES TO THE COMPLAINT WITHIN SEVEN (7) CALENDAR DAYS OF ITS ISSUANCE. IF THE DEPARTMENT DETERMINES THAT THE COMPLAINT WARRANTS REVIEW, IT MAY INITIATE AN INVESTIGATION.
- 10.4. NOTHING IN THIS SECTION PROHIBITS THE DEPARTMENT FROM CONDUCTING A COMPLAINT INVESTIGATION UNDER CIRCUMSTANCES IT DEEMS NECESSARY.

- 1997 10.5 The department ~~shall~~ MAY refer complaints that are related to the requirements of CAMTS or a
1998 ~~successor~~ an accrediting organization APPROVED BY THE DEPARTMENT to THAT
1999 ACCREDITING ORGANIZATION CAMTS or such successor organization for investigation. The
2000 department may forward complaints to other regulatory agencies.
2001

2002 **SECTION 11 – PLANS OF CORRECTION.**
2003

- 2004 11.1 AFTER ANY DEPARTMENT INSPECTION OR COMPLAINT INVESTIGATION, THE
2005 DEPARTMENT MAY REQUEST A PLAN OF CORRECTION FROM AN AIR AMBULANCE
2006 SERVICE.
2007

- 2008 11.1.1 A PLAN OF CORRECTION SHALL BE IN THE FORMAT PRESCRIBED BY THE
2009 DEPARTMENT AND SHALL INCLUDE BUT NOT BE LIMITED TO, THE FOLLOWING:
2010

- 2011 A) IDENTIFICATION OF THE PROBLEM(S) WITH THE CURRENT ACTIVITY AND
2012 WHAT THE AIR AMBULANCE SERVICE WILL DO TO CORRECT EACH
2013 DEFICIENCY,
2014
2015 B) A DESCRIPTION OF HOW THE AIR AMBULANCE SERVICE WILL
2016 ACCOMPLISH THE CORRECTIVE ACTION,
2017
2018 C) A DESCRIPTION OF HOW THE AIR AMBULANCE SERVICE WILL MONITOR
2019 THE CORRECTIVE ACTION TO ENSURE THE DEFICIENT PRACTICE IS
2020 REMEDIED AND WILL NOT RECUR, AND
2021
2022 D) A TIMELINE WITH THE EXPECTED IMPLEMENTATION AND COMPLETION
2023 DATE. THE COMPLETION DATE IS THE DATE THAT THE AIR AMBULANCE
2024 SERVICE DEEMS IT CAN ACHIEVE COMPLIANCE.
2025

- 2026 11.1.2 COMPLETED PLANS OF CORRECTION SHALL BE:
2027

- 2028 A) SUBMITTED TO THE DEPARTMENT IN THE FORM AND MANNER
2029 REQUIRED BY THE DEPARTMENT,
2030
2031 B) SUBMITTED WITHIN TEN (10) CALENDAR DAYS AFTER THE DATE OF THE
2032 DEPARTMENT'S MAILING OF THE WRITTEN NOTICE OF DEFICIENCIES TO
2033 THE AIR AMBULANCE SERVICE, UNLESS OTHERWISE REQUIRED OR
2034 APPROVED BY THE DEPARTMENT, AND
2035
2036 C) SIGNED BY THE AIR AMBULANCE SERVICE PROGRAM DIRECTOR AND
2037 MEDICAL DIRECTOR.
2038

- 2039 11.1.3 THE DEPARTMENT HAS THE DISCRETION TO APPROVE, MODIFY OR REJECT
2040 PLANS OF CORRECTION.
2041

- 2042 A) IF THE PLAN OF CORRECTION IS ACCEPTED, THE DEPARTMENT SHALL
2043 NOTIFY THE AIR AMBULANCE SERVICE BY ISSUING A WRITTEN NOTICE
2044 OF ACCEPTANCE WITHIN THIRTY (30) CALENDAR DAYS OF RECEIPT OF
2045 THE PLAN.
2046
2047 B) IF THE PLAN OF CORRECTION IS UNACCEPTABLE, THE DEPARTMENT
2048 SHALL NOTIFY THE AIR AMBULANCE SERVICE IN WRITING, AND THE
2049 SERVICE SHALL RE-SUBMIT A REVISED PLAN OF CORRECTION TO THE
2050 DEPARTMENT WITHIN FIFTEEN (15) CALENDAR DAYS OF THE DATE OF
2051 THE WRITTEN NOTICE.
2052
2053 C) IF THE AIR AMBULANCE SERVICE FAILS TO COMPLY WITH THE
2054 REQUIREMENTS OR DEADLINES FOR SUBMISSION OF A PLAN OR FAILS
2055 TO SUBMIT A REVISED PLAN OF CORRECTION, THE DEPARTMENT MAY
2056 REJECT THE PLAN OF CORRECTION AND IMPOSE DISCIPLINARY
2057 SANCTIONS AS SET FORTH IN SECTIONS 12 OR 13.

- D) IF THE AIR AMBULANCE SERVICE FAILS TO TIMELY IMPLEMENT THE ACTIONS AGREED TO IN THE PLAN OF CORRECTION, THE DEPARTMENT MAY IMPOSE DISCIPLINARY SANCTIONS AS SET FORTH IN SECTIONS 12 OR 13.

Section 12 - Denial, Revocation, Suspension, Summary Suspension, or Limitations of Air Ambulance Licenses AND OUT OF STATE LICENSE RECOGNITIONS

- 12.1 FOR GOOD CAUSE SHOWN, THE DEPARTMENT MAY DENY, REVOKE, SUSPEND, ~~if the department proposes for good cause to deny, revoke, suspend, summarily suspend or limit,~~ OR CONDITION the license OR OUT OF STATE RECOGNITION OF AN AIR AMBULANCE SERVICE, OR IMPOSE CIVIL PENALTIES AS SET FORTH IN SECTION 13 OF THESE RULES. ~~of an air ambulance service the department shall notify the air ambulance service of its right to appeal the denial, revocation, suspension, summary suspension, or limitation, and the procedure for appealing. Appeals of departmental denials, revocations, suspensions, summary suspensions, or limitations shall be conducted in accordance with the State Administrative Procedure Act, Section 24-4-101, et seq., C.R.S.~~
- ~~13.3 In accordance with Section 24-4-104(4) C.R.S., the department may summarily suspend an air ambulance license when the department has objective and reasonable grounds to believe and finds, upon a full investigation, that the holder of the license been guilty of deliberate and willful violation or that the public health, safety or welfare imperatively requires emergency action by the department. If the department summarily suspends a license, the department shall provide the air ambulance service with notice of such suspension in writing. The notice shall state that the air ambulance service is entitled to a prompt hearing on the matter.~~
- 12.2 Good cause for sanctions include but are not limited to:
- 12.2.1 An applicant or licensee who fails to meet the requirements as set forth in these rules.
 - 12.2.2 An applicant or licensee who has committed fraud, misrepresentation, or deception in applying for a license OR OUT OF STATE LICENSE RECOGNITION.
 - 12.2.3 Falsifying reporting information provided to the department.
 - 12.2.4 Violating any state or federal statute, rule or regulation that would jeopardize OR MAY IMPACT the health or MEDICAL safety of a patient or the public.
 - 12.2.5 Unprofessional conduct, which hinders, delays, eliminates, or deters the provision of medical care to the patient or endangers the public.
 - 12.2.6 Failure to maintain accreditation WITHOUT OBTAINING A STATE LICENSE PURSUANT TO SECTION 5.3.
 - 12.2.7 ALTERING, REMOVING OR OBLITERATING ANY PORTION OF OR ANY OFFICIAL ENTRY ON AN APPLICATION OR OTHER DOCUMENT.
 - 12.2.8 INTERFERING WITH THE DEPARTMENT IN THE PERFORMANCE OF ITS DUTIES.
 - 12.2.9 FAILING TO REAPPLY FOR A LICENSE OR OUT OF STATE LICENSURE RECOGNITION IN A TIMELY MANNER AND IN ACCORDANCE WITH THESE RULES.
 - 12.2.10 PROVIDING PATIENT CARE THAT FAILS TO MEET ACCEPTABLE MINIMUM STANDARDS.
 - 12.2.11 BEING DISCIPLINED BY A LICENSING AUTHORITY OR APPROVED ACCREDITATION AGENCY.
 - 12.2.12 FAILING TO MAINTAIN CONFIDENTIALITY OF PROTECTED PATIENT INFORMATION.

2119 12.2.13 FAILING TO COMPLY WITH THE TERMS OF ANY AGREEMENT OR STIPULATION
2120 REGARDING LICENSING OR RECOGNITION ENTERED INTO WITH THE
2121 DEPARTMENT.
2122

2123 12.3 IN ACCORDANCE WITH SECTION 24-4-104(4) C.R.S., THE DEPARTMENT MAY SUMMARILY
2124 SUSPEND AN AIR AMBULANCE LICENSE OR OUT OF STATE LICENSE RECOGNITION
2125 WHEN THE DEPARTMENT HAS OBJECTIVE AND REASONABLE GROUNDS TO BELIEVE
2126 AND FINDS, UPON A FULL INVESTIGATION, THAT THE HOLDER OF THE LICENSE OR
2127 RECOGNITION HAS BEEN GUILTY OF DELIBERATE AND WILLFUL VIOLATION OR THAT
2128 THE PUBLIC HEALTH, SAFETY OR WELFARE IMPERATIVELY REQUIRES EMERGENCY
2129 ACTION BY THE DEPARTMENT. IF THE DEPARTMENT SUMMARILY SUSPENDS A
2130 LICENSE OR OUT OF STATE LICENSE RECOGNITION, THE DEPARTMENT SHALL
2131 PROVIDE THE AIR AMBULANCE SERVICE WITH NOTICE OF SUCH SUSPENSION IN
2132 WRITING. THE NOTICE SHALL STATE THAT THE AIR AMBULANCE SERVICE IS ENTITLED
2133 TO A PROMPT HEARING ON THE MATTER.
2134

2135 12.4 NOTICE OF APPEAL
2136

2137 12.4.1 THE DEPARTMENT SHALL NOTIFY THE AIR AMBULANCE SERVICE OF ITS RIGHT
2138 TO APPEAL THE DENIAL, REVOCATION, SUSPENSION, SUMMARY SUSPENSION,
2139 OR LIMITATION, AND THE PROCEDURE FOR APPEALING. APPEALS OF
2140 DEPARTMENTAL DENIALS, REVOCATIONS, SUSPENSIONS, SUMMARY
2141 SUSPENSIONS, OR LIMITATIONS SHALL BE CONDUCTED IN ACCORDANCE WITH
2142 THE STATE ADMINISTRATIVE PROCEDURE ACT, SECTION 24-4-101, ET SEQ.,
2143 C.R.S.
2144

2145 **SECTION 13 - CIVIL PENALTIES**

2146

2147 13.1 THE DEPARTMENT MAY IMPOSE A CIVIL PENALTY OF UP TO FIVE THOUSAND DOLLARS
2148 PER VIOLATION OR FOR EACH DAY OF A CONTINUING VIOLATION UPON AN AIR
2149 AMBULANCE OPERATOR, SERVICE, OR PROVIDER OR OTHER PERSON WHO:
2150

2151 13.1.1 VIOLATES SECTION 25-3.5-307 C.R.S.;

2152
2153 13.1.2 VIOLATES SECTION 25-3.5-307.5. C.R.S.;

2154
2155 13.1.3 VIOLATES ANY RULE OF THE BOARD; OR

2156
2157 13.1.4 OPERATES WITHOUT A CURRENT AND VALID LICENSE.
2158

2159 13.2 THE DEPARTMENT SHALL ASSESS AND COLLECT THESE PENALTIES.
2160

2161 13.3 NOTICE AND HEARING. BEFORE COLLECTING A PENALTY, THE DEPARTMENT SHALL
2162 PROVIDE THE ALLEGED VIOLATOR WITH NOTICE AND THE OPPORTUNITY FOR A
2163 HEARING IN ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT"
2164 ARTICLE 4 OF TITLE 24, C.R.S., AND ALL APPLICABLE RULES OF THE BOARD.
2165

2166 **SECTION 14. WAIVERS**

2167

2168 14.1 THE DEPARTMENT MAY GRANT A WAIVER OF A RULE IF THE APPLICANT
2169 SATISFACTORILY DEMONSTRATES:
2170

2171 14.1.1 THE PROPOSED WAIVER DOES NOT ADVERSELY AFFECT THE HEALTH AND
2172 SAFETY OF A PATIENT; AND

2173
2174 14.1.2 IN THE PARTICULAR SITUATION, THE REQUIREMENT SERVES NO BENEFICIAL
2175 PURPOSE; OR

2176
2177 14.1.3 CIRCUMSTANCES INDICATE THAT THE PUBLIC BENEFIT OF WAIVING THE
2178 REQUIREMENT OUTWEIGHS THE PUBLIC BENEFIT TO BE GAINED BY STRICT
2179 ADHERENCE TO THE REQUIREMENT.

- 2180
- 2181 14.2 TO APPLY FOR A WAIVER, THE APPLICANT MUST SUBMIT A COMPLETED APPLICATION
- 2182 IN THE FORM AND MANNER DETERMINED BY THE DEPARTMENT. THE APPLICATION
- 2183 SHALL CONTAIN THE FOLLOWING INFORMATION:
- 2184
- 2185 14.2.1 THE TEXT OR SUBSTANCE OF THE REGULATION THAT THE APPLICANT WANTS
- 2186 WAIVED;
- 2187
- 2188 14.2.2 THE NATURE AND EXTENT OF THE RELIEF SOUGHT;
- 2189
- 2190 14.2.3 ANY FACTS, VIEWS AND DATA AVAILABLE TO SUPPORT THE WAIVER,
- 2191 INCLUDING AN EXPLANATION OF WHY THE APPLICATION SATISFIES THE
- 2192 CRITERIA SET FORTH IN SECTION 14.1.
- 2193
- 2194 14.3 AN APPLICATION SHALL NOT BE CONSIDERED COMPLETE UNTIL THE REQUIRED
- 2195 INFORMATION IS SUBMITTED.
- 2196
- 2197 14.4 THE COMPLETED WAIVER APPLICATION SHALL BE SUBMITTED TO THE DEPARTMENT IN
- 2198 A TIMELY FASHION AS SPECIFIED BY THE DEPARTMENT.
- 2199
- 2200 14.5 THE APPLICATION AND SUPPORTING INFORMATION SHALL BE A MATTER OF PUBLIC
- 2201 RECORD AND IS SUBJECT TO DISCLOSURE UNDER THE COLORADO OPEN RECORDS
- 2202 ACT (C.R.S. §24-72-200.1 *ET SEQ.*)
- 2203
- 2204 14.6 THE DEPARTMENT MAY ALSO CONSIDER ANY OTHER INFORMATION IT DEEMS
- 2205 RELEVANT, INCLUDING BUT NOT LIMITED TO COMPLAINT INVESTIGATION REPORTS,
- 2206 COMPLIANCE HISTORY, INCLUDING IN OTHER STATES, RELATED TO THE APPLICANT.
- 2207
- 2208 14.7 WAIVERS ARE GENERALLY GRANTED FOR A LIMITED TERM AND SHALL BE GRANTED
- 2209 FOR A PERIOD NO LONGER THAN THE LICENSE TERM. WAIVERS CANNOT BE GRANTED
- 2210 FOR ANY STATUTORY REQUIREMENT UNDER STATE OR FEDERAL LAW, or for
- 2211 REQUIREMENTS UNDER LOCAL CODES OR ORDINANCES.
- 2212

2213 **Section 15 – ~~General Requirements~~ Incorporation by Reference**

2214

- 2215 15.1 These rules incorporate by reference the following materials:
- 2216
- 2217 15.1.1 OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) STANDARDS,
- 2218 INCLUDING 29 C.F.R. § 1910.1030 (2016), 29 C.F.R. § 1910.132 (2016), AND 29 C.F.R.
- 2219 § 1910.134 (2016) ARE INCORPORATED BY REFERENCE.
- 2220
- 2221 15.1.2 Such incorporation does not include later amendments to or editions of the referenced
- 2222 material. The Health Facilities and Emergency Medical Services Division of the Colorado
- 2223 Department of Public Health and Environment maintains copies of the ~~complete~~
- 2224 INCORPORATED FEDERAL REGULATIONS ~~text of the incorporated materials~~ for public
- 2225 inspection during regular business hours AND 29 C.F.R. § 1910.132 (2016), AND 29
- 2226 C.F.R. § 1910.134 (2016) MAY BE ACCESSED AT [https://www.gpo.gov/fdsys/pkg/CFR-](https://www.gpo.gov/fdsys/pkg/CFR-2016-title29-vol5/pdf/CFR-2016-title29-vol5-part1910.pdf)
- 2227 [2016-title29-vol5/pdf/CFR-2016-title29-vol5-part1910.pdf](https://www.gpo.gov/fdsys/pkg/CFR-2016-title29-vol5/pdf/CFR-2016-title29-vol5-part1910.pdf) and 29 C.F.R. § 1910.1030
- 2228 (2016) MAY BE ACCESSED AT [https://www.gpo.gov/fdsys/pkg/CFR-2016-title29-](https://www.gpo.gov/fdsys/pkg/CFR-2016-title29-vol6/pdf/CFR-2016-title29-vol6-part1910.pdf)
- 2229 [vol6/pdf/CFR-2016-title29-vol6-part1910.pdf](https://www.gpo.gov/fdsys/pkg/CFR-2016-title29-vol6/pdf/CFR-2016-title29-vol6-part1910.pdf). INTERESTED PERSONS MAY OBTAIN , -
- 2230 ~~and shall provide~~ certified copies of any non-copyrighted material FROM THE
- 2231 DEPARTMENT ~~to the public~~ at cost upon request. Information regarding how the
- 2232 incorporated materials may be obtained or examined is available from the division by
- 2233 contacting:
- 2234

2235 EMTS ~~Section~~ BRANCH Chief

2236 Health Facilities and EMS Division

2237 Colorado Department of Public Health and Environment

2238 4300 Cherry Creek Drive South

2239 Denver, Colorado 80246-1530

2240

2241 15.2 These materials have been submitted to the state publications depository and distribution center
2242 and are available for interlibrary loans. The incorporated material may be examined at any state
2243 publications depository library.
2244
2245



Notice of Public Rule-Making Hearing

April 19, 2017

ID #: 93

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

Date: April 19, 2017

Time: 10:00 AM

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

To consider the promulgation/amendments or repeal of:

CCR Number(s)

6 CCR 1015-3, Emergency Medical Services, Chapter 5, Air Ambulance Licensing

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.

§25-3.5-307.5(1) and (5) 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, April 13, 2017.

Deborah Nelson, Board of Health Administrator

Date: 2017-02-16T14:20:05

Notice of Proposed Rulemaking

Tracking number

2017-00091

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 8.500

Rule title

MEDICAL ASSISTANCE - SECTION 8.500

Rulemaking Hearing**Date**

04/14/2017

Time

09:00 AM

Location

303 East 17th Avenue, 11th Floor, Denver, CO 80203

Subjects and issues involved

see attached

Statutory authority

25.5.1-301 through 303 (CRS 2016)

Contact information**Name**

Chris Sykes

Title

Medical Services Board Coordinator

Telephone

3038664416

Email

chris.sykes@state.co.us



COLORADO

Department of Health Care Policy & Financing

Medical Services Board

NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, April 14, 2017, beginning at 9:00 a.m., in the eleventh floor conference room at 303 East 17th Avenue, Denver, CO 80203. Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303-866-4416 or chris.sykes@state.co.us or the 504/ADA Coordinator hcpf504ada@state.co.us at least one week prior to the meeting.

A copy of the full text of these proposed rule changes is available for review from the Medical Services Board Office, 1570 Grant Street, Denver, Colorado 80203, (303) 866-4416, fax (303) 866-4411. Written comments may be submitted to the Medical Services Board Office on or before close of business the Wednesday prior to the meeting. Additionally, the full text of all proposed changes will be available approximately one week prior to the meeting on the Department's website at www.colorado.gov/hcpf/medical-services-board.

This notice is submitted to you for publication, pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

MSB 16-11-08-A, Revision to the Medical Assistance Program Rules Concerning Durable Medical Equipment and Disposable Medical Supplies, Section 8.590

Medical Assistance. Durable Medical Equipment and Disposable Medical Supplies. The rules governing Durable Medical Equipment and Disposable Medical Supplies, 10 C.C.R. 2505-10, Section 8.590, are being revised. The rule revision is required by federal and state law and requires the Department to comply with the Centers for Medicare and Medicaid Services (CMS) Face-to-Face Final Rule at 42 C.F.R. §440.70 (published 2/2/2016), Executive Order D2012-002 at C.R.S. 24-4-101, *et seq.*, and to place the previously-approved Benefit Coverage Standard for Speech Generating Devices into rule at the direction of the Office of Legislative Legal Services.

The authority for this rule is contained in 25.5-1-301 through 25.5-1-303 C.R.S. (2015), and 25.5-3-404, C.R.S. (2015).

Permanent Rules Adopted

Department

Department of Education

Agency

Division of Public School Capital Construction Assistance

CCR number

1 CCR 303-1

Rule title

1 CCR 303-1 RULES PERTAINING TO THE ADMINISTRATION OF THE PUBLIC
SCHOOL CAPITAL CONSTRUCTION ASSISTANCE BOARD 1 - eff 03/30/2017

Effective date

03/30/2017

COLORADO DEPARTMENT OF EDUCATION
DIVISION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE
1 CCR 303-1

PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES

Article 1 – Purpose and Authority to Promulgate Rules

1.1. Purpose

1.1.1. Section 22-43.7-107(1)(a), C.R.S. states, The board shall establish public school facility construction guidelines for use by the board in assessing and prioritizing public school capital construction needs throughout the state as required by section 22-43.7-108, C.R.S. reviewing applications for financial assistance, and making recommendations to the state board regarding appropriate allocation of awards of financial assistance from the assistance fund only to applicants. The board shall establish the guidelines in rules promulgated in accordance with article 4 of title 24, C.R.S.

1.1.2. Section 22-43.7-107(1)(b), C.R.S. states, It is the intent of the general assembly that the Public School Facility Construction Guidelines established by the board be used only for the purposes specified in section 1.1.1 above.

1.1.3. The Public School Facility Construction Guidelines shall identify and describe the capital construction, renovation, and equipment needs in public school facilities and means of addressing those needs that will provide educational and safety benefits at a reasonable cost.

1.2. Statutory Authority

1.2.1. Section 22-43.7-106(2)(i)(I) C.R.S. states, the board may promulgate rules in accordance with article 4 of title 24, C.R.S. The board is directed to establish Public School Facility Construction Guidelines in rule pursuant to 22-43.7-107(1)(a), C.R.S.

Article 2 – Definitions

2.1. The definitions provided in 22-43.7-103, C.R.S., shall apply to these rules. The following additional definitions shall also apply:

“C.R.S.” means Colorado Revised Statutes.

“ES” means Elementary School.

“F.T.E.s” means Full Time Equivalent Students.

“Gross Square Feet (GSF)” means the total area of the building (inclusive of all levels as applicable) of a building within the outside faces of the exterior walls, including all vertical circulation and other shaft (HVAC) areas connecting one floor to another.

“Guidelines” means the Public School Facility Construction Guidelines.

“Historical significance” means having importance in the history, architecture, archaeology, or culture of this state or any political subdivision thereof or of the United States, as determined by the state historical society.

“HS” means High School.

“K12” means Kindergarten through 12th Grade School that is under all one facility / campus.

“MS” means Middle School.

“SF” means Square Foot.

“S.T.E.M.” means Science, Technology, Engineering, & Mathematics.

Article 3 – Codes, Documents and Standards incorporated by reference

3.1. The following materials are incorporated by reference within the Public School Facility Construction Guidelines:

3.1.1.ASHRAE 90.1-2013 Energy Standard for Buildings Except Low-Rise Residential Buildings.

3.1.2.ASHRAE Standard Benchmark Energy Utilization Index (October 2009).

3.1.3.ASHRAE Standard 189.1 - 2011 Standard for the Design of High-Performance Green Buildings.

3.1.4.ANSI/ASA S12.60-2010/ Part 1, Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Part 1 Permanent Schools

3.1.5.ANSI/TIA/EIA-568-C, August 2012

3.1.6.ANSI/TIA/EIA-569-D, April 2015

3.1.7.ANSI/TIA/EIA-606-B, April 2012

3.1.8.ANSI/TIA/EIA-607-B, September 2011

3.1.9.ANSI.BICSI 001-2009, Information Transport Systems Design Standard for K-12 Educational Institutions

3.1.10. International Code Council's International Plumbing Code (2015) amended by Rules and Regulations of the Colorado State Plumbing Board 3 CCR 720-1, 2016-4-1

3.1.11. National Fire Protection Association (NFPA) 70: National Electrical Code (2014).

3.1.12. National Fire Protection Association (NFPA) 13: Standard for the Installation of Sprinkler Systems, 2013 Edition

3.1.13. National Fire Protection Association (NFPA) 72: National Fire Alarm and Signaling Code, 2013 Edition.

3.1.14. National Fire Protection Association (NFPA) 80: Standard for Fire Doors and Other Opening Protectives, 2016 Edition

3.1.15. ASHRAE Standard 62.1-2013 Ventilation for Acceptable Indoor Air Quality (2013).

3.1.16. Colorado Department of Public Health and Environment which references Air Quality, Hazardous Waste, Public and environmental health, Radiation Control, Solid Waste and Water Quality.

3.1.17. International Fire Code (IFC) – 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.), including Appendices B and C.

3.1.18. International Mechanical Code - 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.)

3.1.19. International Energy Conservation Code (IECC) - 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.)

3.1.20. International Existing Building Code – 2015 Edition, First Printing: May 2014 (Copyright 201 by International Code Council, Inc. - Washington, D.C.)

- 3.1.21. International Code Council (ICC) A117.1-2009 Accessible and Usable Buildings and Facilities
- 3.1.22. International Code Council (ICC) 500-2014 Standard and Commentary: ICC/NSSA Standard for the Design and Construction of Storm Shelters
- 3.1.23. Occupational Safety and Health Administration Standard 1910.95, July 2011
- 3.1.24. All projects shall be constructed and maintained in accordance with the codes and regulations as currently adopted by the Colorado Division of Fire Prevention & Control which incorporates current building, fire, existing building, mechanical, and energy conservation codes.
- 3.2. The Division shall maintain copies of the complete texts of the referenced incorporated materials, which are available for public inspection during regular business hours with copies available at a reasonable charge. Interested parties may inspect the referenced incorporated materials by contacting the Director of the Division of Public School Capital Construction Assistance, 1580 Logan Street, Suite 310, Denver, Colorado 80203.
- 3.3. This rule does not include later amendments or editions of the incorporated material.

Article 4 - These Guidelines are not mandatory standards to be imposed on school districts, charter schools, institute charter schools, the boards of cooperative services or the Colorado School for the Deaf and Blind. As required by statute, the Guidelines address:

4.1 Health and safety issues, including security needs and all applicable health, safety and environmental codes and standards as required by state and federal law. Public school facility accessibility.

4.1.1 Sound building structures. Each building should be constructed and maintained with sound structural foundation, floor, wall and roof systems.

4.1.1.1 - All building structures shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.2 Classroom Acoustics. To address issues of reverberation time and background noise in classrooms refer to ANSI/ASA S12.60-2010/ Part 1, American National Standard Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Part 1: Permanent Schools.

4.1.3 Roofs. A weather-tight roof that drains water positively off the roof and discharges the water off and away from the building. All roofs shall be installed by a qualified contractor who is approved by the roofing manufacturer to install the specified roof system and shall receive the specified warranty upon completion of the roof. The National Roofing Contractors Association divides roofing into two generic classifications: low-slope roofing and steep-slope roofing. Low-slope roofing includes water impermeable, or weatherproof types of roof membranes installed on slopes of less than or equal to 3:12 (fourteen degrees). Steep slope roofing includes water-shedding types of roof coverings installed on slopes exceeding 3:12 (fourteen degrees).

4.1.3.1 - Low slope roofing systems:

4.1.3.1.1 - Built-up – minimum 4 ply, type IV fiberglass felt, asphalt BUR system. Gravel or cap sheet surfacing required.

4.1.3.1.2- Ethylene Propylene Diene Monomer - minimum 60 mil EPDM membrane, with a ballasted or adhered system.

4.1.3.1.3- Poly Vinyl Chloride - minimum 60 mil PVC membrane adhered or mechanically attached systems.

4.1.3.1.4- Thermal Polyolefin - minimum 60 mil membrane adhered or mechanically attached systems.

4.1.3.1.5- Polymer-modified bitumen sheet membrane - Styrene-Butadiene-Styrene (SBS) membranes only, to be used only as a component of a built-up system noted above.

4.1.3.2 - Steep slope roofing systems:

4.1.3.2.1- Asphalt shingles - minimum 50 year spec asphalt shingles, UL Class A.

4.1.3.2.2- Clay tile and concrete tile - minimum 50 year spec clay or concrete tile, UL Class A.

4.1.3.2.3- Metal roof systems for steep-slope applications - minimum 24 gage prefinished steel, standing seam roof system with a minimum 1.5" seam height.

4.1.3.2.4- Slate - ¼" minimum thickness, 50 year spec. UL Class A.

4.1.3.2.5- Synthetic shingles - minimum 50 year spec, UL Class A.

4.1.4 Electrical Systems – Power Distribution and Utilization. Safe and secure electrical service and distribution systems shall be designed and installed to meet the National Electrical Code (NEC, NFPA 70); edition as enforced by the Colorado State Buildings Programs (SBP), unless otherwise more stringent based on local Authority Having Jurisdiction (AHJ), and ANSI/ASHRAE/IES Standard 90.1-2013 "Energy Standard for Buildings Except Low-Rise Residential Buildings".

4.1.4.1– Energy use intensity should not exceed the U.S. Department of Energy (DOE) building benchmarks, and shall conform to ASHRAE Standard Benchmark Energy Utilization Index (October 2009).

4.1.4.2 - Emergency lighting shall operate when normal lighting systems fail in locations and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.5 Lighting Systems. Lighting systems shall be designed and installed to achieve appropriate lighting levels utilizing energy-efficient lighting fixtures and energy-saving automatic and manual control systems.

4.1.5.1 - Lighting systems shall be designed and installed to meet the National Electrical Code (NEC, NFPA 70) edition as enforced by the Colorado State Buildings Programs (SBP), unless otherwise more stringent based on local Authority Having Jurisdiction (AHJ).

4.1.5.2– Illuminance levels shall meet the requirements for applicable spaces as recommended within in the Illuminating Engineering Society (IES) Handbook, and dictated by the Rules and Regulations Governing Schools in the State of Colorado 6 CCR 1010-6.

4.1.5.3– Lighting power density shall not exceed the values indicated in ANSI/ASHRAE/IES Standard 90.1-2013.

4.1.5.4 - Lighting Control Systems shall be provided to comply with ANSI/ASHRAE/IES Standard 90.1-2013.

4.1.6 Mechanical Systems – Heating, Ventilation, and Air Conditioning (HVAC). Safe and energy efficient mechanical systems shall be designed and installed to provide proper ventilation, and maintain the building temperature and relative humidity, while achieving appropriate sound levels.

4.1.6.1 – Mechanical systems shall be designed and installed to meet the International Mechanical Code, International Fuel Gas Code, International Building Code, and other Codes as adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507.

4.1.6.2 - Healthy building indoor air quality (IAQ) shall be provided through the use of the mechanical heating, ventilation and air conditioning (HVAC) systems, or by operable windows, and by reducing air infiltration and water penetration with a tight building envelope, in compliance with the enforced International Building Code and ASHRAE Standard 62. 1- 2013.

4.1.6.3 - Mechanical systems shall comply with: ASHRAE Standard 62.1-2013 Ventilation for Acceptable Indoor Air Quality, ASHRAE Standard 90.1-2013 Energy Standard for Buildings Except Low-Rise

Residential Buildings, and ASHRAE Standard 189.1-2014 Standard for the Design of High-Performance Green Buildings.

- 4.1.6.4 Sound levels due to mechanical equipment shall comply with Occupational Safety & Health Administration Standard 1910.95, July 2011 and ANSI/ASA Standard S12.60-2010 Part 1 for acoustical considerations within school facilities.
- 4.1.7 **Plumbing Systems** - Waste Water, Storm water, Domestic Water and Plumbing Supporting HVAC shall be in compliance with Division of Fire Prevention and Control in 8 CCR1507 and the Colorado Department of Health & Environment regulations.
- 4.1.8 **Fire Protection Systems.** Building fire detection, alarm and emergency notification systems in all school facilities shall be designed in accordance with State requirements. Exceptions where code required systems are not mandatory and the occupancy classification according to the International Building Code 2015 does not warrant a system. All fire management systems shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 and the adopted Fire Code.
 - 4.1.8.1 - Types of fire alarm notifications systems.
 - 4.1.8.1.1– Internal audible and visual alarms.
 - 4.1.8.1.2– External alarm monitoring and dispatch via internet / modem, telephone, radio, or cellular monitoring systems.
 - 4.1.8.2 - Automatic Sprinkler Systems in Group E Occupancy a sprinkler system shall be provided as noted in the adopted Fire Code. Refer to the adopted Fire Code for exceptions.
 - 4.1.8.2.1 All Group E fire areas greater than 12,000 square feet in area.
 - 4.1.8.2.2 Throughout every portion of educational buildings below the lowest level of exit discharge serving that portion of the building.
 - 4.1.8.3 - Types of Fire Protection Water Supplies.
 - 4.1.8.3.1- Fire hydrants.
 - 4.1.8.3.2- Static fire water storage tanks.
- 4.1.9 **Means of egress.** A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a *public way*. A means of egress consists of three separate and distinct parts: the exit access, the *exit* and the *exit discharge*. Reference 2015 International Building Code, Chapter 2, Definitions. A building code analysis shall be conducted to determine all code requirements.
- 4.1.10 **Facilities with safely managed hazardous materials.** Potential hazardous materials in building components, which are identified in the Asbestos Hazard Emergency Response Act (AHERA) report, may include: asbestos, radon, lead, lamps and devices containing mercury. Additional hazardous materials may include: science chemicals, cleaning chemicals, blood-borne pathogens, acid neutralization tank for science departments, and bulk fuel storage (UST/AST) management that may be stored by the occupant.
 - 4.1.10.1 - Public schools shall comply with all AHERA criteria and develop, maintain, and update an asbestos management plan, to be kept on record at the school district. This should include a building survey of the exterior of the building, and identification of all friable, non-friable, and trace asbestos materials. Reference regulation Number 8, Control of Hazardous Air Pollutants, 5 CCR 1001-10.

- 4.1.10.2 - All new facilities and additions shall conduct radon testing following completion of construction within nineteen months after occupancy as required by Colorado Department of Public Health and Environment, 6 CCR 1010-6.
- 4.1.10.3 - Lead based paint. All schools shall conform to the regulations adopted by the Colorado Air Quality Control Commission governing the abatement of lead-based paint from target housing (constructed prior to 1978) and child-occupied facilities, reference C.R.S. 25-5-1101.
- 4.1.11 **Security.** The degree of resistance to, or protection from, harm. It applies to any vulnerable and valuable asset; such as a person, building or dwelling. Security provides "a form of protection where a separation is created between the assets and the threat." These separations are generically called "controls," and sometimes include changes to the asset or the threat. These separations and degrees of resistance can be achieved through several models and techniques.
 - 4.1.11.1 - Video Management Systems (VMS).
 - 4.1.11.1.1 - Cameras. Video cameras are typically used to implement a video management system. In new construction, these should be internet protocol (IP) cameras on Power over Ethernet (PoE) cabling infrastructure, with color CCD, day-night operation and supplemental IR illuminators and environmental accessories as required for application, Cameras should support motion activation, digital zoom and focus, and standard video compression. Fixed and pan-tilt-zoom (PTZ) cameras shall be considered to meet requirements. Consideration shall be given to cameras with integral audio microphones.
 - 4.1.11.1.2 - Monitoring & Recording Systems. - A central video management system should be capable of monitoring live feeds from multiple cameras from a central location and remote locations, recording all video, searching and reviewing recorded video, and exporting video to portable digital media. A minimum of 30 days of storage of all videos at 15fps (frames per second) is required.
 - 4.1.11.2 - Controlled Access.
 - 4.1.11.2.1 - General Requirements
 - 4.1.11.2.1.1 - The number of entryways into the building or onto the campus should be limited. New construction shall be designed to restrict normal entrance to only one or two locations, with no recessed doorways, provided that sufficient entryways are available for fire department access and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.
 - 4.1.11.2.1.2 - All exterior doors shall be locking and equipped with panic bars to open readily from the egress side. Panic bars should utilize flush push bar hardware to prevent chaining doors shut.
 - 4.1.11.2.1.2.1 - Unless a door is intended for ingress, exterior doors should not have handles and locks on the outside. In all cases exposed hardware should be minimized, provided that sufficient entryways are available for fire department access and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

- 4.1.11.2.1.3 - Doors should be constructed of steel, aluminum alloy, or solid-core hardwood. If necessary, glass doors should be fully framed and equipped with burglar-resistant tempered glass. Translucent glass should be avoided in all cases.
- 4.1.11.2.1.4 - Exit doors with panic push-bars should be "Access Control Doors" per the codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30, to prevent easy access by criminals and vandals, or in a lock-down / lock-out situation.
- 4.1.11.2.1.5 - Heavy-duty metal or solid-core wooden doors should be used at entrances in areas containing expensive items. These areas include classrooms, storerooms, and custodians' rooms. Interior doorway doors should also be heavy-duty metal or solid-core wooden doors.
- 4.1.11.2.1.6 - Door hinges should have non-removable pins.
- 4.1.11.2.1.7 - Door frames should be constructed of pry-proof material.
- 4.1.11.2.1.8 - Armored strike plates shall be securely fastened to the door frame in direct alignment to receive the latch easily.
- 4.1.11.3 - Automated Locking Mechanisms.
 - 4.1.11.3.1.1 Use of automated locking mechanisms (electronic access control) should be considered for exterior doors identified for entry and select interior doors associated with the main entry vestibule.
 - 4.1.11.3.1.2 Acceptable automated electronic access control systems include RF-based proximity credential readers and biometric scanning devices. If the electronic access control systems are to be utilized the following shall apply:
 - 4.1.11.3.1.2.1 - School personnel may be issued credentials for authenticating their identity in order to maintain efficient access to school facilities.
 - 4.1.11.3.1.2.2 Students are not necessarily expected to carry electronic access control credentials. During normal arrival times, electronic locking systems may be disengaged via a timer while entries are monitored by school personnel.
 - 4.1.11.3.1.2.3 All exterior doors shall utilize door position switches to notify staff of open doors and eliminate "door propping".
 - 4.1.11.3.1.2.4 Doors utilizing electronic access controls shall "fail secure" from the unsecure side. Free egress shall not be inhibited from the secure side in any scenario.
- 4.1.11.4 Manual Locking Devices
 - 4.1.11.4.1 Use of a manual locking mechanism, such as traditional cylinder and key locks, should be provided for all interior doors requiring access control.
 - 4.1.11.4.2 Manual and Electronic access control should not be used on the same door.

4.1.11.5 Emergency Lockdown

4.1.11.5.1 All exterior doors shall be able to be quickly and automatically secured from a position of safety (Administrative desk, Principal's office, etc) without traveling to each individual exterior door.

4.1.11.5.2 Interior doors to occupied spaces shall be capable of quickly being secured from the inside by school personnel. Locking of doors may be done via manual deadbolt or automatic locking mechanism. Locking mechanism shall not interfere with automatic closing and latching functions required by the fire code and may have door sidelights, or door vision glass that allow line of sight into the corridors during emergencies, and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.11.6 Intrusion Detection

4.1.11.6.1 A system shall be put in place to identify, alarm, and notify authorities in the case of unauthorized entry.

4.1.11.7 Alarm System

Passive infrared (PIR) sensors shall be located interior to all building entries to monitor human movement.

4.1.11.7.1.1 – An alarm keypad shall be located at selected building entries to arm and disarm the intrusion detection system.

4.1.11.7.1.2 – A manual alarm device shall be located in a position of safety (Administrative desk, Principal's office, etc.) to force intrusion detection system into alarm status.

4.1.11.7.1.3 – The intrusion detection shall notify local authorities or monitoring company upon alarm status.

4.1.11.8 Security Integration

4.1.11.8.1 The Video Management System (VMS), Access Control System, and Intrusion Detection System may be components of an integrated security solution.

4.1.11.9 - Main Entry Physical Security

4.1.11.9.1 - Building vestibules. Where appropriate, buildings shall employ double entry door designs that provide a secured area for visitors to authenticate and gain clearance. Known as "man traps", security vestibules solve several common security issues such as students opening doors for visitors, visitors bypassing check-in points, direct access to the interior from attackers, piggy-back entrances, and propped doors.

4.1.11.9.2 - Video based entrance intercom systems. Building designs shall allow for school personnel to be able to monitor incoming visitors from a safe location out of reach, or line of sight from incoming visitors who have not yet been authenticated or cleared for entry. These entry points shall use remote video and access control technology to conduct multi-factor authentication of incoming visitors (e.g. visual verification and ID, PIN/password and ID, or biometric and other form of visual identification).

- 4.1.11.9.2.1 - Video based entrance systems shall use IP technology to allow access control to be conducted by school personnel from multiple locations, so that multiple personnel can provide coverage for screening incoming visitors.
- 4.1.11.9.3 - Line of sight. The front entrance should be designed to maximize the line of sight distance for school occupants to detect an intruder from each relevant perimeter (e.g. classroom to hallway, office or guard station to entryway, or entryway to exterior fence access, or exterior fence access to property perimeter).
- 4.1.11.10 - Event alerting and notification (EAN) system. An EAN system that utilizes an intercom / phone system with communication devices located in all classrooms and throughout the school to provide efficient inter-school communications, and communication with local fire, police, and medical agencies during emergency situations.
- 4.1.11.11 - Secure sites should include the following:
 - 4.1.11.11.1 - Locations to avoid.
 - 4.1.11.11.2 - Location of utilities.
 - 4.1.11.11.3 - Roof access.
 - 4.1.11.11.4 - Lighted walkways.
 - 4.1.11.11.5 - Secured playgrounds.
 - 4.1.11.11.6 - Bollards at main entrances and shop areas with overhead doors.
 - 4.1.11.11.7 - Signage.
- 4.1.12 **Health code standards.** Schools, including labs, shops, vocational and other areas with hazardous substances shall conform to the Department Of Public Health and Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.
- 4.1.13 **Food preparation equipment and maintenance.** Food preparation and associated facilities equipped and maintained to provide sanitary facilities for the preparation, distribution, and storage of food as required by Department Of Public Health And Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.
- 4.1.14 **Health care room.** A separate health care room shall be provided and shall comply with the Department Of Public Health and Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.
- 4.1.15 **A site that safely separates pedestrian and vehicular traffic and is laid out with the following guidelines:**
 - 4.1.15.1 - Physical routes for basic modes (busses, cars, pedestrians, and bicycles) of traffic should be separated as much as possible from each other. If schools are located on busy streets and/or high traffic intersections, coordinate with the applicable municipality or county to provide for adequate signage, traffic lights, and crosswalk signals to assist school traffic in entering the regular traffic flow.

- 4.1.15.2 - When possible, provide a dedicated bus staging and unloading area located away from students, staff, and visitor parking.
- 4.1.15.3 - Provide an adequate driveway zone for stacking cars on site for parent drop-off/pick-up zones. Drop-off area design should not require backward movement by vehicles, and be one-way in a counterclockwise direction where students are loaded and unloaded directly to the curb/sidewalk. Students should not have to load or unload where they have to cross a vehicle path before entering the building. It is recommended all loading areas have "No Parking" signs posted.
- 4.1.15.4 - Provide well-maintained sidewalks and a designated safe path leading to the school entrance(s).
- 4.1.15.5 - Building service loading areas and docks should be independent from other traffic and pedestrian crosswalks. If possible, loading areas shall be located away from school pedestrian entries.
- 4.1.15.6 - Facilities should provide bicycle access and storage if appropriate.
- 4.1.15.7 - Fire lanes shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 or the local fire department. Local fire department must adhere to the codes adopted by DFPC.
- 4.1.15.8 - Playgrounds shall comply with the ICC A117.1-2009 Accessible and Usable Buildings and Facilities and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.
- 4.1.16 **Severe weather preparedness.**
 - 4.1.16.1 - Designated emergency shelters shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 and ICC 500-2014 Standard and Commentary: ICC/NSSA Standard for the design and Construction of Storm Shelters.

4.2 Technology, including but not limited to telecommunications and internet connectivity technology and technology for individual student learning and classroom instruction.

- 4.2.1 Educational facilities for individual student learning, classroom instruction, online instruction and associated technologies, connected to the Colorado institutions of higher education distant learning networks "Internet" and "Internet two."
- 4.2.2 Educational facilities shall be supplied with standards-based wired and wireless network connectivity.
- 4.2.3 Security and associated filtering and intrusion control for internal voice, video and data networks shall be provided.
- 4.2.4 External internet service provider (ISP) connection and internal wide area network (WAN) connections meeting or exceeding recommended guidelines of the state education technology education directors association (SETDA) broadband imperative, and devices meeting or exceeding recommended specifications according to the most current version of technology guidelines for the partnership for assessment of readiness for college and careers (PARCC) assessments.
- 4.2.5 Provide school administrative offices with web-based activity access.
- 4.2.6 Building shall be constructed with long-term sustainable technology infrastructure. Facilities should be built with sufficient data cabling and/or conduit and power infrastructure to allow for maximum

flexibility as technological systems are upgraded and replaced in the future. A plan for technology lifecycle review intervals should be put in place for review at 2-4 year intervals.

4.2.6.1 Applicable Standards. The design and installation of technology systems shall comply with:

4.2.6.1.1 ANSI/TIA/EIA-568-C, August 2012

4.2.6.1.2 ANSI/TIA/EIA-569-D, April 2015

4.2.6.1.3 ANSI/TIA/EIA-606-B, April 2012

4.2.6.1.4 ANSI/TIA/EIA-607-B, September 2011

4.2.6.1.5 ANSI/BICSI 001-2009, Information Transport Systems Design Standard for K-12 Educational Institutions.

4.2.7 Telecom Equipment Rooms

4.2.7.1 - Uninterruptible power supplies (UPS). Telecom Rooms (TRs) and Equipment Rooms (ERs) shall be provided with UPS equipment to provide continuous clean power to communications systems for a minimum of 90 minutes.

4.2.7.2 - Generators. A backup generator shall be considered for providing backup power to telecommunications systems if backup power is required beyond 90 minutes, or if the generator is already located for other purposes.

4.2.7.3 - Heating, Ventilation and Air Conditioning (HVAC). Mechanical equipment shall be used to accommodate heating loads within TRs and ERs. Ventilation-only systems may be used in spaces with limited equipment, active cooling systems should be considered for larger rooms. Maintained space temperatures shall target 65 degrees F. peak space temperatures shall not exceed 90 degrees F.

4.2.7.3.1 Direct evaporative cooling systems shall not be used, due to lack of control on humidity levels.

4.2.7.4 - Alarms shall be provided to notify assigned school personnel if environmental conditions approach or exceed bounds of operational conditions.

4.2.8 Connectivity standards.

4.2.8.1 - Wireless. Data cabling shall be planned to support appropriately spaced multiple-antenna wireless networking infrastructure allowing for wireless access points to support expected quantity of connected devices and required bandwidth. Support for 802.11b/g/n, 802.11ac, and/or newer protocols are recommended.

4.2.8.2 - Wired.

4.2.8.2.1 - Cabling. All new runs of copper data cable should be Category 6 cable or newer standards. Any data outlet should be supplied by two cables. Unshielded twisted pair (UTP) shall be used unless local conditions warrant otherwise.

4.2.8.2.2 - Telecom Rooms (TRs) and Equipment Rooms (ERs). TRs and ERs shall be connected by conduit and a combination of copper and fiber optic cable to allow for maximum data performance and upgradeability.

4.2.8.2.3 - TR to classroom. Classrooms should have a data outlet on the wall at the front and back of the room at a minimum for network/ internet access. Additional cabling may be warranted for security, audiovisual and special systems purposes.

4.2.8.2.4 - TR to office, and library or technology/media centers. Any areas designed for independent work or study should have a dedicated data-jack outlet with two copper cable runs each.

4.2.8.2.5 - TR to common areas, auditorium, and cafeteria. Common areas should contain data outlets located as required to support program and curriculum requirements.

4.3 Building site requirements. Functionality of existing and planned public school facilities for core educational programs, particularly those educational programs for which the State Board has adopted state model content standards. Capacity of existing and planned public school facilities, taking into consideration potential expansion of services for the benefit of students such as full-day kindergarten and preschool- and school-based health services and programs.

4.3.1 Traditional education model, S.T.E.M. & Montessori / Expeditionary education models.

4.3.1.1 - Minimum occupancy requirements for schools:

Median Gross Square Foot (GSF) Per Pupil								
F.T.E.s	Traditional ES (K-5)		Traditional MS (6-8)		Traditional HS (9-12)		Traditional K-12	
	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF
100	151	15,064	161	16,102	192	19,183	164	16,393
200	146	29,197	159	31,813	190	38,030	161	32,298
300	141	42,401	157	47,136	188	56,540	159	47,715
400	137	54,674	155	62,068	187	74,713	157	62,645
500	132	66,017	153	76,610	185	92,550	154	77,087
600	127	76,429	151	90,763	183	110,050	152	91,041
700	123	85,912	149	104,526	182	127,214	149	104,508
800	118	94,464	147	117,899	180	144,041	147	117,488
900	113	102,086	145	130,883	178	160,531	144	129,979
1000	109	108,778	143	143,476	177	176,685	142	141,984
1100	104	114,540	142	155,680	175	192,502	140	153,500
1200	99	119,371	140	167,494	173	207,982	137	164,529

Median Gross Square Foot Per Pupil - Alternate Programs (Expeditionary (Exp.), Montessori (Mtsri.), S.T.E.M.)												
F.T.E.s	Alt. ES (GSF/Pupil)			Alt. MS (GSF/Pupil)			Alt. HS (GSF/Pupil)			Alt. K12 (GSF/Pupil)		
	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.
100	160	161	156	171	169	166	203	198	201	174	172	180
200	155	156	151	169	167	164	202	196	199	171	170	177
300	150	151	146	167	165	162	200	194	197	169	167	175
400	145	146	141	164	163	160	198	192	195	166	164	172
500	140	141	137	162	161	158	196	191	194	163	162	169
600	135	136	132	160	159	156	194	189	192	161	159	167
700	130	131	127	158	157	154	193	187	190	158	157	164
800	125	126	122	156	155	152	191	185	188	156	154	161
900	120	121	117	154	153	150	189	184	187	153	152	159
1000	115	116	113	152	151	148	187	182	185	151	149	156
1100	110	111	108	150	149	146	186	180	183	148	146	153
1200	105	106	103	148	147	144	184	179	181	145	144	151

Square Foot Values - Assembly								
	ES Assembly		MS Assembly		HS Assembly		K12 Assembly	
F.T.E.s	Cafeteria	Auditorium	Cafeteria	Auditorium	Cafeteria	Auditorium	Cafeteria	Auditorium
100	675	1,300	675	1,500	675	1,700	675	1,700
200	1,200	1,600	1,200	1,800	1,200	2,000	1,200	2,000
300	1,800	1,900	1,800	2,100	1,800	2,300	1,800	2,300
400	2,400	2,400	2,400	2,600	2,400	2,800	2,400	2,800
500	3,000	2,700	3,000	2,900	3,000	3,100	3,000	3,100
600	3,600	3,000	3,600	3,200	3,600	3,400	3,600	3,400
700	4,200	3,900	4,200	3,900	4,200	3,900	4,200	3,900
800	4,800	4,200	4,800	4,200	4,800	4,200	4,800	4,200
900	5,400	4,500	5,400	4,500	5,400	4,500	5,400	4,500
1000	6,000	4,800	6,000	4,800	6,000	4,800	6,000	4,800
1100	6,600	5,100	6,600	5,100	6,600	5,100	6,600	5,100
1200	7,200	5,400	7,200	5,400	7,200	5,400	7,200	5,400

- Cafeteria Capacity assumes three (3) seatings without a secondary function overlay.

- Auditorium Capacity SF is sized for 1/3 of General enrollment and is inclusive of stage (size varies: 1,000 to 1,800); Basis is 9 SF per seat (1/3 FTES) plus stage at various sizes, stage includes a small amount of storage or similar support.

Square Foot (SF) Values - Core Classrooms (Minimum (Min) classroom size = 675 sf)								
	ES Min (24-30 FTES)		MS Min (24-30 FTES)		HS Min (24-30 FTES)		K12 Min (24-30 FTES)	
F.T.E.s	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF
Kindergarten	38	1,140	-	-	-	-	38	1,140
Grade 1	32	960	-	-	-	-	32	960
Grade 2	32	960	-	-	-	-	32	960
Grade 3	32	960	-	-	-	-	32	960
Grade 4	30	900	-	-	-	-	30	900
Grade 5	30	900	-	-	-	-	30	900
Grade 6	-	-	30	900	-	-	30	900
Grade 7	-	-	28	840	-	-	28	840
Grade 8	-	-	28	840	-	-	28	840
Grade 9	-	-	-	-	28	840	28	840
Grade 10	-	-	-	-	28	840	28	840
Grade 11	-	-	-	-	28	840	28	840
Grade 12	-	-	-	-	28	840	28	840
Montessori	40	1,200	40	1,200	40	1,200	40	1,200
Expeditionary	36	1,080	36	1,080	36	1,080	36	1,080

Square Foot (SF) Values - Exploratory Spaces (minimum size = 675 sf)								
	ES Min (24-30 F.T.E.s)		MS Min (24-30 F.T.E.s)		HS Min (24-30 F.T.E.s)		K12 Min (24-30 F.T.E.s)	
F.T.E.s	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF
Comp/Tech	30		32	-	32	-	32	
Music	35		35	-	35	-	35	
Science	38		40		44		44	
Lecture	28		28		28		28	
Art	35		40		45		45	
Gym / MP	3,000 SF (50'x60')		5,400 SF (60'x90')		7,300 SF (70'x104')		7,300 SF (70'x104')	
Special Ed	37		37		37		37	
VoAg	-	-	-	-	60	-	60	-
Media Center	1200 sf (30 occ)		2400 sf (60 occ)		3600 sf (60 occ)		3600 sf (60 occ)	
"Gymatorium"	4,400 SF (See notes)		4,400 SF (See notes)					

- ES Gymnasium basis is 50'X60' play area; Capacity Assumes (GE*.25)/7 periods (without fixed seats)

- MS Gymnasium basis is 60'X90' play area; Capacity Assumes (GE*.5)/7 periods (without fixed seats)

- HS Gymnasium basis is 70'X104' practice gym; Capacity Assumes (GE*.5)/7 periods (with limited fixed seats) Note: National Federation of State High School Association's standards outline an "ideal" court for high school age as 84'x50' (and not greater than 94'x50')

- "Gymatorium" basis is 50'x60' play area and 1000 SF platform stage with 400 SF storage

Instructor / Support Areas		
Space Type:	Square Feet	Notes:
Office - typical	120	
Office - large	150	
Work room	250	Multiple individual (or in aggregate) may be required due to scale
Team planning (conf)	240	12-16 occupants (assembly use)
Instruction - sm group	320	16 occupants (classroom use)
Storage	50	Ave per instructor
Staff toilets	50	Multiple may be required due to scale

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4.3.2 Other rooms.

- 4.3.2.1 - Facilities with preschools shall comply with Rules Regulating Child Care Centers (Less Than 24-Hour Care) 12 CCR 2509-8 and shall comply with the Colorado Department of Public Health and Safety's Regulations Governing Child Care, 6 CCR 1010-7.
- 4.3.2.2 - Special education classrooms. Special Education classrooms and facilities meeting or exceeding the accessibility and adaptive needs of the current and reasonably anticipated student population, in accordance with Section 504 and Title II of the Americans with Disabilities Act, the Exceptional Children's Educational Act, and Individuals with Disabilities Education Act.

4.4 Building performance standards and guidelines for green building and energy efficiency.

Section 24-30-1305.5 C.R.S., requires all new facilities, additions, and renovation projects funded with 25% or more of state funds to conform with the High Performance Certification Program (HPCP) policy adopted by the Office of the State Architect (OSA) if:

- The new facility, addition, or renovation project contains 5,000 or more building square feet; and
- The project includes an HVAC system; and
- If increased initial cost resulting from HPCP can be recouped by decreased operational costs within 15 years, and
- In the case of a renovation project, the cost of the renovation exceeds 25% of the current value of the property.

4.4.1 High Performance Certification Programs.

4.4.1.1 The Department of Personnel and Administration, Office of the State Architect has determined the following three guidelines as meeting the High Performance Certification Program (HPCP) requirements per C.R.S.24-30-1305.5; the U.S. Green Building Council, Leadership in Energy and Environmental Design – New Construction (USGBC LEED™-NC) guideline with Gold as the targeted certification level; and the Green Building Initiative (GBI), Green Globes guideline with Three Globes the targeted certification level; and for the Colorado Department of Education, K-12 construction, the Collaborative for High Performance Schools (US-CHPS) is an optional guideline with Verified Leader as the targeted certification level.

4.4.1.2 – LEED, or Leadership in Energy and Environmental Design (for schools) is a globally recognized symbol of excellence in green building.

4.4.1.2.1 LEED is an internationally recognized certification system that measures a building using several metrics, including: energy savings, water efficiency, sustainable land use, improved air quality, and stewardship of natural resources.

4.4.1.2.2 Points are awarded on a 100-point scale, and credits are weighted to reflect their potential environmental impacts. Different levels of certification are granted based on the total number of earned points. The four progressive levels of certification from lowest to highest are: certified, silver, gold and platinum.

4.4.1.3 United States Collaborative for High Performance Schools (US-CHPS). US-CHPS reflects the three priority outcomes of the Core Criteria. These are, in order of importance.

4.4.1.3.1 Maximize the health and performance of students and staff.

4.4.1.3.2 Conserve energy, water and other resources in order to save precious operating dollars.

4.4.1.3.3 Minimize material waste, pollution and environmental degradation created by a school.

4.4.1.3.4 The CHPS National Technical Committee has weighted the available point totals for prerequisites and credits in seven categories to reflect these three priorities.

4.4.2 Renewable energy strategies.

4.4.2.1 - Solar Photovoltaic / Solar Thermal.

4.4.2.2 - Geothermal / Geo exchange.

4.4.2.3 - Wind.

4.4.2.4 - Passive Solar Design.

4.4.3 Energy management plan.

4.4.3.1 - Energy programs assist with creating a culture of energy efficiency within a school. Reference Energy Star Guidelines for Energy Management to help develop a plan.

4.4.4 Other energy efficient options.

4.4.4.1 - ENERGY STAR Labeled HVAC / mechanical systems.

4.4.4.2 - Windows, doors, and skylights (collectively known as fenestration).

4.4.4.3 - Building Envelope.

4.4.4.3.1 - The interface between the interior of the building and the outdoor environment, including the walls, roof, and foundation – serves as a thermal barrier and plays an important role in determining the amount of energy necessary to maintain a comfortable indoor environment relative to the outside environment.

4.4.4.3.2 - Roof. Roof design and materials can reduce the amount of air conditioning required in hot climates by increasing the amount of solar heat that is reflected, rather than absorbed, by the roof. For example, roofs that qualify for ENERGY STAR® are estimated to reduce the demand for peak cooling by 10 to 15 percent.

4.4.4.3.3 - Insulation is important throughout the building envelope.

4.4.4.4 - Lighting.

4.4.4.4.1 - Light emitting diodes (LEDs), compact fluorescents (CFLs) and fluorescent lighting should be considered over traditional incandescent lighting.

4.4.4.5 - Commissioning, retro commissioning and re-commissioning.

- 4.4.4.5.1 - Commissioning ensures that a new building operates initially as the owner intended and that building staff are prepared to operate and maintain its systems and equipment.
- 4.4.4.5.2 - Retro commissioning is the application of the commissioning process to existing buildings.
- 4.4.4.5.3 - Re-commissioning is another type of commissioning that occurs when a building that has already been commissioned, undergoes another commissioning process.

4.4.4.6 - Measurement and verification. Measurement and verification (M&V) is the term given to the process for quantifying savings delivered by an Energy Conservation Measure (ECM), as well as the sub-sector of the energy industry involved with this practice. M & V demonstrates how much energy the ECM has avoided using, rather than the total cost saved.

4.4.5 - Landscaping

- 4.4.5.1.1 Irrigation: Consider water management which could include reducing storm-water run-off, preventing erosion and decreasing the effects of soil expansion.
- 4.4.5.1.2 Plant Materials: Consider Native materials, Xeriscaping.
- 4.4.5.1.3 Grass/ Sod Areas: Consider use of grass/ sod areas, consider water use, alternate options if planting sports fields.

4.4.6 – Permitting

- 4.4.6.1 Application for public school construction projects permits can be made at the DFPC website, www.colorado.gov/dfpc > Sections > Fire & Life Safety > Permits and Construction > School Construction.
- 4.4.6.2 If a local building department has entered into a memorandum of understanding (MOU) with DFPC, that local building department is considered a Prequalified Building Department (PBD). A School District may, at its discretion, choose to apply for permit through DFPC or the PBD that has jurisdiction of construction projects for the location of the school construction project. The list of PBD' is available on the DFPC website, School Construction.

4.5 The historic significance of existing public school facilities and their potential to meet current programming needs by rehabilitating such facilities.

- 4.5.1 Buildings that are 50 years or older at the time of application may be subject to the State Register Act 24-80.1-101 to 108 in determining if the affected properties have historical significance.
 - 4.5.1.1 - Historical significance means having importance in the history, architecture, archaeology, or culture of this state or any political subdivision thereof or of the United States, as determined by the state historical society.
- 4.5.2 When determining if a facility should be replaced, the cost to rehabilitate versus the cost to replace should be evaluated.

COLORADO DEPARTMENT OF EDUCATION
DIVISION OF PUBLIC SCHOOL CAPITAL CONSTRUCTION ASSISTANCE

1 CCR 303-1

PUBLIC SCHOOL FACILITY CONSTRUCTION GUIDELINES

Article 1 – Purpose and Authority to Promulgate Rules

1.1. Purpose

1.1.1. Section 22-43.7-107(1)(a), C.R.S. states, The board shall establish public school facility construction guidelines for use by the board in assessing and prioritizing public school capital construction needs throughout the state as required by section 22-43.7-108, C.R.S. reviewing applications for financial assistance, and making recommendations to the state board regarding appropriate allocation of awards of financial assistance from the assistance fund only to applicants. The board shall establish the guidelines in rules promulgated in accordance with article 4 of title 24, C.R.S.

1.1.2. Section 22-43.7-107(1)(b), C.R.S. states, It is the intent of the general assembly that the Public School Facility Construction Guidelines established by the board be used only for the purposes specified in section 1.1.1 above.

1.1.3. The Public School Facility Construction Guidelines shall identify and describe the capital construction, renovation, and equipment needs in public school facilities and means of addressing those needs that will provide educational and safety benefits at a reasonable cost.

1.2. Statutory Authority

1.2.1. Section 22-43.7-106(2)(i)(I) C.R.S. states, the board may promulgate rules in accordance with article 4 of title 24, C.R.S. The board is directed to establish Public School Facility Construction Guidelines in rule pursuant to 22-43.7-107(1)(a), C.R.S.

Article 2 – Definitions

2.1. The definitions provided in 22-43.7-103, C.R.S., shall apply to these rules. The following additional definitions shall also apply:

“C.R.S.” means Colorado Revised Statutes.

“ES” means Elementary School.

“F.T.E.s” means Full Time Equivalent Students.

“Gross Square Feet (GSF)” means the total area of the building (inclusive of all levels as applicable) of a building within the outside faces of the exterior walls, including all vertical circulation and other shaft (HVAC) areas connecting one floor to another.

“Guidelines” means the Public School Facility Construction Guidelines.

"Historical significance" means having importance in the history, architecture, archaeology, or culture of this state or any political subdivision thereof or of the United States, as determined by the state historical society.

“HS” means High School.

“K12” means Kindergarten through 12th Grade School that is under all one facility / campus.

“MS” means Middle School.

“SF” means Square Foot.

“S.T.E.M.” means Science, Technology, Engineering, & Mathematics.

Article 3 – Codes, Documents and Standards incorporated by reference

3.1. The following materials are incorporated by reference within the Public School Facility Construction Guidelines:

3.1.1.ASHRAE 90.1-2013 Energy Standard for Buildings Except Low-Rise Residential Buildings.

3.1.2.ASHRAE Standard Benchmark Energy Utilization Index (October 2009).

3.1.3.ASHRAE Standard 189.1 - 2011 Standard for the Design of High-Performance Green Buildings.

3.1.4.ANSI/ASA S12.60-2010/ Part 1, Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Part 1 Permanent Schools

3.1.5.ANSI/TIA/EIA-568-C, August 2012

3.1.6.ANSI/TIA/EIA-569-D, April 2015

3.1.7.ANSI/TIA/EIA-606-B, April 2012

3.1.8.ANSI/TIA/EIA-607-B, September 2011

3.1.9.ANSI.BICSI 001-2009, Information Transport Systems Design Standard for K-12 Educational Institutions

- 3.1.10. International Code Council's International Plumbing Code (2015) amended by Rules and Regulations of the Colorado State Plumbing Board 3 CCR 720-1, 2016-4-1
- 3.1.11. National Fire Protection Association (NFPA) 70: National Electrical Code (2014).
- 3.1.12. National Fire Protection Association (NFPA) 13: Standard for the Installation of Sprinkler Systems, 2013 Edition
- 3.1.13. National Fire Protection Association (NFPA) 72: National Fire Alarm and Signaling Code, 2013 Edition.
- 3.1.14. National Fire Protection Association (NFPA) 80: Standard for Fire Doors and Other Opening Protectives, 2016 Edition
- 3.1.15. ASHRAE Standard 62.1-2013 Ventilation for Acceptable Indoor Air Quality (2013).
- 3.1.16. Colorado Department of Public Health and Environment which references Air Quality, Hazardous Waste, Public and environmental health, Radiation Control, Solid Waste and Water Quality.
- 3.1.17. International Fire Code (IFC) – 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.), including Appendices B and C.
- 3.1.18. International Mechanical Code - 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.)
- 3.1.19. International Energy Conservation Code (IECC) - 2015 Edition, First Printing: May 2014 (Copyright 2014 by International Code Council, Inc. - Washington, D.C.)
- 3.1.20. International Existing Building Code – 2015 Edition, First Printing: May 2014 (Copyright 201 by International Code Council, Inc. - Washington, D.C.)
- 3.1.21. International Code Council (ICC) A117.1-2009 Accessible and Usable Buildings and Facilities
- 3.1.22. International Code Council (ICC) 500-2014 Standard and Commentary: ICC/NSSA Standard for the

Design and Construction of Storm Shelters

3.1.23. Occupational Safety and Health Administration Standard 1910.95, July 2011

3.1.24. All projects shall be constructed and maintained in accordance with the codes and regulations as currently adopted by the Colorado Division of Fire Prevention & Control which incorporates current building, fire, existing building, mechanical, and energy conservation codes.-

3.2. The Division shall maintain copies of the complete texts of the referenced incorporated materials, which are available for public inspection during regular business hours with copies available at a reasonable charge. Interested parties may inspect the referenced incorporated materials by contacting the Director of the Division of Public School Capital Construction Assistance, 1580 Logan Street, Suite 310, Denver, Colorado 80203.

3.3. This rule does not include later amendments or editions of the incorporated material.

Article 4 - These Guidelines are not mandatory standards to be imposed on school districts, charter schools, institute charter schools, the boards of cooperative services or the Colorado School for the Deaf and Blind. As required by statute, the Guidelines address:

4.1 Health and safety issues, including security needs and all applicable health, safety and environmental codes and standards as required by state and federal law. Public school facility accessibility.

4.1.1 Sound building structures. Each building should be constructed and maintained with sound structural foundation, floor, wall and roof systems.

4.1.1.1 - All building structures shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.2 Classroom Acoustics. To address issues of reverberation time and background noise in classrooms refer to ANSI/ASA S12.60-2010/ Part 1, American National Standard Acoustical Performance Criteria, Design Requirements, and Guidelines for Schools, Part 1: Permanent Schools.

4.1.3 Roofs. A weather-tight roof that drains water positively off the roof and discharges the water off and away from the building. All roofs shall be installed by a qualified contractor who is approved by the roofing manufacturer to install the specified roof system and shall receive the specified warranty upon completion of the roof. The National Roofing Contractors Association divides roofing into two generic classifications: low-slope roofing and steep-slope roofing. Low-slope roofing includes water impermeable, or weatherproof types of roof membranes installed on slopes of less than or equal to 3:12 (fourteen degrees). Steep slope roofing includes water-shedding types of roof coverings installed on slopes exceeding 3:12 (fourteen degrees).

4.1.3.1 - Low slope roofing systems:

4.1.3.1.1- Built-up – minimum 4 ply, type IV fiberglass felt, asphalt BUR system. Gravel or cap sheet surfacing required.

4.1.3.1.2- Ethylene Propylene Diene Monomer - minimum 60 mil EPDM membrane, with a ballasted or adhered system.

4.1.3.1.3- Poly Vinyl Chloride - minimum 60 mil PVC membrane adhered or mechanically attached systems.

4.1.3.1.4- Thermal Polyolefin - minimum 60 mil membrane adhered or mechanically attached systems.

4.1.3.1.5- Polymer-modified bitumen sheet membrane - Styrene-Butadiene-Styrene (SBS) membranes only, to be used only as a component of a built-up system noted above.

4.1.3.2 - Steep slope roofing systems:

4.1.3.2.1- Asphalt shingles - minimum 50 year spec asphalt shingles, UL Class A.

4.1.3.2.2- Clay tile and concrete tile - minimum 50 year spec clay or concrete tile, UL Class A.

4.1.3.2.3- Metal roof systems for steep-slope applications - minimum 24 gage prefinished steel, standing seam roof system with a minimum 1.5" seam height.

4.1.3.2.4- Slate - ¼" minimum thickness, 50 year spec. UL Class A.

4.1.3.2.5- Synthetic shingles - minimum 50 year spec, UL Class A.

4.1.4 Electrical Systems – Power Distribution and Utilization. Safe and secure electrical service and distribution systems shall be designed and installed to meet the National Electrical Code (NEC, NFPA 70); edition as enforced by the Colorado State Buildings Programs (SBP), unless otherwise more

stringent based on local Authority Having Jurisdiction (AHJ), and ANSI/ASHRAE/IES Standard 90.1-2013 "Energy Standard for Buildings Except Low-Rise Residential Buildings".

4.1.4.1 – Energy use intensity should not exceed the U.S. Department of Energy (DOE) building benchmarks, and shall conform to ASHRAE Standard Benchmark Energy Utilization Index (October 2009).

4.1.4.2 - Emergency lighting shall operate when normal lighting systems fail in locations and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.5 **Lighting Systems.** Lighting systems shall be designed and installed to achieve appropriate lighting levels utilizing energy-efficient lighting fixtures and energy-saving automatic and manual control systems.

4.1.5.1 - Lighting systems shall be designed and installed to meet the National Electrical Code (NEC, NFPA 70) edition as enforced by the Colorado State Buildings Programs (SBP), unless otherwise more stringent based on local Authority Having Jurisdiction (AHJ).

4.1.5.2 – Illuminance levels shall meet the requirements for applicable spaces as recommended within in the Illuminating Engineering Society (IES) Handbook, and dictated by the Rules and Regulations Governing Schools in the State of Colorado 6 CCR 1010-6.

4.1.5.3 – Lighting power density shall not exceed the values indicated in ANSI/ASHRAE/IES Standard 90.1-2013.

4.1.5.4 - Lighting Control Systems shall be provided to comply with ANSI/ASHRAE/IES Standard 90.1-2013.

4.1.6 **Mechanical Systems – Heating, Ventilation, and Air Conditioning (HVAC).** Safe and energy efficient mechanical systems shall be designed and installed to provide proper ventilation, and maintain the building temperature and relative humidity, while achieving appropriate sound levels.

4.1.6.1 – Mechanical systems shall be designed and installed to meet the International Mechanical Code, International Fuel Gas Code, International Building Code, and other Codes as adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507.

4.1.6.2 - Healthy building indoor air quality (IAQ) shall be provided through the use of the mechanical heating, ventilation and air conditioning (HVAC) systems, or by operable windows, and by

reducing air infiltration and water penetration with a tight building envelope, in compliance with the enforced International Building Code and ASHRAE Standard 62.1-2013.

4.1.6.3 - Mechanical systems shall comply with: ASHRAE Standard 62.1-2013 Ventilation for Acceptable Indoor Air Quality, ASHRAE Standard 90.1-2013 Energy Standard for Buildings Except Low-Rise Residential Buildings, and ASHRAE Standard 189.1-2014 Standard for the Design of High-Performance Green Buildings.

4.1.6.4 Sound levels due to mechanical equipment shall comply with Occupational Safety & Health Administration Standard 1910.95, July 2011 and ANSI/ASA Standard S12.60-2010 Part 1 for acoustical considerations within school facilities.

4.1.7 **Plumbing Systems** - Waste Water, Storm water, Domestic Water and Plumbing Supporting HVAC shall be in compliance with Division of Fire Prevention and Control in 8 CCR1507 and the Colorado Department of Health & Environment regulations.

4.1.8 **Fire Protection Systems.** Building fire detection, alarm and emergency notification systems in all school facilities shall be designed in accordance with State requirements. Exceptions where code required systems are not mandatory and the occupancy classification according to the International Building Code 2015 does not warrant a system. All fire management systems shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 and the adopted Fire Code.

4.1.8.1 - Types of fire alarm notifications systems.

4.1.8.1.1– Internal audible and visual alarms.

4.1.8.1.2– External alarm monitoring and dispatch via internet / modem, telephone, radio, or cellular monitoring systems.

4.1.8.2 - Automatic Sprinkler Systems in Group E Occupancy a sprinkler system shall be provided as noted in the adopted Fire Code. Refer to the adopted Fire Code for exceptions.

4.1.8.2.1 All Group E fire areas greater than 12,000 square feet in area.

4.1.8.2.2 Throughout every portion of educational buildings below the lowest level of exit discharge serving that portion of the building.

4.1.8.3 - Types of Fire Protection Water Supplies.

4.1.8.3.1- Fire hydrants.

4.1.8.3.2- Static fire water storage tanks.

4.1.9 Means of egress. A continuous and unobstructed path of vertical and horizontal egress travel from any occupied portion of a building or structure to a *public way*. A means of egress consists of three separate and distinct parts: the exit access, the *exit* and the *exit discharge*. Reference 2015 International Building Code, Chapter 2, Definitions. A building code analysis shall be conducted to determine all code requirements.

4.1.10 Facilities with safely managed hazardous materials. Potential hazardous materials in building components, which are identified in the Asbestos Hazard Emergency Response Act (AHERA) report, may include: asbestos, radon, lead, lamps and devices containing mercury. Additional hazardous materials may include: science chemicals, cleaning chemicals, blood-borne pathogens, acid neutralization tank for science departments, and bulk fuel storage (UST/AST) management that may be stored by the occupant.

4.1.10.1- Public schools shall comply with all AHERA criteria and develop, maintain, and update an asbestos management plan, to be kept on record at the school district. This should include a building survey of the exterior of the building, and identification of all friable, non-friable, and trace asbestos materials. Reference regulation Number 8, Control of Hazardous Air Pollutants, 5 CCR 1001-10.

4.1.10.2- All new facilities and additions shall conduct radon testing following completion of construction within nineteen months after occupancy as required by Colorado Department of Public Health and Environment, 6 CCR 1010-6.

4.1.10.3- Lead based paint. All schools shall conform to the regulations adopted by the Colorado Air Quality Control Commission governing the abatement of lead-based paint from target housing (constructed prior to 1978) and child-occupied facilities, reference C.R.S. 25-5-1101.

4.1.11 Security. The degree of resistance to, or protection from, harm. It applies to any vulnerable and valuable asset; such as a person, building or dwelling. Security provides "a form of protection where a separation is created between the assets and the threat." These separations are generically called "controls," and sometimes include changes to the asset or the threat. These separations and degrees of resistance can be achieved through several models and techniques.

4.1.11.1- Video Management Systems (VMS).

4.1.11.1.1- Cameras. Video cameras are typically used to implement a video management system. In new construction, these should be internet protocol (IP) cameras on Power over Ethernet (PoE) cabling infrastructure, with color CCD, day-night operation and supplemental IR illuminators and environmental accessories as required for application. Cameras should support motion activation, digital zoom and focus, and standard video compression. Fixed and pan-tilt-zoom (PTZ) cameras shall be considered to meet requirements. Consideration shall be given to cameras with integral audio microphones.

4.1.11.1.2- Monitoring & Recording Systems. - A central video management system should be capable of monitoring live feeds from multiple cameras from a central location and remote locations, recording all video, searching and reviewing recorded video, and exporting video to portable digital media. A minimum of 30 days of storage of all videos at 15fps (frames per second) is required.

4.1.11.2- Controlled Access.

4.1.11.2.1- General Requirements

4.1.11.2.1.1- The number of entryways into the building or onto the campus should be limited. New construction shall be designed to restrict normal entrance to only one or two locations, with no recessed doorways, provided that sufficient entryways are available for fire department access and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.11.2.1.2- All exterior doors shall be locking and equipped with panic bars to open readily from the egress side. Panic bars should utilize flush push bar hardware to prevent chaining doors shut.

4.1.11.2.1.2.1- Unless a door is intended for ingress, exterior doors should not have handles and locks on the outside. In all cases exposed hardware should be minimized, provided that sufficient entryways are available for fire department access and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.11.2.1.3- Doors should be constructed of steel, aluminum alloy, or solid-core hardwood. If necessary, glass doors should be fully framed and equipped with burglar-resistant tempered glass. Translucent glass should be avoided in all cases.

4.1.11.2.1.4- Exit doors with panic push-bars should be "Access Control Doors" per the codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30, to prevent easy access by criminals and vandals, or in a lock-down / lock-out situation.

4.1.11.2.1.5- Heavy-duty metal or solid-core wooden doors should be used at entrances in areas containing expensive items. These areas include classrooms, storerooms, and custodians' rooms. Interior doorway doors should also be heavy-duty metal or solid-core wooden doors.

4.1.11.2.1.6- Door hinges should have non-removable pins.

4.1.11.2.1.7- Door frames should be constructed of pry-proof material.

4.1.11.2.1.8- Armored strike plates shall be securely fastened to the door frame in direct alignment to receive the latch easily.

4.1.11.3- Automated Locking Mechanisms.

4.1.11.3.1.1 Use of automated locking mechanisms (electronic access control) should be considered for exterior doors identified for entry and select interior doors associated with the main entry vestibule.

4.1.11.3.1.2 Acceptable automated electronic access control systems include RF-based proximity credential readers and biometric scanning devices. If the electronic access control systems are to be utilized the following shall apply:

4.1.11.3.1.2.1- School personnel may be issued credentials for authenticating their identity in order to maintain efficient access to school facilities.

4.1.11.3.1.2.2 Students are not necessarily expected to carry electronic access control credentials. During normal arrival times, electronic locking systems may be disengaged via a timer while entries are monitored by school personnel.

4.1.11.3.1.2.3 All exterior doors shall utilize door position switches to notify staff of open doors and eliminate “door propping”.

4.1.11.3.1.2.4 Doors utilizing electronic access controls shall “fail secure” from the unsecure side. Free egress shall not be inhibited from the secure side in any scenario.

4.1.11.4 Manual Locking Devices

4.1.11.4.1 Use of a manual locking mechanism, such as traditional cylinder and key locks, should be provided for all interior doors requiring access control.

4.1.11.4.2 Manual and Electronic access control should not be used on the same door.

4.1.11.5 Emergency Lockdown

4.1.11.5.1 All exterior doors shall be able to be quickly and automatically secured from a position of safety (Administrative desk, Principal’s office, etc) without traveling to each individual exterior door.

4.1.11.5.2 Interior doors to occupied spaces shall be capable of quickly being secured from the inside by school personnel. Locking of doors may be done via manual deadbolt or automatic locking mechanism. Locking mechanism shall not interfere with automatic closing and latching functions required by the fire code and may have door sidelights, or door vision glass that allow line of sight into the corridors during emergencies, and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.11.6 Intrusion Detection

4.1.11.6.1A system shall be put in place to identify, alarm, and notify authorities in the case of unauthorized entry.

4.1.11.7 Alarm System

Passive infrared (PIR) sensors shall be located interior to all building entries to monitor human movement.

4.1.11.7.1.1– An alarm keypad shall be located at selected building entries to arm and disarm the intrusion detection system.

4.1.11.7.1.2– A manual alarm device shall be located in a position of safety (Administrative desk, Principal's office, etc.) to force intrusion detection system into alarm status.

4.1.11.7.1.3– The intrusion detection shall notify local authorities or monitoring company upon alarm status.

4.1.11.8 Security Integration

4.1.11.8.1 The Video Management System (VMS), Access Control System, and Intrusion Detection System may be components of an integrated security solution.

4.1.11.9- Main Entry Physical Security

4.1.11.9.1- Building vestibules. Where appropriate, buildings shall employ double entry door designs that provide a secured area for visitors to authenticate and gain clearance. Known as “man traps”, security vestibules solve several common security issues such as students opening doors for visitors, visitors bypassing check-in points, direct access to the interior from attackers, piggy-back entrances, and propped doors.

4.1.11.9.2- Video based entrance intercom systems. Building designs shall allow for school personnel to be able to monitor incoming visitors from a safe location out of reach, or line of site from incoming visitors who have not yet been authenticated or cleared for entry. These entry points shall use remote video and access control technology to conduct multi-factor authentication of incoming visitors (e.g. visual verification and ID, PIN/password and ID, or

biometric and other form of visual identification).

4.1.11.9.2.1- Video based entrance systems shall use IP technology to allow access control to be conducted by school personnel from multiple locations, so that multiple personnel can provide coverage for screening incoming visitors.

4.1.11.9.3- Line of sight. The front entrance should be designed to maximize the line of sight distance for school occupants to detect an intruder from each relevant perimeter (e.g. classroom to hallway, office or guard station to entryway, or entryway to exterior fence access, or exterior fence access to property perimeter).

4.1.11.10- Event alerting and notification (EAN) system. An EAN system that utilizes an intercom / phone system with communication devices located in all classrooms and throughout the school to provide efficient inter-school communications, and communication with local fire, police, and medical agencies during emergency situations.

4.1.11.11- Secure sites should include the following:

4.1.11.11.1- Locations to avoid.

4.1.11.11.2- Location of utilities.

4.1.11.11.3- Roof access.

4.1.11.11.4- Lighted walkways.

4.1.11.11.5- Secured playgrounds.

4.1.11.11.6- Bollards at main entrances and shop areas with overhead doors.

4.1.11.11.7- Signage.

4.1.12Health code standards. Schools, including labs, shops, vocational and other areas with hazardous substances shall conform to the Department Of Public Health and Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.

4.1.13Food preparation equipment and maintenance. Food preparation and associated facilities equipped and maintained to provide sanitary facilities for the preparation, distribution, and storage of food as required by Department Of Public Health And Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.

4.1.14Health care room. A separate health care room shall be provided and shall comply with the Department Of Public Health and Environment, Division of Environmental Health and Sustainability, 6 CCR 1010-6 Rules and Regulations Governing Schools in the State of Colorado.

4.1.15A site that safely separates pedestrian and vehicular traffic and is laid out with the following guidelines:

4.1.15.1- Physical routes for basic modes (busses, cars, pedestrians, and bicycles) of traffic should be separated as much as possible from each other. If schools are located on busy streets and/or high traffic intersections, coordinate with the applicable municipality or county to provide for adequate signage, traffic lights, and crosswalk signals to assist school traffic in entering the regular traffic flow.

4.1.15.2- When possible, provide a dedicated bus staging and unloading area located away from students, staff, and visitor parking.

4.1.15.3- Provide an adequate driveway zone for stacking cars on site for parent drop-off/pick-up zones. Drop-off area design should not require backward movement by vehicles, and be one-way in a counterclockwise direction where students are loaded and unloaded directly to the curb/sidewalk. Students should not have to load or unload where they have to cross a vehicle path before entering the building. It is recommended all loading areas have "No Parking" signs posted.

4.1.15.4- Provide well-maintained sidewalks and a designated safe path leading to the school entrance(s).

4.1.15.5- Building service loading areas and docks should be independent from other traffic and pedestrian crosswalks. If possible, loading areas shall be located away from school pedestrian entries.

4.1.15.6- Facilities should provide bicycle access and storage if appropriate.

4.1.15.7- Fire lanes shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 or the local fire department. Local fire department must adhere to the codes adopted by DFPC.

4.1.15.8- Playgrounds shall comply with the ICC A117.1-2009 Accessible and Usable Buildings and Facilities and shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30.

4.1.16 Severe weather preparedness.

4.1.16.1- Designated emergency shelters shall conform to all applicable codes adopted by the Colorado Division of Fire Prevention and Control in 8 CCR 1507-30 and ICC 500-2014 Standard and Commentary: ICC/NSSA Standard for the design and Construction of Storm Shelters.

4.2 Technology, including but not limited to telecommunications and internet connectivity technology and technology for individual student learning and classroom instruction.

4.2.1 Educational facilities for individual student learning, classroom instruction, online instruction and associated technologies, connected to the Colorado institutions of higher education distant learning networks "Internet" and "Internet two."

4.2.2 Educational facilities shall be supplied with standards-based wired and wireless network connectivity.

4.2.3 Security and associated filtering and intrusion control for internal voice, video and data networks shall be provided.

4.2.4 External internet service provider (ISP) connection and internal wide area network (WAN) connections meeting or exceeding recommended guidelines of the state education technology education directors association (SETDA) broadband imperative, and devices meeting or exceeding

recommended specifications according to the most current version of technology guidelines for the partnership for assessment of readiness for college and careers (PARCC) assessments.

4.2.5 Provide school administrative offices with web-based activity access.

4.2.6 Building shall be constructed with long-term sustainable technology infrastructure. Facilities should be built with sufficient data cabling and/or conduit and power infrastructure to allow for maximum flexibility as technological systems are upgraded and replaced in the future. A plan for technology lifecycle review intervals should be put in place for review at 2-4 year intervals.

4.2.6.1 Applicable Standards. The design and installation of technology systems shall comply with:

4.2.6.1.1 ANSI/TIA/EIA-568-C, August 2012

4.2.6.1.2 ANSI/TIA/EIA-569-D, April 2015

4.2.6.1.3 ANSI/TIA/EIA-606-B, April 2012

4.2.6.1.4 ANSI/TIA/EIA-607-B, September 2011

4.2.6.1.5 ANSI/BICSI 001-2009, Information Transport Systems Design Standard for K-12 Educational Institutions.

4.2.7 Telecom Equipment Rooms

4.2.7.1 - Uninterruptible power supplies (UPS). Telecom Rooms (TRs) and Equipment Rooms (ERs) shall be provided with UPS equipment to provide continuous clean power to communications systems for a minimum of 90 minutes.

4.2.7.2 - Generators. A backup generator shall be considered for providing backup power to telecommunications systems if backup power is required beyond 90 minutes, or if the generator is already located for other purposes.

4.2.7.3 - Heating, Ventilation and Air Conditioning (HVAC). Mechanical equipment shall be used to accommodate heating loads within TRs and ERs. Ventilation-only systems may be used in spaces with limited equipment, active cooling systems should be considered for larger rooms. Maintained space temperatures shall target 65 degrees F. peak space temperatures shall not exceed 90 degrees F.

4.2.7.3.1 Direct evaporative cooling systems shall not be used, due to lack of control on humidity levels.

4.2.7.4 - Alarms shall be provided to notify assigned school personnel if environmental conditions approach or exceed bounds of operational conditions.

4.2.8 Connectivity standards.

4.2.8.1 - Wireless. Data cabling shall be planned to support appropriately spaced multiple-antenna wireless networking infrastructure allowing for wireless access points to support expected quantity of connected devices and required bandwidth. Support for 802.11b/g/n, 802.11ac, and/or newer protocols are recommended.

4.2.8.2 - Wired.

4.2.8.2.1 - Cabling. All new runs of copper data cable should be Category 6 cable or newer standards. Any data outlet should be supplied by two cables. Unshielded twisted pair (UTP) shall be used unless local conditions warrant otherwise.

4.2.8.2.2 - Telecom Rooms (TRs) and Equipment Rooms (ERs). TRs and ERs shall be connected by conduit and a combination of copper and fiber optic cable to allow for maximum data performance and upgradeability.

4.2.8.2.3 - TR to classroom. Classrooms should have a data outlet on the wall at the front and back of the room at a minimum for network/ internet access. Additional cabling may be warranted for security, audiovisual and special systems purposes.

4.2.8.2.4 - TR to office, and library or technology/media centers. Any areas designed for independent work or study should have a dedicated data-jack outlet with two copper cable runs each.

4.2.8.2.5 - TR to common areas, auditorium, and cafeteria. Common areas should contain data outlets located as required to support program and curriculum requirements.

4.3 Building site requirements. Functionality of existing and planned public school facilities for core educational programs, particularly those educational programs for which the State Board has adopted state model content standards. Capacity of existing and planned public school facilities, taking into consideration potential expansion of services for the benefit of students such as full-day kindergarten and preschool- and school-based health services and programs.

4.3.1 Traditional education model, S.T.E.M. & Montessori / Expeditionary education models.

4.3.1.1 - Minimum occupancy requirements for schools:

Median Gross Square Foot (GSF) Per Pupil								
	Traditional ES (K-5)		Traditional MS (6-8)		Traditional HS (9-12)		Traditional K-12	
F.T.E.s	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF	GSF/Pupil	Total GSF
100	151	15,064	161	16,102	192	19,183	164	16,393
200	146	29,197	159	31,813	190	38,030	161	32,298
300	141	42,401	157	47,136	188	56,540	159	47,715
400	137	54,674	155	62,068	187	74,713	157	62,645
500	132	66,017	153	76,610	185	92,550	154	77,087
600	127	76,429	151	90,763	183	110,050	152	91,041
700	123	85,912	149	104,526	182	127,214	149	104,508
800	118	94,464	147	117,899	180	144,041	147	117,488
900	113	102,086	145	130,883	178	160,531	144	129,979
1000	109	108,778	143	143,476	177	176,685	142	141,984
1100	104	114,540	142	155,680	175	192,502	140	153,500
1200	99	119,371	140	167,494	173	207,982	137	164,529

Median Gross Square Foot Per Pupil - Alternate Programs (Expeditionary (Exp.), Montessori (Mtsri.), S.T.E.M.)												
	Alt. ES (GSF/Pupil)			Alt. MS (GSF/Pupil)			Alt. HS (GSF/Pupil)			Alt. K12 (GSF/Pupil)		
F.T.E.s	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.	Exp.	Mtsri.	S.T.E.M.
100	160	161	156	171	169	166	203	198	201	174	172	180
200	155	156	151	169	167	164	202	196	199	171	170	177
300	150	151	146	167	165	162	200	194	197	169	167	175
400	145	146	141	164	163	160	198	192	195	166	164	172
500	140	141	137	162	161	158	196	191	194	163	162	169
600	135	136	132	160	159	156	194	189	192	161	159	167
700	130	131	127	158	157	154	193	187	190	158	157	164
800	125	126	122	156	155	152	191	185	188	156	154	161
900	120	121	117	154	153	150	189	184	187	153	152	159
1000	115	116	113	152	151	148	187	182	185	151	149	156
1100	110	111	108	150	149	146	186	180	183	148	146	153
1200	105	106	103	148	147	144	184	179	181	145	144	151

Square Foot Values - Assembly								
	ES Assembly		MS Assembly		HS Assembly		K12 Assembly	
F.T.E.s	Cafeteria	Auditorium	Cafeteria	Auditorium	Cafeteria	Auditorium	Cafeteria	Auditorium
100	675	1,300	675	1,500	675	1,700	675	1,700
200	1,200	1,600	1,200	1,800	1,200	2,000	1,200	2,000
300	1,800	1,900	1,800	2,100	1,800	2,300	1,800	2,300
400	2,400	2,400	2,400	2,600	2,400	2,800	2,400	2,800
500	3,000	2,700	3,000	2,900	3,000	3,100	3,000	3,100
600	3,600	3,000	3,600	3,200	3,600	3,400	3,600	3,400
700	4,200	3,900	4,200	3,900	4,200	3,900	4,200	3,900
800	4,800	4,200	4,800	4,200	4,800	4,200	4,800	4,200
900	5,400	4,500	5,400	4,500	5,400	4,500	5,400	4,500
1000	6,000	4,800	6,000	4,800	6,000	4,800	6,000	4,800
1100	6,600	5,100	6,600	5,100	6,600	5,100	6,600	5,100
1200	7,200	5,400	7,200	5,400	7,200	5,400	7,200	5,400

- Cafeteria Capacity assumes three (3) seatings without a secondary function overlay.

- Auditorium Capacity SF is sized for 1/3 of General enrollment and is inclusive of stage (size varies: 1,000 to 1,800); Basis is 9 SF per seat (1/3 FTES) plus stage at various sizes, stage includes a small amount of storage or similar support.

Square Foot (SF) Values - Core Classrooms (Minimum (Min) classroom size = 675 sf)								
	ES Min (24-30 FTES)		MS Min (24-30 FTES)		HS Min (24-30 FTES)		K12 Min (24-30 FTES)	
F.T.E.s	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF
Kindergarten	38	1,140	-	-	-	-	38	1,140
Grade 1	32	960	-	-	-	-	32	960
Grade 2	32	960	-	-	-	-	32	960
Grade 3	32	960	-	-	-	-	32	960
Grade 4	30	900	-	-	-	-	30	900
Grade 5	30	900	-	-	-	-	30	900
Grade 6	-	-	30	900	-	-	30	900
Grade 7	-	-	28	840	-	-	28	840
Grade 8	-	-	28	840	-	-	28	840
Grade 9	-	-	-	-	28	840	28	840
Grade 10	-	-	-	-	28	840	28	840
Grade 11	-	-	-	-	28	840	28	840
Grade 12	-	-	-	-	28	840	28	840
Montessori	40	1,200	40	1,200	40	1,200	40	1,200
Expeditionary	36	1,080	36	1,080	36	1,080	36	1,080

Square Foot (SF) Values - Exploratory Spaces (minimum size = 675 sf)								
	ES Min (24-30 F.T.E.s)		MS Min (24-30 F.T.E.s)		HS Min (24-30 F.T.E.s)		K12 Min (24-30 F.T.E.s)	
F.T.E.s	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF	SF/Pupil	Total SF
Comp/Tech	30		32	-	32	-	32	
Music	35		35	-	35	-	35	
Science	38		40		44		44	
Lecture	28		28		28		28	
Art	35		40		45		45	
Gym / MP	3,000 SF (50'x60')		5,400 SF (60'x90')		7,300 SF (70'x104')		7,300 SF (70'x104')	
Special Ed	37		37		37		37	
VoAg	-	-	-	-	60	-	60	-
Media Center	1200 sf (30 occ)		2400 sf (60 occ)		3600 sf (60 occ)		3600 sf (60 occ)	
"Gymatorium"	4,400 SF (See notes)		4,400 SF (See notes)		-		-	

- ES Gymnasium basis is 50'X60' play area; Capacity Assumes (GE*.25)/7 periods (without fixed seats)

- MS Gymnasium basis is 60'X90' play area; Capacity Assumes (GE*.5)/7 periods (without fixed seats)

- HS Gymnasium basis is 70'X104' practice gym; Capacity Assumes (GE*.5)/7 periods (with limited fixed seats) Note: National Federation of State High School Association's standards outline an "ideal" court for high school age as 84'x50' (and not greater than 94'x50')

- "Gymatorium" basis is 50'x60' play area and 1000 SF platform stage with 400 SF storage

Instructor / Support Areas		
Space Type:	Square Feet	Notes:
Office - typical	120	
Office - large	150	
Work room	250	Multiple individual (or in aggregate) may be required due to scale
Team planning (conf)	240	12-16 occupants (assembly use)
Instruction - sm group	320	16 occupants (classroom use)
Storage	50	Ave per instructor
Staff toilets	50	Multiple may be required due to scale

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4.3.2 Other rooms.

4.3.2.1 - Facilities with preschools shall comply with Rules Regulating Child Care Centers (Less Than 24-Hour Care) 12 CCR 2509-8 and shall comply with the Colorado Department of Public Health and Safety's Regulations Governing Child Care, 6 CCR 1010-7.

4.3.2.2 - Special education classrooms. Special Education classrooms and facilities meeting or exceeding the accessibility and adaptive needs of the current and reasonably anticipated student population, in accordance with Section 504 and Title II of the Americans with Disabilities Act, the Exceptional Children's Educational Act, and Individuals with Disabilities Education Act.

4.4 Building performance standards and guidelines for green building and energy efficiency.

Section 24-30-1305.5 C.R.S., requires all new facilities, additions, and renovation projects funded with 25% or more of state funds to conform with the High Performance Certification Program (HPCP) policy adopted by the Office of the State Architect (OSA) if:

- The new facility, addition, or renovation project contains 5,000 or more building square feet; and
- The project includes an HVAC system; and
- If increased initial cost resulting from HPCP can be recouped by decreased operational costs within 15 years, and
- In the case of a renovation project, the cost of the renovation exceeds 25% of the current value of the property.

4.4.1 High Performance Certification Programs.

4.4.1.1 The Department of Personnel and Administration, Office of the State Architect has determined the following three guidelines as meeting the High Performance Certification Program (HPCP) requirements per C.R.S.24-30-1305.5; the U.S. Green Building Council, Leadership in Energy and Environmental Design – New Construction (USGBC LEED™-NC) guideline with Gold as the targeted certification level; and the Green Building Initiative (GBI), Green Globes guideline with Three Globes the targeted certification level; and for the Colorado Department of Education, K-12 construction, the Collaborative for High Performance Schools (US-CHPS) is an optional guideline with Verified Leader as the targeted certification level.

4.4.1.2 – LEED, or Leadership in Energy and Environmental Design (for schools) is a globally recognized symbol of excellence in green building.

4.4.1.2.1 LEED is an internationally recognized certification system that measures a building using several metrics, including: energy savings, water efficiency, sustainable land use, improved air quality, and stewardship of natural

resources.

4.4.1.2.2 Points are awarded on a 100-point scale, and credits are weighted to reflect their potential environmental impacts. Different levels of certification are granted based on the total number of earned points. The four progressive levels of certification from lowest to highest are: certified, silver, gold and platinum.

4.4.1.3 United States Collaborative for High Performance Schools (US-CHPS). US-CHPS reflects the three priority outcomes of the Core Criteria. These are, in order of importance.

4.4.1.3.1 Maximize the health and performance of students and staff.

4.4.1.3.2 Conserve energy, water and other resources in order to save precious operating dollars.

4.4.1.3.3 Minimize material waste, pollution and environmental degradation created by a school.

4.4.1.3.4 The CHPS National Technical Committee has weighted the available point totals for prerequisites and credits in seven categories to reflect these three priorities.

4.4.2 Renewable energy strategies.

4.4.2.1 - Solar Photovoltaic / Solar Thermal.

4.4.2.2 - Geothermal / Geo exchange.

4.4.2.3 - Wind.

4.4.2.4 - Passive Solar Design.

4.4.3 Energy management plan.

4.4.3.1 - Energy programs assist with creating a culture of energy efficiency within a school. Reference Energy Star Guidelines for Energy Management to help develop a plan.

4.4.4 Other energy efficient options.

4.4.4.1 - ENERGY STAR Labeled HVAC / mechanical systems.

4.4.4.2 - Windows, doors, and skylights (collectively known as fenestration).

4.4.4.3 - Building Envelope.

4.4.4.3.1 - The interface between the interior of the building and the outdoor environment, including the walls, roof, and foundation – serves as a thermal barrier and plays an important role in determining the amount of energy necessary to maintain a comfortable indoor environment relative to the outside environment.

4.4.4.3.2 - Roof. Roof design and materials can reduce the amount of air conditioning required in hot climates by increasing the amount of solar heat that is reflected, rather than absorbed, by the roof. For example, roofs that qualify for ENERGY STAR® are estimated to reduce the demand for peak cooling by 10 to 15 percent.

4.4.4.3.3 - Insulation is important throughout the building envelope.

4.4.4.4 - Lighting.

4.4.4.4.1 - Light emitting diodes (LEDs), compact fluorescents (CFLs) and fluorescent lighting should be considered over traditional incandescent lighting.

4.4.4.5 - Commissioning, retro commissioning and re-commissioning.

4.4.4.5.1 - Commissioning ensures that a new building operates initially as the owner intended and that building staff are prepared to operate and maintain its systems and equipment.

4.4.4.5.2 - Retro commissioning is the application of the commissioning process to existing buildings.

4.4.4.5.3 - Re-commissioning is another type of commissioning that occurs when a building that has already been commissioned, undergoes another commissioning process.

4.4.4.6 - Measurement and verification. Measurement and verification (M&V) is the term given to the process for quantifying savings delivered by an Energy Conservation Measure (ECM), as well as the sub-sector of the energy industry involved with this practice. M & V demonstrates how much energy the ECM has avoided using, rather than the total cost saved.

4.4.5 - Landscaping

4.4.5.1.1 Irrigation: Consider water management which could include reducing storm-water run-off, preventing erosion and decreasing the effects of soil expansion.

4.4.5.1.2 Plant Materials: Consider Native materials, Xeriscaping.

4.4.5.1.3 Grass/ Sod Areas: Consider use of grass/ sod areas, consider water use, alternate options if planting sports fields.

4.4.6 – Permitting

4.4.6.1 Application for public school construction projects permits can be made at the DFPC website, www.colorado.gov/dfpc > Sections > Fire & Life Safety > Permits and Construction > School Construction.

4.4.6.2 If a local building department has entered into a memorandum of understanding (MOU) with DFPC, that local building department is considered a Prequalified Building Department (PBD). A School District may, at its discretion, choose to apply for permit through DFPC or the PBD that has jurisdiction of construction projects for the location of the school construction project. The list of PBD' is available on the DFPC website, School Construction.

4.5 The historic significance of existing public school facilities and their potential to meet current programming needs by rehabilitating such facilities.

4.5.1 Buildings that are 50 years or older at the time of application may be subject to the State Register Act 24-80.1-101 to 108 in determining if the affected properties have historical significance.

4.5.1.1 - Historical significance means having importance in the history, architecture, archaeology, or culture of this state or any political subdivision thereof or of the United States, as determined by the state historical society.

4.5.2 When determining if a facility should be replaced, the cost to rehabilitate versus the cost to replace should be evaluated.

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
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Office of the Attorney General

Tracking number: 2016-00595

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Public School Capital Construction Assistance

on 02/02/2017

1 CCR 303-1

**RULES PERTAINING TO THE ADMINISTRATION OF THE PUBLIC SCHOOL CAPITAL
CONSTRUCTION ASSISTANCE BOARD**

The above-referenced rules were submitted to this office on 02/03/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 16, 2017 08:58:52

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-2

Rule title

3 CCR 702-2 CORPORATE ISSUES 1 - eff 04/01/2017

Effective date

04/01/2017

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-2

CORPORATE ISSUES

Amended Regulation 2-2-1

CONCERNING PUBLIC ENTITY SELF-INSURANCE POOLS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Formation of Self-Insurance Pools
Section 6	Continued Operations of Self-Insurance Pools
Section 7	Investments
Section 8	Intergovernmental Agreement
Section 9	Surplus Levels
Section 10	Certificate of Authority
Section 11	Joint Deposit
Section 12	Filings
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Section 16	Evidence of Coverage
Section 17	Examinations
Section 18	Fidelity Coverage
Section 19	Confidentiality
Section 20	Severability
Section 21	Enforcement
Section 22	Effective Date
Section 23	History

Section 1 Authority

This regulation is promulgated under the authority of § 10-1-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to clarify the requirements for the formation and operation of public entity self-insurance pools.

Section 3 Applicability

This regulation shall apply to public entities cooperating with one another to form a self-insurance pool to provide the insurance coverage required by Article 44 of Title 8, C.R.S and authorized by Articles 10 of Title 24 and Article 13 of Title 29, C.R.S.

Section 4 Definitions

- A. "Admitted Assets" means, for the purposes of this regulation, investments authorized for pools pursuant to Parts 6 and 7 of Article 75 of Title 24, C.R.S. and §§ 8-44-204 (9), 24-10-115.5 (8), and 29-13-102 (6), C.R.S.; cash; demand deposits in solvent banks and trust companies; interest, dividends, and other income due and accrued which are not more than ninety days delinquent; uncollected contributions which are less than ninety days past due; receivables from solvent insurance companies licensed to transact business in the State of Colorado or otherwise eligible non-admitted reinsurers or approved surplus lines carriers; electronic or mechanical equipment constituting a data processing or accounting system, subject to the limitations of § 10-1-102 (2), C.R.S.; and other assets deemed by the Commissioner to be available for the payment of losses and claims, at values acceptable to the Commissioner.
- B. "Impaired" means, for the purposes of this regulation, a pool's surplus is less than required pursuant to this regulation.
- C. "Insolvent" means, for the purposes of this regulation, a pool's admitted assets are less than all of its liabilities.
- D. "Member" means, for the purposes of this regulation, an entity which participates in a self-insurance pool.
- E. "Public entity" means, for the purposes of this regulation, an entity authorized by §§ 29-13-102, 24-10-115.5, or 8-44-204, C.R.S. to form a self-insurance pool.
- F. "Self-insurance pool" or "pool" means, for the purposes of this regulation, a pool formed by public entities pursuant to §§ 29-13-102, 24-10-115.5, or 8-44-204, C.R.S.
- G. "Surplus" means, for the purposes of this regulation, that amount which remains after subtracting the pool's liabilities from its admitted assets.

Section 5 Formation of Self-Insurance Pools

For every self-insurance pool, organized after the effective date of this regulation, there shall be submitted to the Commissioner a written proposal of the pool's plan of operation which shall include the following:

- A. A narrative which shall include a description of the self-insurance pool's plan of operation, which shall describe the facilities to manage the pool, administration and claims servicing, description of the duties and responsibilities of any management provider, types of coverages and applicable limits, proposed evidence of coverage certificates (policies), underwriting rules, loss reserving procedures, claims adjusting procedures, a list of proposed membership, and proposed excess or reinsurance coverages. If the self-insurance pool proposes to provide worker's compensation insurance, the narrative shall also describe how the public entities are provided the insurance coverage required by Article 44 of Title 8, C.R.S.
- B. For each contract service provider referenced in the application, a detailed description of the expertise and qualifications of these providers, including the expertise and qualifications of their personnel must be submitted.
- C. A feasibility study projecting future loss experience and contribution levels required to fund minimum surplus and initial operations as determined by a qualified actuary. The study shall include:
 - 1. The underlying methods and assumptions used;
 - 2. A summary of available loss history; and

3. Any financial projections which have been prepared.
- D. Method, plan and timing of capitalization.
- E. Proposed intergovernmental agreement which shall comply with §§ 29-1-201 through 29-1-203, C.R.S., and shall include as a minimum the provisions of Section 8 contained herein.
- F. Proposed structure and limits of reinsurance agreements or excess of loss policies, if any reinsurance agreement or excess of loss policy is proposed to be obtained, and evidence of coverage in the form of a binder, placement slip, letter of intent or other document indicating the coverage intended, properly executed and authorized.
- G. Proposed management, claims management, investment, custodial, and safekeeping agreements, where appropriate. Other agreements shall be made available at the request of the Commissioner.
- H. Proposed fidelity bond and other proposed coverages if applicable.
- I. Completed application for certificate of authority accompanied by an application processing fee of one thousand five hundred dollars (\$1,500), which shall represent the cost of review and processing of the proposal including the cost of any organizational examination.
- J. Additional information as necessary pursuant to §§ 29-13-102(3), 24-10-115.5(3), or 8-44-204(5), C.R.S., to determine whether or not proper insurance techniques and procedures will be followed.

Subsequent to the issuance of the pool's certificate of authority, the pool has 90 days to submit executed copies of those items in E, F, G and H above.

Section 6 Continued Operations of Self-Insurance Pools

A written description of any modification to the plan of operation which affects the pool's self- insurance retained risk by more than 25%, and any modification of the method of funding or method of determining loss reserves, must be filed with the Commissioner. Any such modification shall be deemed approved unless the Commissioner disapproves such filing, in writing, within 30 days from the date of submission.

Section 7 Investments

- A. Any investment whereby the underlying instrument is not in the custody of the pool shall be subject to a custodial and safekeeping agreement meeting the following requirements:
 1. The custodian must be a bank with a safekeeping or a trust department and legally qualified to act as a fiduciary.
 2. Registered investments must be in the name of the pool, the name of the custodian's nominee, the name of the pool's own nominee, or other entity filed with and approved by the Commissioner, or must otherwise reflect the interest of the pool in the investments.
 3. After safe delivery of securities to the bank and until redelivery or other disposition of the securities pursuant to instructions of the pool, the bank assumes liability for loss thereof due to negligence or malfeasance of the bank, its agents, officers or employees, and for mysterious or unexplained disappearance of same. Safe delivery must be evidenced by a receipt signed by any trust officer of the bank.
 4. The securities of the pool in its account shall be kept separate and apart from other securities and in the case of book entry securities be separately identified from other

securities; and shall at all times be available for inspection by the pool's auditor and any regulatory officials, and the bank shall cooperate with the pool's auditor in making any audit which requires inspection and verification of all said securities and property.

- B. Pool investments shall be those permitted pursuant to Parts 6 and 7 of Article 75 of Title 24, and §§ 8-44-204(9), 24-10-115.5(8), and 29-13-102(6), C.R.S.
- C. Investments through banks shall be fully insured or protected pursuant to the provisions of the Public Deposit Protection Act, Article 10.5 of Title 11, C.R.S.

Section 8 Intergovernmental Agreement

The intergovernmental agreement shall include at least the following:

- A. Provisions for the election or appointment of a board of directors and their powers and duties.
- B. Provisions for the election of officers and their powers and duties.
- C. Requirements and provisions for regular and special meetings of the board of directors and, if all members are not represented on the board of directors, provisions specifically allowing membership to call special meetings without approval of the board of directors or officers.
- D. Provisions regarding membership.
- E. Provisions regarding expulsion or withdrawal of pool members including provisions to handle obligations associated with such members.
- F. Procedures for the dissolution of the pool, including a requirement that the pool provide the Commissioner at least ninety (90) days advance notice of dissolution and that no dissolution shall take effect until the Commissioner approves the plan of dissolution, which shall include a methodology for addressing all debts and obligations of the pool.
- G. Provisions regarding the payment of contributions by membership.
- H. Provisions that any distribution of surplus or excess earnings of the pool shall not cause the pool to become impaired or insolvent.
- I. Provisions that permit assessments of members in such amounts and at such times as necessary to ensure the solvency and avoid impairment of the pool.

Section 9 Surplus Levels

- A. The minimum surplus levels for each coverage of a self-insurance pool shall be established and maintained at the following levels. Where the pool enters into multiple types of coverage listed below, the minimum surplus shall be the combined total of the individual minimum surplus levels.
 - 1. Property \$100,000
 - 2. Casualty \$200,000
 - 3. Workers' Compensation \$200,000

Such minimum surplus shall be accumulated and in place within ninety (90) days from the pool's first acceptance of risk.

- B. The initial minimum surplus levels of a pool may be met by the use of subordinated debt meeting the conditions and requirements of § 10-3-239, C.R.S.
- C. A higher amount of minimum surplus may be required to begin and to continue operations if the Commissioner can determine that the type and size of risk being insured, the level of contributions, the size of the asset base, the existence of assessment authority, the geographical locations of insured risks, the nature and quality of the reinsurance structure, the quality, diversification and liquidity of the pool's investments, the financial status of the pool's members, or other relevant factors justify additional surplus.

Section 10 Certificate of Authority

- A. The Commissioner shall issue a certificate of authority to a pool after finding that proper insurance techniques and procedures are included in the written proposal submitted pursuant to Section 5 of this regulation.

The Division shall respond to all written proposals submitted within thirty (30) days of submission. The Commissioner shall notify the pool in writing if it is found that proper insurance techniques and procedures are not demonstrated in the submission and shall identify all deficiencies therein.

- B. The Commissioner may revoke or suspend the Certificate of Authority of a pool if the Commissioner finds that revocation or suspension is in the best interest of the public and that the pool is insolvent. The Commissioner may approve a plan of abatement submitted by the pool as an alternative to such revocation or suspension.

The Commissioner may require a pool which is impaired to prepare, subject to approval of the Commissioner, a plan of abatement. Failure of an impaired pool to prepare a plan of abatement when required by the Commissioner, or to implement an approved plan of abatement, shall be grounds for revocation or suspension of the pool's Certificate of Authority.

No proceeding to revoke or suspend a pool's Certificate of Authority shall be initiated until the Commissioner has given the pool notice, in writing, of facts or conduct that may warrant such action; afforded the pool opportunity to submit written data, views, and arguments with respect to such facts or conduct; and, except in cases of deliberate and willful violation, given the pool a reasonable opportunity to comply with all lawful requirements.

Any proceeding to revoke or suspend a pool's Certificate of Authority shall comply with the State Administrative Procedure Act, Article 4 of Title 24, C.R.S.

Section 11 Joint Deposit

Cash or securities representing the minimum surplus established by this regulation, shall be deposited with the Commissioner in a manner provided by § 10-3-210, C.R.S. Such securities shall be admitted assets which shall at all times have a market value at least equal to the minimum surplus required.

Section 12 Filings

- A. Each pool shall prepare and file with the Commissioner, by March 30 of each year, an annual report which reflects the operations of the pool. The report shall be in such form as included in Appendix A herein.
- B. Each pool shall file with the Commissioner an itemized annual statement of market value of securities on joint deposit before March 30 of each year. This statement shall be filed in accordance with the format identified in section 4 of Colorado Insurance Regulation 3-1-2.

- C. Within seven (7) months following the end of the pool's fiscal year, each pool shall file with the Commissioner a CPA audited financial report as required under § 29-1-603(4), C.R.S. Such report shall be prepared on a statutory basis.
- D. Each pool shall cause to be made an actuarial report by a qualified actuary analyzing the loss funding methodology and the adequacy of the pool's loss reserves. Such report shall describe loss funding levels sufficient to pay obligations, the pure risk rate used to determine such levels, and shall recommend loss reserves and loss adjustment expense reserves sufficient to maintain minimum statutory surplus.
 - 1. The actuarial report shall be conducted by a qualified actuary pursuant to Colorado Insurance Regulation 1-1-1.
 - 2. The contents of the report shall set forth the underlying methods and assumptions used.
 - 3. The report shall be prepared annually to coincide with fiscal year-end financial reporting requirements set forth in this section and shall be filed with the audit report identified in Part C of this section.
 - 4. The pool may request a waiver of the annual actuarial report. Such request shall explain the reason and basis for waiver and be submitted to the Commissioner four months prior to the pool's fiscal year end. A letter from a qualified actuary which justifies the waiver may be required.
 - 5. If the pool does not use the recommended loss reserve figures of the qualified actuary the pool shall attach an explanation of what figures were used and how and why they were modified.
- E. The fiscal year for all above noted annual reporting of the pool may differ from a calendar year basis only with prior written approval of the Commissioner. In all cases the audit report and actuarial report must be as of the same evaluation date.

Section 13 Discounting of Loss Reserves

A public entity self-insurance pool may request authorization to discount loss reserves. Such request shall be submitted at least 60 days prior to the requested date of implementation.

- A. Loss reserve discounting shall be permitted only for lines or types of insurance which justify consideration of the time value of money held in reserves for subsequent claim payments. These lines are defined to be those which have an expected payout period extending beyond three years with no more than 75% of the expected payout within the first two years, or fixed or certain payment dates. Additionally, the applicant shall comply with the following:
 - 1. Define and justify the interest rate assumptions used for discounting. This rate shall not exceed the lesser of (i) the company's actual 36 month average net investment yield and (ii) the current valuation rate used for life policies of duration greater than 10 years but not more than 20 years.
 - 2. Provide an explanation of the basis and methodology upon which reserves are calculated.
 - 3. Present a summary of all relevant loss and loss reserve history to demonstrate the appropriateness of past and current reserve practices.

4. The reserves established, together with available surplus, shall be sufficient to provide, in the actuary's opinion, a 95% confidence that funds are available to pay claims.
 5. The reserves established shall take into consideration the timing of the cash flows of all assets and liabilities of the applicant. In valuing this standard, any receivable or investment in affiliated entities or persons shall not be considered, unless the actuary states in his required written opinion that the funds will be available.
 6. All elements outlined in the preceding numbered paragraphs must be supported by and accompanied with a formal report and written opinion of a qualified actuary.
- B. The Commissioner, in their discretion, may authorize loss reserves to be discounted pursuant to the applicant's request, or may modify the request in any way they see fit, based on the justification submitted to support the standards contained in this section and any additional terms, or conditions imposed by the Commissioner. Requests shall be considered on a case-by-case basis. Approval may be granted to the applicant for specified lines of business. Approval may be subsequently withdrawn in whole or in part, in the event there is any material change in the acceptability of the assumptions or the experience shows that continued loss reserve discounting fails to satisfy the standards of this section.
- C. If approval is given, the company will be required to file an actuarial report and opinion prepared by a qualified actuary annually. This report shall be of sufficient detail to verify that the above stated standards continue to be met and shall be accompanied by an opinion so stating such compliance.

Section 14 Records

To facilitate examination of each pool as required by law:

- A. A complete set of accounting records shall be maintained by each pool for each year of operation, which shall accurately disclose the nature and detail of all accounting transactions. Such records shall at a minimum include a general ledger, a cash receipts journal and a cash disbursements journal.
- B. An accurate and detailed written record of investment transactions shall be maintained by the pool. The board of directors may delegate the general investment duties to a committee, an individual or investment management service; however, the Board must review and, at least semi-annually, ratify such investment transactions.
- C. Each pool shall maintain minutes of meetings of the members, the board of directors and committees.
- D. Each pool shall maintain a separate claim file for each claim. Information on claims incurred after the effective date of this regulation shall be maintained to include, as a minimum, claim payments by line of business, claim number, claimant's name, date incurred, date reported, date paid, and the amount of each payment (including allocated loss adjustment expenses), and shall at the Commissioner's direction be summarized and filed in a hard copy form prescribed by the Commissioner or by a mutually acceptable electronic transfer means.
- E. Claim files must be maintained for at least five years. The original file or an electronic format is acceptable. A historical summary of reserve transactions and payments must be incorporated into each file unless this information is maintained electronically in a form which is readily accessible and verifiable to the underlying data.

Section 15 Reinsurance and Credit for Reserving on Ceded Risks

- A. Any reinsurance agreement must meet the requirements as set forth in §§ 10-3-701 et seq., C.R.S., and Colorado Insurance Regulation 3-3-5.
- B. Credit for reserves on ceded risks may only be taken if the conditions as set forth in §§ 10-3-701 et seq., C.R.S. are satisfied.

Section 16 Evidence of Coverage

Each member of a pool shall be issued a document specifically identifying the pool's direct coverage obligation.

Pools providing Workers' Compensation Insurance shall be administratively and ultimately financially responsible to see that the underlying insured is provided coverage to statutory limits. The insured at all times shall seek settlement for workers' compensation coverage from the pool, and the pool shall ensure that there exists no interruption in coverage to its members.

Section 17 Examinations

- A. The Commissioner shall cause to be made an annual examination of each pool which shall include determining whether or not proper underwriting techniques, sound funding, loss reserving, and claims processing procedures are being followed. For such purposes, the Commissioner, or any person authorized by the Commissioner, shall have access to all books, papers and documents of the pool, except to the extent that a conflict of interest exists in claims which involve the State of Colorado. Such examinations may consist of either an on-site examination or a desk audit based on the financial filings, actuarial reports and other information filed with the Commissioner.
- B. An annual examination fee in the total amount of \$1,000 which shall represent the cost of conducting the Division examination shall be paid by the pool by March 30 of each year

Section 18 Fidelity Coverage

- A. Each pool shall obtain fidelity coverage in accordance with Colorado Insurance Regulation 3-1-1.
- B. Unless waived by the Commissioner, self-insurance pools shall require that contract service providers which handle or have access to pool funds obtain fidelity coverage.

Section 19 Confidentiality

Documentation requested by the Division of Insurance and submitted in compliance herewith, shall generally be considered a public record under the Public Records Act, §§ 24-72-201 through 206, C.R.S.

In the event any requested documentation is considered by the pool to be confidential in nature, the pool must submit the requested information under separate cover or in a sealed envelope or file clearly labeled "CONFIDENTIAL". Attached to the documents submitted under confidential cover should be a brief, typed explanation of why they are to be considered confidential.

Documentation so submitted, if found to be confidential in nature by the Division of Insurance, will be maintained in a separate, confidential file and will not be released to the general public for inspection or copying.

Section 20 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 21 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 22 Effective Date

This amended regulation shall be effective April 1, 2017.

Section 23 History

Amended and Restated Regulation effective December 31, 1992

Amended Regulation effective October 1, 2012

Amended Regulation effective April 1, 2017

APPENDIX A

NAME OF POOL

DATE OF STATEMENT December 31, or Fiscal Year Ended

A. STATEMENT OF ASSETS, LIABILITIES AND SURPLUS

Assets:

- Invested Securities
- Cash
- Uncollected contributions
- Other uncollected assessments
- Other Admitted Assets
- Total Assets

Liabilities:

- Loss reserves
- Loss adjustment expense reserves
- Unearned contributions
- Other expenses
- Other liabilities
- Total Liabilities

Surplus:

- Subordinated debt
- Contributed surplus
- Unassigned surplus
- Total Surplus

B. STATEMENT OF INCOME

Revenue:

- Contributions and assessments earned
- Investment income
- Other income
- Total Income

Expenses:

- Losses incurred
- Loss adjustment expenses incurred
- Other underwriting expenses
- Total Expenses

Net Income (Loss)

COVERAGE(S) PROVIDED

Number of members

Type & character of coverage(s)

Attach a schedule to be included with this report which details any reinsurance credit/debit incorporated herein and the name of each such carrier.

This report is sworn to be a true and correct statement of the condition of the above named pool.

Chief Executive Officer (signature)

Chief Executive Officer (printed)

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General



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Office of the Attorney General

Tracking number: 2016-00669

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 02/09/2017

3 CCR 702-2

CORPORATE ISSUES

The above-referenced rules were submitted to this office on 02/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 17, 2017 09:20:14

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-2

Rule title

3 CCR 702-2 CORPORATE ISSUES 1 - eff 04/01/2017

Effective date

04/01/2017

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-2

CORPORATE ISSUES

Amended Regulation 2-2-2

CONCERNING EMPLOYERS WORKERS' COMPENSATION SELF-INSURANCE POOLS

Section 1	Authority
Section 2	Scope and Purpose
Section 3	Applicability
Section 4	Definitions
Section 5	Formation of Self-Insurance Pools
Section 6	Continued Operations of Self-Insurance Pools
Section 7	Pool Agreement
Section 8	Minimum Surplus Levels and Financial Requirements
Section 9	Security Deposit
Section 10	Standards for Approval
Section 11	Issuance of Certificate of Authority
Section 12	Examinations
Section 13	Records
Section 14	Annual Filing Requirements
Section 15	Investment of Pool Funds
Section 16	Reinsurance and Credit for Reserves on Ceded Risks
Section 17	Evidence of Coverage
Section 18	Dissolution
Section 19	Fidelity Coverage
Section 20	Contract Service Providers
Section 21	Severability
Section 22	Enforcement
Section 23	Effective Date
Section 24	History

Section 1 Authority

This regulation is promulgated under the authority of §§ 8-44-205(9), and 10-1-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to clarify the requirements for the formation and operation of employer's workers' compensation self-insurance pools.

Section 3 Applicability

This regulation shall apply to employers cooperating with one another to form a self-insurance pool to provide the insurance coverage required by Article 44 of Title 8, C.R.S.

Section 4 Definitions

- A. "Admitted Assets" means, for the purposes of this regulation, the securities set forth in Section 15 of this regulation and interest earned thereon, but shall also include membership claim deductibles as specifically permitted by the workers' compensation laws of the State of Colorado to the extent that the aggregate receivable for such deductibles does not exceed one percent (1%) of admitted assets and such receivable amounts have not been accrued for more than ninety days from the date the claim was paid; uncollected premium contributions which are less than ninety days past the effective date of coverage; and recoverable from solvent insurance companies licensed in the State of Colorado or otherwise approved as qualified non-admitted reinsurers.
- B. "Board of Directors" means, for the purposes of this regulation, the governing body of the pool consisting of at least five (5) directors.
- C. "Commissioner" means, for the purposes of this regulation, the commissioner of insurance.
- D. "Deductible" means, for the purposes of this regulation, the amount indicated on the declarations page as per requirements in Articles 40 to 47 of Title 8, C.R.S., the existence of which shall not affect the requirement of an employer to report an injury or death to the division as required in § 8-43-103(1), C.R.S.
- E. "Employers" means, for the purposes of this regulation, a bona fide trade or professional association or two or more employers which are engaged in the same or similar type of business or are members of the same bona fide trade or professional organization.
- F. "Expected level of funding" means, for the purposes of this regulation, the level of funding, as determined by a qualified actuary that provides for expected indemnity and medical losses, and expected allocated loss adjustment expenses.
- G. "Impaired" means, for the purposes of this regulation, that a pool's surplus is less than required pursuant to this regulation.
- H. "Insolvent" means, for the purposes of this regulation, that a pool's admitted assets are less than all of its liabilities or the pool is unable to pay its obligations.
- I. "Member" or "Members" mean, for the purposes of this regulation, an employer which has joined the self insurance pool.
- J. "Pool Agreement" means, for the purposes of this regulation, the agreement in which the governing articles of the pool are set forth.
- K. "Proposal" means, for the purposes of this regulation, the description of the pool's plan of operation submitted to the Commissioner which shall include fully executed documents and agreements as identified in Section 5 of this regulation.
- L. "Qualified Actuary" means, for the purposes of this regulation, an actuary that meets the qualification requirements described in Sections 4 and 5 of Regulation 1-1-1, 3 CCR 702-1.
- M. "Self-Insurance pool" or "pool" means, for the purposes of this regulation, a pool formed by employers pursuant to § 8-44-205, C.R.S.
- N. "Surplus" means, for the purposes of this regulation, that amount which remains after subtracting the pool's liabilities from its admitted assets. Subordinated debentures referred to in Section 8 of this regulation, shall not be deemed a liability until repayment of principal and/or interest has been approved by the Commissioner.

- O. "Trust Fund" or "Premium Fund" means, for the purposes of this regulation, the pool's retention under the terms of an aggregate excess insurance contract, or if no aggregate excess coverage is provided, the expected level of funding established to pay workers' compensation claims as determined by a qualified actuary.

Section 5 Formation of Self-Insurance Pools

For every self-insurance pool formed there shall be submitted to the Commissioner a written proposal of the pool's plan of operations which shall include the following:

- A. A detailed description of the self-insurance pool's plan of operations which shall include at a minimum:
 - 1. Facilities to manage the pool;
 - 2. Administrative and claims servicing arrangements;
 - 3. Custodial and investment management services;
 - 4. Types of coverages and applicable limits;
 - 5. Reinsurance structure;
 - 6. Underwriting rules and procedures;
 - 7. Medical treatment plan;
 - 8. Safety and loss control plan; and
 - 9. Qualifications and standards of membership.
- B. A feasibility study prepared by a qualified actuary projecting future loss experience and premium levels required to fund minimum surplus and initial operations.
- C. Executed pooling agreement which shall comply with § 8-44-205, C.R.S., and this regulation.
- D. Five-year financial projection of the pool's operations.
- E. Specimen of proposed reinsurance agreements and evidence of coverage in the form of binder, placement slip or other document properly executed and authorized.
- F. Fidelity bond.
- G. Completed application for certificate of authority accompanied by an application processing fee of one thousand five hundred dollars (\$1,500), which shall represent the cost of review and processing of the proposal including the organizational examination.
- H. Composition of the pool's board of directors, officers and principal employees including biographical affidavits for all such persons.
- I. Conflict of interest policy and executed conflict of interest statements.
- J. Investment policy and guidelines which define investment authority.

- K. Custodial, investment, and safekeeping agreement(s), which shall conform to Colorado regulations.
- L. Executed management, claims management, investment, custodial, and safekeeping agreements. Other agreements shall be made available at the request of the Commissioner.

For each contract service provider referenced in the application, a detailed description of the expertise and qualifications of these providers including the expertise and qualifications of their personnel must be submitted.

- M. Additional information as necessary pursuant to § 8-44-205, C.R.S., to determine whether or not proper insurance techniques and procedures will be followed.

Section 6 Continued Operations of Self-Insurance Pools

A written description of any significant modifications to the plan of operation licensed by the Commissioner must be filed and approved before implementation. Subjects that are deemed to be significant include, but are not necessarily limited to the following:

- A. Changes in retained risk if the risk increases by more than 25%.
- B. Changes in funding methodology which must be accompanied by a certification from a qualified actuary.

Failure to submit modifications shall be grounds for revocation or suspension of pool's certificate of authority pursuant to § 8-44-205(7)(a)(VI) and (VII), C.R.S.; or supervision or rehabilitation pursuant to § 8-44-205(8)(d) and (e), C.R.S. Any such modification shall be deemed approved unless the Commissioner disapproves such filings in writing within 30 days from the date of submission.

Section 7 Pool Agreement

This agreement must jointly and severally bind each member to pay claims and comply with all provisions of the workers' compensation laws of the State of Colorado. In addition, this agreement must also specifically set forth the following:

- A. Provisions for the election or appointment of a board of directors and their powers and duties.
- B. Provisions for the election of officers and their powers and duties.
- C. Requirements and provisions for meetings of the membership and the board of directors.
- D. Criteria for membership in the pool which may include time in business, net worth, business experience, acceptance of risk management/loss control standards or cost containment procedures.
- E. Provisions for the withdrawal or expulsion of pool members.
- F. Provisions for the dissolution of the pool per Section 18.
- G. Provisions for the payment of annual and periodic premium contributions, and the payment of initial surplus contributions as applicable. Such premium contributions shall at least equal, in the aggregate, 100% of the expected level of funding of the retained risk, net of reinsurance.
- H. Provisions for the distribution of surplus or excess earnings so as not to cause the pool to become impaired or insolvent.

- I. Provisions for the assessment of members in such amounts and at such times as necessary to insure the solvency, continued operation and avoid impairment of the pool. This will include financial standards for membership and standards for securing unpaid assessments of withdrawn members.
 - 1. Should a member not have the financial resources to pay an assessment, the remaining members may be assessed as required to fund all reserve liabilities.
 - 2. Any member who withdraws from the pool must remain liable for any outstanding assessments or future assessments made by the pool for incurred obligations. Any unpaid assessments due from a withdrawing member must be secured by that member. Such security must qualify as an admitted asset and be assigned to the pool.
- J. Specifically define insolvency and impairment as set forth in Section 4 of this regulation.
- K. Other provisions as applicable and as deemed necessary.

Section 8 Minimum Surplus Levels and Financial Requirements

- A. The minimum surplus level shall be the greater of:
 - 1. \$400,000,
 - 2. One-third of the annual net written premiums, or
 - 3. Two times the pool's specific per occurrence retention.
- B. A higher amount of minimum surplus may be established to begin and continue operations if the Commissioner determines that the type and size of risk being insured; the level of contributions; the size of the asset base; the existence of assessment authority; the geographical location of insured risks; the nature and quality of the reinsurance structure; the quality, diversification and liquidity of the pool's investments; the financial status of the pool's members; or other relevant factors justify additional funding. The minimum surplus level shall be accumulated and in place before acceptance of any risk.
- C. The initial capitalization of a pool may be held in the form of cash, acceptable securities or one or more subordinated debentures which shall conform to the provisions of § 10-3-239, C.R.S.
- D. The pool must have combined annual net premiums of at least \$500,000. For the initial policy year of operation, such premium contributions must be in place before coverage is provided. For succeeding policy years, a deposit premium of at least 40% of the estimated annual premium must be made upon binding coverage.

Section 9 Security Deposit

- A. Acceptable securities representing the minimum surplus established by this regulation shall be deposited with the Commissioner in the manner provided by § 10-3-210, C.R.S., and shall comprise only admitted assets of the pool as described below, which shall at all times have a market value at least equal to the minimum surplus required.

In addition to cash, deposit funds acceptable to the Commissioner shall be U.S. Government bonds, notes or bills issued or guaranteed by the United States of America and certificates of deposit issued by solvent commercial banks or savings and loan associations which are fully insured as to principal and interest by the Federal Savings and Loan Association, Federal Deposit

Insurance Corporation or other government sponsored insurance program, and such other investments as are approved by the Commissioner.

- B. Such deposit shall be established before the pool is permitted to bind coverage.
- C. Pools shall file annually with the Commissioner an itemized statement of market value of securities on deposit. This statement shall be filed in accordance with the provisions of Section 4 of Colorado Insurance Regulation 3-1-2.

Section 10 Security Standards

- A. All self insurance pools shall provide coverage to statutory limits and annually establish a trust fund to provide payment of the total workers' compensation loss costs incurred by membership. The trust fund shall equal or exceed the expected level of funding as determined by a qualified actuary.
- B. The pool is permitted to engage in reinsurance transactions for the purpose of limiting the exposure and risk of the pool.
- C. For each policy year, premium contributions from membership shall be charged so as to maintain the trust fund being equal to the recommended total expected level of funding of the retained risk, net of reinsurance, as determined by a qualified actuary, plus the additional funds sufficient to pay reinsurance costs and the administrative costs of the pool.

Section 11 Issuance of Certificate of Authority

- A. The Commissioner shall issue a certificate of authority to a pool after finding that proper insurance techniques and procedures included in the written proposal submitted pursuant to Sections 5, 8, and 9 of this regulation are acceptable.
- B. Costs of the review of the submission incurred by the Commissioner shall be paid by the pool as stated in Section 5.G. of this regulation.

Section 12 Examinations

- A. Prior to licensure, the Commissioner may conduct an organizational examination to verify that the pool has been established in accordance with the submission of the written proposal to form the pool.
- B. In addition to the organization examination, the Commissioner shall conduct an examination of each pool as required by law, which efforts shall include determining whether or not proper underwriting techniques and sound funding, loss reserving and claims processing procedures are being followed. For such purposes, the Commissioner or the Commissioner's authorized representative shall have access to all books and records, papers and documents of the pool. Such examinations may consist of an on-site examination or desk audit based on the financial filings, actuarial reports and other information filed with the Commissioner.

Section 13 Records

To facilitate examination of each pool as required by law the pool shall maintain the following records:

- A. A complete set of accounting records shall be maintained by each pool, which shall accurately disclose the nature and detail of all accounting transactions. Such records shall at a minimum include a general ledger, a cash receipts journal and a cash disbursements journal.

- B. A detailed written record of advance approval of investment transactions shall be maintained. The Board of Directors may delegate the general investment duties to a committee, an individual or investment management service; however, the board must review and, at least quarterly, ratify such investment transactions.
- C. Each pool shall maintain a separate claim file for each claim. Information on claims shall be maintained to include medical and indemnity payments, claim number, claimant's name, date incurred, date reported, date paid, and the amount of each payment (including allocated loss adjustment expenses), and shall at the Commissioner's discretion be summarized and filed in a form prescribed by the Commissioner. In addition, the pool must maintain and prepare summary loss reports and payroll reports on each member.
- D. Claim files must be maintained for at least seven years. The original file or an electronic format is acceptable. A historical summary of reserve transactions and payments must be incorporated into each claim file.

Section 14 Annual Filing Requirements

The pool is required to file certain reports with the Commissioner as follows:

- A. The fiscal year for annual reporting purposes shall be the calendar year.
- B. Each pool shall prepare and file with the Commissioner an annual report (Appendix A) prepared on a statutory basis by March 30, of each year, accompanied by a fee of one thousand dollars (\$1,000 annual fee) which shall represent the cost of conducting the division examination. The report need only be signed by the chief administrative officer of the pool as designated by the board of directors.
- C. The Commissioner may require that a pool report more frequently than annually in such form as determined by the Commissioner.
- D. Each pool shall annually cause to be made an audit of its statutory financial statement as of each fiscal year end and shall file the results of this audit with the Commissioner on or before August 1, of each year. Such audit shall be performed by an independent certified public accountant.
- E. Annually, each pool shall cause to be made an actuarial study of the rates, funding and loss reserves of the pool. Such reports shall certify that the pool provide funding levels sufficient to pay obligations and maintain statutory surplus. Such reports shall meet the following requirements:
 - 1. The actuarial report shall be made by a qualified actuary.
 - 2. The contents of the report shall set forth the underlying methods and assumptions.
 - 3. The report shall be prepared to coincide with fiscal year end reporting requirements set forth in this regulation.
 - 4. The Commissioner may require a special actuarial study if necessary.
 - 5. A copy of each report (preliminary or final) shall be filed with the Commissioner upon completion.
 - 6. The actuarial recommendations for funding shall take into account all retained risks of the pool including deductibles and risks up to statutorily required levels in excess of any reinsurance in effect.

Section 15 Investment of Pool Funds

The board of directors is authorized to invest pool funds in the following manner:

- A. Securities issued by the United States government or U.S. government agencies and which are general or full faith and credit obligations of the U.S. government.
- B. Securities issued by the State of Colorado, or any agency or political subdivision which are backed by the full faith and credit of the State of Colorado.
- C. Certificates of deposit and money market accounts in federally insured banks and savings and loan associations located in the State of Colorado to the extent that such investments are insured.

Section 16 Reinsurance and Credit for Reserves on Ceded Risks

Credit for reserves on ceded risks may only be taken if the conditions set forth in §§ 10-3-701 et seq., C.R.S., are satisfied.

Section 17 Evidence of Coverage

Each member of a pool shall be issued a document specifically identifying the pool's workers' compensation coverage which must meet the minimum statutory requirements and pool's limits for employers' liability coverage as determined by the board of directors.

Section 18 Dissolution

- A. The pool agreement shall contain procedures for the dissolution of the pool, including a requirement that the pool provide the Commissioner at least ninety (90) days advance notice of the intent to dissolve. No dissolution shall take effect until the Commissioner approves the plan of dissolution, and all debts and obligations have been paid or reinsured.
- B. The plan of dissolution must require that each member remain liable for all outstanding claims liabilities and remain subject to periodic assessment until all claims are fully settled.

Section 19 Fidelity Coverage

Each pool shall maintain fidelity coverage in accordance with Colorado Insurance Regulation 3-1-1.

Section 20 Contract Service Providers

- A. Pools shall provide at least thirty (30) days advance notice to the Commissioner of the cancellation of pool management, claims management, or investment, custodial and safekeeping contracts, except that the notice need not be given in advance for material breach of contract.
- B. Unless waived by the Commissioner, self-insurance pools shall require that contract service providers which handle or have access to pool funds obtain fidelity coverage.

Section 21 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 22 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 23 Effective Date

This amended regulation shall be effective April 1, 2017.

Section 24 History

Amended and Restated Regulation effective December 31, 1992

Amended Regulation effective October 1, 2012

Amended Regulation effective April 1, 2017

APPENDIX A

NAME OF POOL _____

DATE OF STATEMENT December 31, _____

A STATEMENT OF ASSETS, LIABILITIES AND SURPLUS

Assets:

Invested securities _____

Cash _____

Uncollected contributions _____

Other uncollected assessments _____

Other Admitted assets _____

Total Assets _____

Liabilities:

Loss reserves _____

Loss adjustment expense reserves _____

Unearned contributions _____

Other expenses _____

Other liabilities _____

Total Liabilities _____

Surplus:

Subordinated debt _____

Contributed surplus _____

Unassigned surplus _____

Total Surplus _____

B) STATEMENT OF INCOME

Revenue:

Contributions and assessments earned _____

Investment income _____

Other income _____

Total Income _____

Expenses:

Losses incurred _____

Loss adjustment expenses incurred _____

Other underwriting expenses _____

Total Expenses _____

Net Income (Loss) _____

COVERAGE(S) PROVIDED

Number of members _____

Type & character of coverage(s) _____

Attach a schedule to be included with this report which details any reinsurance credit/debit incorporated herein and the name of each such carrier.

This report is sworn to be a true and correct statement of the condition of the above named pool.

Chief Executive Officer (signature)

Chief Executive Officer (printed)

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

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COLORADO JUDICIAL CENTER
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Denver, Colorado 80203
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Office of the Attorney General

Tracking number: 2016-00670

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 02/09/2017

3 CCR 702-2

CORPORATE ISSUES

The above-referenced rules were submitted to this office on 02/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 17, 2017 09:20:29

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-3

Rule title

3 CCR 702-3 FINANCIAL ISSUES 1 - eff 04/01/2017

Effective date

04/01/2017

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-3

FINANCIAL ISSUES

Amended Regulation 3-1-16

CUSTODIAL AGREEMENTS AND THE USE OF CLEARING CORPORATIONS

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

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, and 10-3-1203(2), 10-6-129, 10-14-505 and 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to provide current criteria, procedures and clarification concerning the holding of securities or book-entry securities as investments or in meeting the statutory deposits or guaranty fund deposits pursuant to §§ 10-3-210, 10-6-116, 10-16-310, 10-16-412 and 10-16-505, C.R.S. Only custodial agreements complying with this regulation shall be acceptable to the Commissioner of Insurance.

Section 3 Applicability

This regulation shall apply to all Colorado domestic insurers as well as each Colorado domestic risk retention group captive insurer, fraternal benefit society, health maintenance organization and non-profit hospital, medical-surgical and health service corporation, prepaid dental care plan and Pinnacol Assurance.

Section 4 Definitions

- A. "Agent" means, for the purposes of this regulation, a national bank, state bank, trust company or broker/dealer that maintains an account in its name in a clearing corporation or which is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation, including the Treasury/Reserve Automated Debt Entry Securities System (TRADES) or Treasury Direct systems, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "agent" may include a corporation which is organized or existing under the laws of a foreign country and that is legally qualified under those laws to accept custody of securities.

- B. "Clearing corporation" means, for the purposes of this regulation, a corporation as defined in Sections 4-8-102(a)(5) and 10-3-1202(1), C.R.S., that is organized for the purpose of effecting transactions in securities by computerized book-entry, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "clearing corporation" may include a corporation that is organized or existing under the laws of a foreign country and which is legally qualified under those laws to effect transactions in securities by computerized book-entry. Clearing corporation also includes "Treasury/Reserve Automated Debt Entry Securities System" and "Treasury Direct" book-entry securities systems established pursuant to 31 U.S. Code § 3100 *et seq.*, 12 U.S. Code § 391 and 5 U.S. Code § 301.
- C. "Commissioner" means, for the purposes of this regulation, the commissioner of insurance.
- D. "Company" means, for the purposes of this regulation, an insurer, captive insurance company, fraternal benefit society, health maintenance organization, nonprofit hospital, medical-surgical and health service corporation, prepaid dental care plan and Pinnacle Assurance.
- E. "Custodian" means for the purposes of this regulation:
1. A national bank, state bank or trust company that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by United States banking regulators and that is regulated by either state banking laws or is a member of the Federal Reserve System and that is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of a foreign country, or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "custodian" may include a bank or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof that shall at all times during which it acts as a custodian pursuant to this regulation be no less than adequately capitalized as determined by the standards adopted by international banking authorities and that is legally qualified to accept custody of securities; or
 2. A broker/dealer that shall be registered with and subject to jurisdiction of the Securities and Exchange Commission, maintains membership in the Securities Investor Protection Corporation, and has a tangible net worth equal to or greater than two hundred fifty million dollars (\$250,000,000).

With respect to a custodian designated as the Commissioner's depository to receive and hold securities pursuant to §§ 10-3-210, 10-6-116, 10-16-310, 10-16-412 and 10-16-505, C.R.S., the custodian and its administration of the pledged securities must be physically located in the City and County of Denver.

- F. "Custodied securities" means, for the purposes of this regulation, securities held by the custodian or its agent or in a clearing corporation, including the Treasury/Reserve Automated Debt Equity Securities System (TRADES) or Treasury Direct systems.
- G. "Tangible net worth" means, for the purposes of this regulation, shareholders equity, less intangible assets, as reported in the broker/dealer's most recent Annual or Transition Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (S.E.C. Form 10-K) filed with the Securities and Exchange Commission.

- H. "Treasury/Reserve Automated Debt Entry Securities System" ("TRADES") and "Treasury Direct" mean, for the purposes of this regulation, the book entry securities systems established pursuant to 31 U.S. Code § 3100 *et seq.*, 12 U.S. Code § 391 and 5 U.S. Code § 301. The operation of TRADES and Treasury Direct are subject to 31 Code of Federal Regulations § 357 *et seq.*
- I. "Securities" shall have the same meaning as found at § 4-8-102(15), C.R.S.
- J. "Securities' certificate" shall have the same meaning as found at § 4-8-102(16), C.R.S.

Section 5 Custody Agreement Requirements

- A. A company may, by written agreement with a custodian, provide for the custody of its securities with that custodian. The securities that are the subject of the agreement may be held by the custodian or its agent or in a clearing corporation.
- B. Any custodial agreement shall be in writing and shall be authorized by a resolution of the board of directors of the company or of an authorized committee of the board. The terms of the agreement shall comply with the following:
 - 1. Securities' certificates held by the custodian shall be held separate from the securities' certificates of the custodian and of all of its other customers.
 - 2. Securities held indirectly by the custodian and securities in a clearing corporation shall be separately identified on the custodian's official records as being owned by the company. The records shall identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation. If the securities are in a clearing corporation, the records shall also identify where the securities are physically located and if in a clearing corporation, the name of the clearing corporation and if through an agent, the name of the agent.
 - 3. All custodied securities that are registered shall be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee.
 - 4. Custodied securities shall be held subject to the instructions of the company and shall be withdrawable upon the demand of the company, except that custodied securities used to meet the deposit requirements set forth in Sections 10-3-210, 10-6-116, 10-16-310, 10-16-412, and 10-16-505, C.R.S., shall, to the extent required by those sections, be under the control of the Commissioner and shall not be withdrawn by the company without the approval of the Commissioner.
 - 5. The custodian shall be required to send or cause to be sent to the company a confirmation of all transfers of custodied securities to or from the account of the company. In addition, the custodian shall be required to furnish, no less than monthly, the company with reports of holdings of custodied securities at such times and containing such information as may be reasonably requested by the company. The custodian's trust committee's annual reports of its review of the insurer's trust accounts shall also be provided to the insurer. Reports and verifications may be transmitted in electronic or paper form.
 - 6. During the course of the custodian's regular business hours, an officer or employee of the company, an independent accountant selected by the company and a representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon

furnishing the custodian with written instructions to that effect from an appropriate officer of the company.

7. The custodian and its agents shall be required to send to the company:
 - a. All reports which they receive from a clearing corporation on their respective systems of internal accounting control, and
 - b. Reports prepared by outside auditors on the custodian's or its agent's internal accounting control of custodied securities that the company may reasonably request.
8. The custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the company's annual statement and supporting schedules and information required in an audit of the financial statements of the company.
9. The custodian shall provide, upon written request from an appropriate officer of the company, the appropriate affidavits, substantially in the form attached to this regulation, with respect to custodied securities.
10. A national bank, state bank or trust company shall secure and maintain insurance protection in an adequate amount covering the bank's or trust company's duties and activities as custodian for the insurer's assets, and shall state in the custody agreement that protection is in compliance with the requirements of the custodian's banking regulator. A broker/dealer shall secure and maintain insurance protection for each insurance company's custodied securities in excess of that provided by the Securities Investor Protection Corporation in an amount equal to or greater than the market value of each respective company's custodied securities. The commissioner may determine whether the type of insurance is appropriate and the amount of coverage is adequate.
11. The custodian shall be obligated to indemnify the company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft or mysterious disappearance, including loss by damage or destruction.
12. In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the company as provided in Paragraph 11 above, the custodian shall promptly replace the securities or the value thereof and the value of any loss of rights or privileges resulting from the loss of securities.
13. The agreement may provide that the custodian will not be liable for a failure to take an action required to be taken under the agreement in the event and to the extent that the taking of the action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.
14. In the event that the custodian gains entry in a clearing corporation through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of custodied securities as the custodian. However, if the agent shall be subject to regulation under the laws of a jurisdiction that is different from the jurisdiction the laws of which regulate the custodian, the Commissioner of Insurance of the state of domicile of the company may accept a standard of liability

applicable to the agent that is different from the standard of liability applicable to the custodian.

15. The custodian shall provide written notification to the insurer's domiciliary commissioner if the custodial agreement with the insurer has been terminated or if 100% of the account assets in any one custody account have been withdrawn. This notification shall be remitted to the insurance commissioner within three (3) business days of the receipt by the custodian of the insurer's written notice of termination or within three (3) business days of the withdrawal of 100% of the account assets.

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 order, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 8 Effective Date

This regulation shall become effective on April 1, 2017.

Section 9 History

New regulation effective October 2, 2006.
Amended Regulation, Effective April 1, 2017.

FORM A

CUSTODIAN AFFIDAVIT

[For use by a custodian where securities entrusted to its care have not been redeposited elsewhere.]

STATE OF _____)
) ss.
COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is
_____ of _____, a corporation organized
under and pursuant to the laws of the _____ with the principal place of business at
_____ (hereinafter called the "corporation");

That his or her duties involve supervision of activities as custodian and records relating thereto;

That the corporation is custodian for certain securities of _____
_____ having a place of business at _____
_____ (hereinafter called the "insurance company") pursuant to an agreement
between the corporation and the insurance company;

That the schedule attached hereto is a true and complete statement of securities (other than those
caused to be deposited with The Depository Trust Company or like entity or a Federal Reserve Bank
under the TRADES or Treasury Direct systems) which were in the custody of the corporation for the
account of the insurance company as of the close of business on _____; that,
unless otherwise indicated on the schedule, the next maturing and all subsequent coupons were then
either attached to coupon bonds or in the process of collection; and that, unless otherwise shown on the
schedule, all such securities were in bearer form or in registered form in the name of the insurance
company or its nominee or of the corporation or its nominee, or were in the process of being registered in
such form;

That the corporation as custodian has the responsibility for the safekeeping of such securities as that
responsibility is specifically set forth in the agreement between the corporation as custodian and the
insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the
securities were the property of the insurance company and were free of all liens, claims or encumbrances
whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____

Vice President [or other authorized officer]

Notary Public _____
Residing in: _____
My Commission Expires: _____

Street Address of Branch or Office

Name of Organization Employing Notary

FORM B

CUSTODIAN AFFIDAVIT

(For use in instances where a custodian corporation maintains securities on deposit with The Depository Trust Company or like entity.)

STATE OF _____)
) ss.
COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is _____ of _____, a corporation organized under and pursuant to the laws of the _____ with the principal place of business at _____ (hereinafter called the "corporation"):

That his or her duties involve supervision of activities of the corporation as custodian and records relating thereto;

That the corporation is custodian for certain securities of _____ having a place of business at _____ (hereinafter called the "insurance company") pursuant to an agreement between the corporation and the insurance company;

That the corporation has caused certain of such securities to be deposited with _____ and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the corporation was custodian as of the close of business on _____, and which were so deposited on such date;

That the corporation as custodian has the responsibility for the safekeeping of the securities both in the possession of the corporation or deposited with _____ as is specifically set forth in the agreement between the corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the securities were the property of the insurance company and were free of all liens, claims or encumbrances whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____

Vice President [or other authorized officer]

Notary Public _____
Residing in: _____
My Commission Expires: _____

Street Address of Branch or Office

Name of Organization Employing Notary

FORM C

CUSTODIAN AFFIDAVIT

(For use where ownership is evidenced by book entry at a Federal Reserve Bank.)

STATE OF _____)
) ss.
COUNTY OF _____)

_____, being duly sworn deposes and says that he or she is
_____ of _____, a corporation
organized under and pursuant to the laws of the _____ with the principal place
of business at _____ (hereinafter called the
"corporation"):

That his or her duties involve supervision of activities of the corporation as custodian and records relating
thereto;

That the corporation is custodian for certain securities of _____
with a place of business at _____ (hereinafter called the "insurance company")
pursuant to an agreement between the corporation and the insurance company;

That it has caused certain securities to be credited to its book entry account with the Federal Reserve
Bank of _____ under the TRADES or Treasury Direct
systems; and that the schedule attached hereto is a true and complete statement of the securities of the
insurance company of which the corporation was custodian as of the close of business on
_____, which were in a "general" book entry account maintained in the name of the
corporation on the books and records of the Federal Reserve Bank of _____ at
such date;

That the corporation has the responsibility for the safekeeping of such securities both in the possession of
the corporation or in the "general" book entry account as is specifically set forth in the agreement between
the corporation as custodian and the insurance company; and

That, to the best of his or her knowledge and belief, unless otherwise shown on the schedule, the
securities were the property of the insurance company and were free of all liens, claims or encumbrances
whatsoever.

Subscribed and sworn to
before me this _____ day
of _____, 20____

Vice President [or other authorized officer]

Notary Public _____
Residing in: _____
My Commission Expires: _____

Street Address of Branch or Office

Name of Organization Employing Notary

CYNTHIA H. COFFMAN
Attorney General

DAVID C. BLAKE
Chief Deputy Attorney General

MELANIE J. SNYDER
Chief of Staff

FREDERICK R. YARGER
Solicitor General



STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
Denver, Colorado 80203
Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2016-00671

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 02/09/2017

3 CCR 702-3

FINANCIAL ISSUES

The above-referenced rules were submitted to this office on 02/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 17, 2017 09:20:44

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Labor and Employment

Agency

Division of Oil and Public Safety

CCR number

7 CCR 1101-8

Rule title

7 CCR 1101-8 CONVEYANCE REGULATIONS 1 - eff 04/01/2017

Effective date

04/01/2017

**COLORADO DEPARTMENT OF
LABOR AND EMPLOYMENT
DIVISION OF OIL AND PUBLIC SAFETY**

CONVEYANCE REGULATIONS

7 C.C.R. 1101-8

Effective: April 1, 2017

CONVEYANCE REGULATIONS
COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT
DIVISION OF OIL AND PUBLIC SAFETY

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ARTICLE 1 GENERAL PROVISIONS

Section 1-1 Statement of Basis and Purpose

These regulations are promulgated to establish rules for the design, installation, registration, construction, operation, maintenance and inspection of conveyances, and for the licensing of conveyance mechanics, contractors and inspectors. The purpose of these regulations is to ensure that elevators and other automated conveyances, accessible to the general public, are correctly and safely installed and operated within the state. The conveyance owner should communicate with local jurisdictions regarding more stringent requirements that may be in place, such as the required operation of the conveyance.

Section 1-2 Statutory Authority

These regulations have been created pursuant to the Elevator and Escalator Certification Act, Title 9 Article 5.5 Section 116 of the Colorado Revised Statutes (C.R.S.).

Section 1-3 Effective Date

These amended regulations shall be effective on April 1, 2017, and supersede all prior editions. The prior editions of the regulations were effective January 1, 2015, February 1, 2013, January 1, 2011, January 1, 2010, and January 1, 2009. Emergency regulations were in effect from April 2, 2008, until the promulgation of permanent rules.

Section 1-4 Definitions

Terms in these regulations shall have the same definitions as those found in Article 5.5 of Title 9 of the C.R.S. or as defined below.

ACCEPTANCE INSPECTION. The initial inspection and witnessing of acceptance testing, conducted by a licensed Conveyance Inspector, of a new or altered conveyance to verify compliance with standards as defined in these regulations.

ACCEPTANCE TEST. The testing, conducted by a conveyance mechanic, of a new or altered conveyance to verify compliance with standards as defined in these regulations.

ADMINISTRATOR. The Director of the Division of Oil and Public Safety within the Department of Labor and Employment or the Director's designee.

ADVISORY BOARD. A group of experts within the conveyance industry chosen by the Administrator to assist in the development of regulations and resolution of issues relating to the operation of the conveyance program.

AFFILIATED. An employment or subsidiary relationship between two entities.

ALTERATION. As defined in American Society of Mechanical Engineers (ASME) A17.1: any change to equipment, including its parts, components, and/or subsystems, other than maintenance, repair, or replacement and as further defined by the Administrator as an activity that requires an alteration permit, as defined in Section 2-4-1 of these regulations.

ALTERATION, EMERGENCY. An alteration that is limited to minor alteration activities and to those facilities where the building is dependent on the conveyance as the sole means of access and no other conveyance is available. The conveyance contractor performing such alteration shall

submit a minor alteration permit application to the Administrator or Approved AHJ by the next working day.

ALTERATION, MAJOR. An alteration that is extensive in scope such that it warrants a complete witnessed acceptance inspection and applicable tests.

ALTERATION, MINOR. An alteration that is minor in scope, such that it only warrants the specific component(s) being altered to be tested and inspected.

ALTERATION, SUBSTANTIAL. An alteration that includes one of the following:

- (a) The change in the type of service of an elevator
- (b) The change in the type of operation control or motion control
- (c) The installation of a controller

The Substantial Alteration Permit must also include any scope necessary to comply with the currently adopted edition of ASME A17.3, which in turn requires compliance with any more stringent requirements listed in the currently adopted edition of ASME A17.1.

ALTERNATE MATERIALS AND METHODS REQUEST. The submittal of documentation to the Administrator or Approved AHJ by a conveyance owner or conveyance contractor that justifies the use of alternate methods or materials for the implementation of standards adopted pursuant to these regulations.

ANSI. American National Standards Institute.

ANSI/ASSE A10.4. Safety Requirements for Personnel Hoists and Employee Elevators on Construction and Demolition Sites.

ASCE. American Society of Civil Engineers.

ASCE 21. Automated People Mover Standards published as ASCE 21 Parts 1-4, as amended by ASCE.

ASME. American Society of Mechanical Engineers.

ASME A17.1. Safety Code for Elevators and Escalators.

ASME A17.2. Guide for Inspection of Elevators, Escalators, and Moving Walks.

ASME A17.3. Safety Code for Existing Elevators and Escalators.

ASME A18.1. Safety Standard for Platform Lifts and Stairway Chairlifts.

ASSE. American Society of Safety Engineers.

AUTHORITY HAVING JURISDICTION (AHJ). A local jurisdiction (including a fire department, fire district or fire authority) that is responsible for enforcing the requirements of a code or standard or for approving equipment, materials, an installation or a procedure.

AUTHORITY HAVING JURISDICTION (AHJ), APPROVED. A local jurisdiction or any agent thereof that has been approved by the Administrator pursuant to Section 3-1 of these regulations.

AUTOMATED PEOPLE MOVER (APM). As defined in ASCE 21: a guided transit mode with fully automated operation, featuring vehicles that operate on guideways with exclusive right-of-way.

AUTOMATED PEOPLE MOVER ALTERATION. Any change to equipment, including its parts, components and/or subsystems other than maintenance, repair or replacement that does not materially affect the APM integrity, operation or control.

CERTIFICATE OF OPERATION (CO). A document issued by the Administrator or an Approved AHJ indicating that the conveyance has had the required safety inspection and tests and that fees have been paid as set forth in these regulations.

CERTIFICATE OF OPERATION, CONSTRUCTION (CCO). A document issued by the Administrator or an Approved AHJ that allows the temporary operation of a conveyance for the support of construction activities without permitting conveyance access to the public.

CERTIFICATE OF OPERATION, TEMPORARY (TCO). A document issued by the Administrator or an Approved AHJ that allows the temporary operation of a conveyance for public use if life safety issues have not been identified following the inspection of the conveyance by a conveyance inspector.

CERTIFICATE OF SUBSTANTIAL COMPLETION. A document issued by the owner of an APM system stating that work relating to a product has progressed to the point that the owner can beneficially occupy or utilize the product for the purpose for which it is intended and that the work and product comply with all applicable codes and regulations.

CONVEYANCE. A mechanical device to which these regulations apply pursuant to Section 1-5 of these regulations.

CONVEYANCE, PRIVATE RESIDENCE. A power passenger conveyance that is limited in size, capacity, rise, and speed and is designed to be installed in a private residence or in a multiple dwelling as a means of access to a private residence.

CONVEYANCE CONTRACTOR. A person who holds a current conveyance contractor license issued by the Administrator.

CONVEYANCE MECHANIC. A person who holds a current conveyance mechanic or temporary conveyance mechanic license issued by the Administrator and who is employed by a conveyance contractor.

CONVEYANCE OWNER. The owner of the conveyance or assigned agent responsible for maintaining the conveyance.

DOOR RESTRICTORS. As described in the currently-adopted edition of ASME A17.1.

DUMBWAITER. As defined in ASME A17.1: a hoisting and lowering mechanism equipped with a car of limited size that moves in guide rails and serves two or more landings that is used exclusively for carrying materials.

ELEVATOR. As defined in ASME A17.1: a hoisting or lowering mechanism, equipped with a car that moves within guides and serves two or more landings.

ELEVATOR, ELECTRIC. As defined in ASME A17.1: a power elevator in which the energy is applied, by means of an electric driving machine.

ELEVATOR, HYDRAULIC. As defined in ASME A17.1: a power elevator in which the energy is applied, by means of a liquid under pressure, in a hydraulic jack.

ELEVATOR, SPECIAL PURPOSE PERSONNEL (SPPE). As defined in ASME A17.1: an elevator that is limited in size, capacity, and speed, and permanently installed in structures, such as grain elevators, radio antennae, bridge towers, underground facilities, power plants and similar structures to provide vertical transportation of authorized personnel and their tools and equipment only. An SPPE shall not exceed the following specifications:

- (1) Capacity: 1,000 pounds
- (2) Size: 13 square feet
- (3) Speed: 150 feet per minute

ELEVATOR, WIND TURBINE TOWER. As defined in ASME A17.1: a hoisting and lowering mechanism equipped with a car located within a wind turbine tower.

ESCALATOR. As defined in ASME A17.1: a power-driven inclined, continuous stairway used for raising or lowering passengers.

FIREFIGHTERS' SERVICE. As described in the currently-adopted edition of ASME A17.1.

INJURY. An injury that results in death or requires medical treatment (other than first aid) administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first aid treatment or one-time treatment and subsequent observation of minor scratches, cuts, burns, splinters, and any other minor injuries that do not ordinarily require medical care even though treatment is provided by a physician or by registered professional personnel.

INSPECTOR, AHJ. A conveyance inspector who holds a current conveyance inspector license issued by the Administrator, is employed by an Approved AHJ to inspect a conveyance and is not affiliated with the conveyance mechanic whose repair, alteration or installation is being inspected.

INSPECTOR, AHJ-APPOINTED. A conveyance inspector who holds a current conveyance inspector license issued by the Administrator, is employed by a non-profit entity, voluntary association or other council of governments that has been appointed or designated by an Approved AHJ to provide conveyance plan review and/or inspection services and is not affiliated with the conveyance mechanic whose repair, alteration or installation is being inspected.

INSPECTOR, CONVEYANCE. A person who meets the definition of AHJ Inspector, AHJ-Appointed Inspector or Private Inspector.

INSPECTOR, PRIVATE. A conveyance inspector who holds a current conveyance inspector license issued by the Administrator, is not an Approved AHJ or Approved AHJ-appointed conveyance inspector, is retained by the conveyance owner to inspect a conveyance, and is not affiliated with the conveyance owner, general contractor or conveyance contractor who is performing work on the conveyance or with the conveyance mechanic whose repair, alteration or installation is being inspected.

LICENSE. A written license, duly issued by the Administrator, authorizing a person, sole proprietor, firm or company to carry on the business of erecting, constructing, installing, altering, servicing, repairing, maintaining or performing inspections of conveyances covered by these regulations.

LOCAL JURISDICTION. A city, county, city and county or any agent thereof.

MAINTENANCE CONTROL PROGRAM (MCP). A documented set of maintenance tasks, maintenance procedures, examinations, and tests designed to ensure that equipment is maintained in compliance with the requirements of the currently-adopted edition of ASME A17.1.

MANAGING AGENT. A person or company that is hired by the building owner or lessee to be responsible for maintenance of the conveyance(s).

MATERIAL RISK. A risk to public safety as determined by the Administrator in cooperation with local jurisdictions.

MOTION CONTROL. As defined in ASME A17.1: that portion of a control system that governs the acceleration, speed, retardation, and stopping of the moving member.

MOVING WALK. As defined in ASME A17.1: a type of passenger-carrying device on which passengers stand or walk and in which the passenger-carrying surface remains parallel to its direction of motion and is uninterrupted.

NFPA. National Fire Protection Association.

NFPA 13. Standard for the Installation of Sprinkler Systems.

OPERATION CONTROL. As defined in ASME A17.1: that portion of a control system that initiates the starting, stopping, and direction of motion, in response to a signal from an operating device.

PERIODIC INSPECTION. The inspection and testing of an existing conveyance conducted by a licensed conveyance inspector to verify compliance with standards as defined in these regulations.

PERSONNEL HOIST. A mechanism and its hoistway for use in connection with the construction, alteration, ongoing maintenance or demolition of a building, structure or other work. It is used for hoisting and lowering workers and/or materials and is equipped with a car that moves vertically on guide members. For the purpose of these regulations, a personnel hoist is only regulated if it is accessible to or used by members of the general public.

PERSONNEL, AUTHORIZED. As defined in ASME A17.1: persons who have been instructed in the operation of the equipment and designated by the owner to use the equipment. The Administrator has determined that this does not include the general public.

PERSONNEL, ELEVATOR. As defined in ASME A17.1: persons who have been trained in the construction, maintenance, repair, inspection, or testing of equipment.

PERSONNEL, EMERGENCY. As defined in ASME A17.1: persons who have been trained in the operation of emergency or standby power and firefighters' emergency operation or emergency evacuation.

PLATFORM LIFT. As defined in ASME A18.1: a powered hoisting and lowering mechanism designed to transport mobility impaired persons on a guided platform that travels vertically or on an incline.

REFINISH. Those cab refinishing activities that are limited to “in place” work such that the removal of the cab panels or walls is not required and does not include any change in the type of materials of the existing cab interior. These cab refinishing activities shall not add or subtract weight to the existing cab.

REPAIR. As defined in ASME A17.1: reconditioning or renewal of parts, components, and/or subsystems necessary to keep equipment in compliance with applicable Code requirements.

REPLACEMENT. As defined in ASME A17.1: the substitution of a device or component and/or subsystems, in its entirety, with a unit that is basically the same as the original for the purpose of ensuring performance in accordance with applicable Code requirements.

SYSTEM VERIFICATION. Activities with a set of minimum standards by which an APM system application shall be verified to meet ASCE 21 Parts 1, 2 and 3 and which shall include the elements of design review, analysis, qualification test, acceptance test, inspection, demonstration, and previous experience as listed in ASCE 21 Part 4 Section 14.

TYPE OF SERVICE. The passenger or freight classification for the use of an elevator.

Section 1-5 Scope

These conveyance regulations apply to all conveyances listed below and as defined in Section 1-4 of these regulations, except as provided in Section 1-5(4) of these regulations.

(1) Hoisting and lowering mechanisms equipped with a car or platform that moves between two or more landings. Such equipment includes, but is not limited to:

- (a) Elevators
- (b) Platform lifts
- (c) Personnel hoists
- (d) Dumbwaiters

(2) Power-driven stairways and walkways for carrying persons between landings. Such equipment includes, but is not limited to:

- (a) Escalators
- (b) Moving walks

(3) Automated people movers (APMs) as defined in ASCE 21.

(4) The following are not included in the scope of these regulations.

- (a) Material hoists within the scope of ANSI A10.5
- (b) Manlifts within the scope of ASME A90.1
- (c) Mobile scaffolds, towers, and platforms within the scope of ANSI A92

- (d) Powered platforms and equipment for exterior and interior maintenance within the scope of ASME A120.1
- (e) Conveyors and related equipment within the scope of ASME B20.1
- (f) Cranes, derricks, hoists, hooks, jacks, and slings within the scope of ASME B30.10
- (g) Industrial trucks within the scope of ASME B56
- (h) Items of portable equipment that are not portable escalators
- (i) Tiering or piling machines used to move materials between storage locations that operate entirely within one story
- (j) Equipment for feeding or positioning materials at machine tools, printing presses, and other similar equipment
- (k) Skip or furnace hoists
- (l) Wharf ramps
- (m) Railroad car lifts or dumpers
- (n) Line jacks, false cars, shafters, moving platforms, and similar equipment used by a certified conveyance contractor for installing a conveyance
- (o) Conveyances at facilities regulated by the Mine Safety and Health Administration in the United States Department of Labor, or its successor, pursuant to the "Federal Mine Safety and Health Act of 1977," Pub.L. 91-173, codified at 30 U.S.C. sec. 801 et seq., as amended
- (p) Elevators within the facilities of gas or electric utilities that are not accessible to the public
- (q) A passenger tramway defined in §25-5-702, C.R.S.
- (r) Conveyances in a single-family residence
- (s) Stairway chairlifts as defined in ASME A18.1
- (t) Special purpose personnel elevators and wind turbine tower elevators that are used by authorized personnel, but are not accessible to or used by customers or members of the general public

ARTICLE 2 ADMINISTRATION

Section 2-1 Registration

- (1) The conveyance owner shall register the conveyance with the Administrator.
- (2) The registration notice shall include:
 - (a) A complete conveyance registration form, which is provided on the Administrator's website.
 - (b) The registration fee of \$200 per conveyance.
- (3) Upon the Administrator's approval of the registration, the Administrator will assign a unique number to each conveyance and to the facility at which each conveyance is located.
- (4) Conveyances installed after July 1, 2008, shall be registered with the Administrator before they are placed into service.
- (5) The conveyance owner shall be responsible for notifying the Administrator of any change in ownership or management contact information within 30 days of the change.

Section 2-2 Adoption of Nationally-Recognized Safety Standards

- (1) Within these regulations, the Administrator adopts standards and codes as listed below except as amended by the Administrator.
 - (a) ASME A17.1 - 2013
 - (b) ASME A18.1 - 2011
 - (c) ASME A17.3 - 2005
 - (d) ASCE 21 Parts 1-4
- (2) Nothing in these regulations prohibits a local jurisdiction from adopting and enforcing standards which are more stringent than the minimum requirements included herein.
- (3) Following the initial adoption of standards described in (1) of this Section, the Approved AHJ will remain current in adoption of future standard editions as they are adopted by the Administrator within the timeframe stated in the Memorandum of Agreement (MOA) or as determined by the Administrator.
- (4) The Administrator, in cooperation with the Advisory Board, shall review the latest edition of a standard listed in (1) of this Section and shall determine whether any or all portions of the edition of the standard will be modified or deleted as it pertains to these regulations.
- (5) The standards listed in (1) of this Section may be examined by contacting the Conveyance Program Manager at the office of the Administrator located at 633 17th Street, Suite 500 in Denver, Colorado.

Section 2-3 Inspections, Tests and Maintenance

Section 2-3-1 Periodic Inspections and Certificates of Operation

Section 2-3-1-1 Periodic Inspection

- (1) The conveyance owner shall arrange for a periodic inspection of an existing conveyance on an annual frequency or on a frequency as determined by the Administrator.
- (2) The periodic inspection shall be completed by a conveyance inspector. The conveyance owner may authorize a general contractor or conveyance contractor to select, contract with or hire a conveyance inspector.
- (3) The conveyance owner shall provide access at all times to all keys necessary for elevator personnel to conduct maintenance and inspections, for the Administrator to conduct inspections and for emergency personnel during an emergency. These keys shall include all keys listed in Section 8.1 of the currently-adopted edition of ASME A17.1, as applicable. Such keys shall include, but not be limited to:
 - (a) Machine room, control room, or machine or control space
 - (b) Hoistway access and hoistway enable switch
 - (c) Phase I and Phase II firefighters' emergency operation switch
 - (d) Emergency or standby power emergency access selector switch
 - (e) Pit access, if applicable
 - (f) Equipment access panels
- (4) The conveyance inspector shall:
 - (a) Obtain the permission of the conveyance owner to conduct the periodic inspection, acceptance inspection or test witness inspection, prior to commencing inspection activities.
 - (b) Inspect the conveyance to the applicable code using either of the following criteria:
 - (i) The code edition adopted by the AHJ at the time of original installation and/or alteration
 - (ii) The code edition that was in effect at the time of original installation and/or alteration if no code edition was adopted by the AHJ.
 - (c) Conduct the inspection using the latest edition of ASME A17.2, manufacturers' recommendation or the appropriate code based on the type of equipment as guidance.
 - (d) Witness all applicable tests in accordance with Section 2-3-2 of these regulations.
 - (e) Document the results of the inspection on an inspection report form provided on the Administrator's website. All applicable portions of the inspection report shall be completed.

- (f) Submit the completed inspection report(s) to the conveyance owner.
- (5) The conveyance owner shall submit the passing inspection report(s) and the required fee of \$30 per conveyance to the office of the Administrator.
- (6) All inspections must be completed prior to the expiration date of the current certificate of operation. The Administrator may commence enforcement actions on the conveyance owner for operating the conveyance without a current certificate of operation.
- (7) The expiration date for the ensuing certificate of operation will be set at the last day of the month of the inspection date.
- (8) The inspection may occur as early as the first day of the month prior to the expiration of the certificate of operation to maintain the current certificate of operation expiration date. If the inspection occurs before this date, the beginning date of the ensuing certificate of operation will be set at the last day of the month of the inspection.

2-3-1-2 Certificate of Operation

- (1) A conveyance shall not operate unless the conveyance owner maintains a current certificate of operation for the conveyance. The certificate of operation must be available for review at the property where the conveyance is located.
- (2) Following the Administrator's review of the inspection report described in Section 2-3-1-1 of these regulations and determination that the conveyance is in compliance with the applicable standards listed in Section 2-2-1(1) of these regulations or the standard under which the conveyance was installed or altered and the conveyance is registered according to Section 2-1 of these regulations, the Administrator will issue the certificate of operation for the conveyance to the conveyance owner.
- (3) The Administrator may not issue the certificate of operation for the conveyance unless all deficiencies identified during previous periodic inspections have been corrected.

2-3-1-3 Temporary Certificate of Operation

- (1) The Administrator may issue a Temporary Certificate of Operation (TCO) for a conveyance if the temporary operation of the conveyance for public use is necessary and a conveyance inspector has not identified imminent life safety issues.
- (2) The TCO shall be valid for a period as determined by the Administrator but shall not exceed 180 days from the date of issuance.
- (3) Violations identified on an inspection report that warrant the issuance of a TCO must be mitigated prior to the Administrator issuing a certificate of operation that is valid through the end of the 12-month period. Following completion of the appropriate repairs and prior to the expiration of the TCO, submit verification to the Administrator that the violations have been mitigated using one of the following documents:
 - (a) The TCO Affidavit attached to the TCO, signed by the owner, licensed contractor or licensed mechanic performing the work
 - (b) An inspection report indicating that an inspection occurred following the repairs and that the violations were mitigated

- (4) Violations identified by elevator personnel that warrant issuance of a TCO or shutdown of a conveyance are listed in Tables 2-3-1-3a and 2-3-1-3b of these regulations or as determined by the Administrator.
- (5) Elevator personnel who recommend shutdown of a conveyance for any reason must notify the Administrator.

Table 2-3-1-3a: Violations Warranting TCO or Shutdown for Elevators		
Deficiency Identified	TCO	Shutdown
Failure of witnessed acceptance tests for a new installation or alteration.		X
Failure of components tested with full load during a witnessed Category 5 test (see Section 2-3-2 of these regulations), such as, brakes, car and counterweight safeties, governor, buffer, etc.		X
Any safety tests past due as listed in Table 2-3-2 of these regulations.	X	
Failure of Category 1 (see Section 2-3-2 of these regulations) test items listed on the Administrator's test form except for the items listed in rows below.		X
Governor rope nominal size is: <ul style="list-style-type: none"> Less than 8mm and is undersized, the wire break criteria is not met, or there is evidence of rouging. Greater than 8mm and is undersized or the wire break criteria is not met. 	X	
Wire suspension means are undersized or have breaks not meeting code requirements.	X	
Suspension means monitoring devices are missing or inoperable.	X	
Door restrictors are missing or inoperable for elevators: <ul style="list-style-type: none"> Installed between January 1,1990 to present Altered between January 1,1990 and present, where the alteration required the installation door restrictors (i.e., alteration of hoistway openings or change in type of service) Where there is evidence that door restrictors have been previously installed on the elevator 	X	
Top and/or bottom hoistway door retainers are missing. (NOTE: Required hoistway door bottom guides that are missing requires shutdown.)	X	
Door closing force exceeds 30 foot-pounds (lbf).	X	
Firefighters' service components are inoperable (not including signage).	X	
Two-way communication is missing or inoperable.	X	
Keys described in Section 2-3-1-1(3) of these regulations are not made available.	X	
Violations (other than those listed in this table) that are not mitigated prior to the next annual periodic inspection.	X	

Table 2-3-1-3b: Violations Warranting TCO or Shutdown for Escalators and Moving Walks		
Deficiency Identified	TCO	Shutdown
Failure of witnessed acceptance test (new or altered).		X
Any safety tests past due as listed in Table 2-3-2 of these regulations.	X	
Failure of Category 1 test items listed on the Administrator's test form except for the items listed in rows below.		X

Comb plates with two or more adjacent broken teeth.		X
Comb plates with one broken tooth not adjacent to another broken tooth.	X	
Failure of a step-skirt indexing test.	X	
Violations (other than those listed in this table) that are not mitigated prior to the next annual periodic inspection.	X	

2-3-1-4 Construction Certificate of Operation

(1) The Administrator may issue a construction certificate of operation for an elevator that shall be valid for a period of 90 days if the temporary operation of the elevator is necessary to support building construction activities. The operation of the elevator shall conform to the following:

- (a) The elevator shall be registered with the Administrator prior to the elevator being placed into service.
- (b) The Administrator or Approved AHJ has issued an installation or alteration permit.
- (c) A full passing acceptance inspection and a completed conveyance inspection form shall be submitted to the Administrator or Approved AHJ. Fire service operation and fire rating of the hoistway and machine room do not need to be completed for a passing acceptance inspection for a construction certificate of operation.
- (d) The following items are required during construction use of the conveyance.
 - (i) The elevator shall conform to the requirements of the currently-adopted edition of ASME A17.1.
 - (ii) All testing shall be completed by a licensed conveyance mechanic and witnessed by a licensed conveyance inspector.
 - (iii) The elevator shall have a designated attendant for operation.
 - (iv) The elevator shall be run on independent service only.
 - (v) A means of two-way communication shall be provided. Cell phones shall not be accepted as a means of two-way communication.
 - (vi) The machine room shall be enclosed and have a lockable door to prevent entry.
 - (vii) The hall call stations, if installed, shall be inactive.
 - (viii) Penetrations that allow an object to be inserted in the hoistway while the elevator is in motion shall not be allowed.
 - (ix) Substantially-flush floor surface shall be used in front of the entrances.
 - (x) Adequate lighting shall be used in front of the entrances and in the machine room.
 - (xi) The construction certificate of operation shall be posted inside the elevator and shall be visible to riders at all times.

- (e) If the finished cab interior was not installed when the initial tests were performed for a construction certificate of operation, all tests shall be performed again before a certificate of operation is issued.
- (2) The construction certificate of operation can be renewed following the inspection by a conveyance inspector and approval of the inspection report by the Administrator or Approved AHJ. A certificate of operation for public use will be issued by the Administrator or Approved AHJ only after re-inspection and approval of the inspection report by the Administrator.

Section 2-3-2 Periodic and Acceptance Tests

- (1) An acceptance test shall be conducted following the completion of a conveyance installation or alteration in accordance with the currently-adopted edition of the appropriate code based on the type of equipment before the conveyance is placed into service.
 - (a) For new installations, major alterations and substantial alterations, acceptance tests shall be completed in accordance with the applicable provisions of the currently-adopted edition of ASME A17.1.
 - (b) For minor alterations, only the portion or component that was altered must be tested and inspected in accordance with the applicable provisions of the currently-adopted edition of ASME A17.1.
- (2) Tests referred to as Category 1 and Category 5 in ASME A17.1 shall be performed by a conveyance mechanic employed by a conveyance contractor on all existing conveyances, except for an APM, at the frequencies listed in Table 2-3-2 of these regulations.
- (3) Effective January 1, 2019, non-witnessed Category 1 tests shall be conducted within 60 days prior to the occurrence of the periodic inspection described in Section 2-3-1-1 of these regulations. This requirement does not apply to an Approved AHJ that controls inspections and testing within its territory or other entities that have demonstrated to the Administrator that processes are in place allowing for the verification of annual testing by the Administrator.
- (4) Tests referred to as One-Year and Five-Year in ASME A18.1 shall be performed by a conveyance mechanic employed by a conveyance contractor on all existing platform lifts at the frequencies listed in Table 2-3-2 of these regulations.
- (5) The results of all tests discussed in this Section shall be recorded on the applicable conveyance test report form that is provided on the Administrator's website and be submitted to the Administrator upon request. The test report must be signed by the conveyance mechanic performing the test and, if applicable, the inspector witnessing the test.
- (6) A conveyance inspector shall witness the performance of tests at frequencies as listed in Table 2-3-2 of these regulations.
- (7) The frequency of test performance and witnessing shall be on the frequency listed in Table 2-3-2 of these regulations or as determined by the Administrator.

Table 2-3-2: Frequency of Periodic Tests		
Conveyance Type	Category 1 (One-Year)	Category 5 (Five-Year)

	Perform	Witness	Perform	Witness
Traction Elevators	Annually	5 years	5 years	5 years
Hydraulic Elevators	Annually	5 years	5 years ¹	5 years ¹
Other Elevators ²	Annually	5 years	5 years	5 years
Dumbwaiters	5 years	Not Required	Not Required	Not Required
Escalators & Moving Walks	Annually	Annually	Not required	Not required
Indoor Platform Lifts	5 years	5 years	5 years	5 years
Outdoor Platform Lifts	3 years	6 years	3 years	6 years
Private Residence Elevators installed in commercial buildings ³	5 years	5 years	5 years	5 years

¹ A category 5 test is only required to be conducted and witnessed on a hydraulic elevator if the elevator is equipped with safeties, a plunger gripper, a governor, an oil buffer, or an over-speed valve.

² Includes roped-hydraulic elevators and Limited-Use/Limited-Application (LU/LA) elevators.

³ Private Residence Elevators shall not be installed in commercial settings after January 1, 2008, per section 2-4-2(5) of these regulations. For requirements of approved installations, refer to section 2-7(5) of these regulations.

(8) The conveyance owner or designated conveyance contractor performing the acceptance test shall be responsible to notify the Administrator prior to the test.

(9) Upon completion of a periodic test or an acceptance test, a metal test tag shall be permanently mounted to the controller, in a readily visible location, in accordance with currently-adopted code.

(10) If Category 5 testing without load via alternative test methodologies will be utilized, the conveyance owner or conveyance contractor must notify the Administrator prior to development of the base-line and alternative testing procedures and must have approval from the Administrator prior to implementation of the alternative testing.

Section 2-3-3 Maintenance

(1) A Maintenance Control Program (MCP) shall comply with this section and be in place to maintain regulated conveyance equipment in compliance with currently-adopted codes by July 1, 2015.

(2) The MCP shall consist of the following components.

(a) General Maintenance Requirements: The General Maintenance Requirements component shall include, but not be limited to, the following:

(i) If the conveyance equipment was installed before January 1, 2000 and did not undergo a major or substantial alteration after this date, a version specific to the conveyance type (traction, hydraulic, etc.) will satisfy this requirement

(ii) If the conveyance equipment was installed or underwent a major or substantial alteration on or after January 1, 2000, a version applicable to the equipment model will satisfy this requirement

(iii) Required maintenance tasks, such as cleaning, lubricating and adjusting the equipment

(iv) Code-required examination and tests listed in ASME A17.1-2013 Sections 8.6.4 through 8.6.11

(v) Specified scheduled maintenance intervals

- (vi) Procedures for tests, periodic inspections, maintenance, replacements, adjustments, and any other procedures included in On-site Documentation
- (b) On-site Documentation: The On-site Documentation component shall include items listed in ASME A17.1-2013 Section 8.6.1.2.2 and as summarized below.
 - (i) Up-to-date wiring diagram detailing circuits of all electrical protective devices for conveyances installed or altered on or after January 1, 2000, and, if they exist, for conveyances installed prior to January 1, 2000.
 - (ii) Written check-out procedures
 - (iii) Unique procedures for all maintenance, inspections and tests not described in ASME A17.2; such as, repairs of the detection means and related circuits for traction-loss, broken-suspension-member and residual-strength as listed ASME A17.1-2013 Section 8.6.1.2.1(f)
 - (iv) Written procedures for evacuation by emergency personnel
 - (v) Written procedures for cleaning the exterior of cars and interior of hoistways which have transparent enclosures
- (c) Maintenance Records: The Maintenance Records component shall include items listed in ASME A17.1-2013 Section 8.6.1.4 and as summarized below.
 - (i) Description of maintenance tasks performed, including dates of service
 - (ii) Description and dates of examinations, tests (completed reports), adjustments, repairs and replacements
 - (iii) Written record of oil usage
 - (iv) Findings of the firefighter's service operation check

Maintenance records shall be retained for 5 years. A record of acceptance tests (completed reports) and test tags, required per Section 2-3-2(7) of these regulations, shall be retained permanently.

(3) All components of the MCP shall be:

- (a) Provided by the contractor responsible for maintenance of the conveyance or by the conveyance owner and owned by the conveyance owner. When a maintenance contractor is no longer retained by the conveyance owner to maintain the conveyance, the contractor must leave the entire document at the facility in the location described in (3)(b) of this Section, with the exception of maintenance frequencies as determined in the contract between the conveyance owner and contractor. The maintenance frequencies provided by the contractor that is subsequently retained by the conveyance owner shall provide this documentation as described in Section (2)(a).
- (b) Kept on-site in the machine or control room, machinery or control space, escalator or moving walk pit area, or another on-site location with proper signage according to ASME A17.1-2013 Section 8.6.1.2.1(d). For those conveyances listed in ASME A18.1, the MCP shall be maintained on-site at a location with proper signage according to ASME A17.1-2013

Section 8.6.1.2.1(d). This requirement does not apply to call-back documents as described in (4) of this Section.

(c) Presented in hard-copy or electronic form, unless specified by these regulations as written.

The conveyance contractor or conveyance owner shall ensure that the mode of presentation is viewable by conveyance contractors, mechanics, inspectors, and the Administrator at all times from the time of the acceptance inspection and test or from the time of equipment installation or alteration.

(d) Updated when any items listed in the MCP have been altered.

(4) Call-backs (trouble calls): The description, dates and associated corrective actions of all call-backs are required to be maintained and made available to elevator personnel as required in the currently-adopted edition of ASME A17.1. These records are not required to be kept onsite.

Section 2-4 Alteration and New Installation

Section 2-4-1 Alteration

(1) The conveyance owner or conveyance contractor who intends to complete an alteration on an existing conveyance shall submit a permit application and a fee of \$150 per conveyance to the Administrator at least 30 days prior to commencing construction.

(2) Prior to the alteration of the conveyance, the permit application shall be reviewed and documentation approved by the Administrator. If all documentation in (1) of this Section is not complete and accurate, the application will not be approved and the applicant will be notified of the deficiencies. If approved, the permit issued by the Administrator shall be displayed in the conveyance control room or control space associated with the permitted conveyance.

(3) Alteration activities shall commence within 180 days from the date of issuance of the permit from the office of the Administrator.

(4) Alteration activities regarding elevators which require a permit application to be submitted to the Administrator are items listed in ASME A17.1 and include the following:

(a) Minor Alterations

(i) Addition of power operation to door systems

(ii) Changes to the guide rails, supports, or fastenings

(iii) Changes to car or counterweight buffers

(iv) Increase or decrease of the dead weight of the car that is sufficient to increase or decrease the sum of the dead weight and rated load, as originally installed, by more than 5%. Where this alteration increases the original building design reactions by more than 5%, the permit application shall also include documentation that the adequacy of the affected building structure has been verified by a licensed professional engineer.

(v) Installation of new car or counterweight safeties or alteration to existing safeties. If new car safeties are added to an existing conveyance, the permit application shall also include documentation that the adequacy of the affected building

structure, guide rails, supports and fastenings has been verified by a licensed professional engineer.

- (vi) Installation (other than Replacement) or alteration to a speed governor
- (vii) Alteration to the terminal stopping device
- (viii) Alteration to the standby or emergency power system
- (ix) Alteration to firefighters' service
- (x) Addition of a hoistway entrance
- (xi) Controller replacement for a hoistway door, car door, or car gate
- (xii) Increase in working pressure by more than 5%
- (xiii) Change to or replacement of a plunger or cylinder (to include the installation of a plunger gripper)
- (xiv) Replacement of an existing control valve with a valve of another type
- (xv) Replacement of a hydraulic tank
- (xvi) Replacement of a hydraulic tank and valve (power unit)
- (xvii) Any work within a cab other than that specified in Section 2-4-1-1 (1) of these regulations

(b) Major Alteration Types

- (i) Increase of rated load
- (ii) Installation or alteration to driving machine, driving machine brake or driving machine sheaves. This includes moving a driving machine.
- (iii) Increase to the rated speed
- (iv) Increase or decrease in rise
- (v) Any alteration to a dumbwaiter or platform lift

(c) Substantial Alteration

- (i) The changes in the type of service
- (ii) The change in the type of operation or motion control
- (iii) The installation of a controller

The substantial alteration permit must also include any scope necessary to comply with the currently-adopted edition of ASME A17.3, which in turn requires compliance with any

more stringent requirements listed in the currently-adopted edition of ASME A17.1. Refer to Section 2-7(1) of these regulations for further requirements.

- (5) Alteration activities regarding escalators and moving walks which require a permit application and processing fee of \$150 per conveyance to be submitted to the Administrator are listed below.

(a) Minor Alteration Types

- (i) Installation of skirt deflector device or adjustment of the skirt
- (ii) Alteration to handrails or handrail system
- (iii) Alterations that involve the trusses, girders or supporting structures
- (iv) Any alteration to or addition of operating and/or safety devices
- (v) Alteration or addition to lighting, access or electrical work
- (vi) Alteration to entrance or egress

(b) Major Alteration Types

- (i) Change in angle of inclination or geometry of balustrades
- (ii) Alteration to step system or treadway system
- (iii) Alteration to the step wheel tracks or track system
- (iv) Changes in rated load or speed
- (v) Installation or replacement of the controller

- (6) The Administrator or Approved AHJ may allow a conveyance contractor to perform emergency work on a conveyance that normally requires a permit if the emergency alteration activity is as defined in Section 1-4 of these regulations.

- (7) Following any alteration of a conveyance, where a permit is required from the Administrator or the Approved AHJ according to this Section, the conveyance owner shall arrange for an acceptance test and inspection of the conveyance in accordance with Section 2-3-2 of these regulations. The conveyance owner may authorize a general contractor or conveyance contractor to select, contract with, or hire a conveyance inspector who is not affiliated with the conveyance owner, general contractor, or conveyance contractor. The acceptance inspection and issuance of a certificate of operation shall be processed by the Administrator in accordance with Section 2-3-1 of these regulations.

Section 2-4-1-1 Elevator Cab Interiors

- (1) A conveyance owner may conduct the following type of repair work within the interior of an elevator cab without notification to or obtaining a permit from the Administrator.

- (a) Change light lamps, not to include replacement of the luminaire (fixture)
- (b) Repair or refinish existing materials

- (2) A conveyance owner or a licensed conveyance contractor shall first obtain a permit from the Administrator as described in Section 2-4-1 of these regulations for work within an elevator cab that involves the installation or alteration of cab components. A licensed conveyance mechanic shall conduct this work or direct the execution of this work by a conveyance helper or apprentice to ensure the safety of the conveyance.

Section 2-4-2 New Installation

- (1) The Conveyance Owner or Conveyance Contractor who intends to install a conveyance shall submit a permit application and a fee of \$300 per conveyance to the Administrator at least 30 days prior to commencing construction.
- (2) Prior to the installation of the conveyance, the permit application shall be reviewed and documentation approved by the Administrator. If all documentation in (1) of this section is not complete and accurate, the application will not be approved and the applicant will be notified of the deficiencies. If approved, the permit issued by the Administrator shall be displayed in the conveyance control room or control space associated with the permitted conveyance.
- (3) Installation activities shall commence within one year from the date of receipt of the permit application at the office of the Administrator.
- (4) Following the installation, where a permit is required from the Administrator or Approved AHJ according to Section 2-4-2 of these regulations, the conveyance owner shall arrange for an Acceptance Test and Inspection of the conveyance in accordance with Section 2-3-2 of these regulations. The conveyance owner may authorize a general contractor or conveyance contractor to select, contract with or hire a conveyance inspector who is not affiliated with the conveyance owner, general contractor or conveyance contractor. The acceptance inspection and issuance of a certificate of operation shall be processed by the Administrator in accordance with Section 2-3-1 of these regulations.
- (5) After January 1, 2008, the Administrator shall not allow the installation of a private residence conveyance in any commercial setting where the public or multiple private residences have access to the conveyance.

Section 2-4-3 Alternate Materials and Methods Request

- (1) The Administrator or Approved AHJ may grant the use of alternate materials and methods on a case-specific basis for the implementation requirements of the adopted codes or standards listed in Section 2-2 of these regulations.
- (2) Requests for the use of alternate materials and methods where a conveyance is not located within the area of an Approved AHJ shall be submitted to the Administrator and be completed on the alternate materials and methods request form provided on the Administrator's website. This request will not be reviewed unless the appropriate form and required documentation are complete.
- (3) A submitted alternate materials and methods request shall not relieve a person from complying with the applicable standards adopted in these regulations unless the Administrator or the Approved AHJ expressly approve the use of alternate materials and methods.

Section 2-5 Automated People Movers

- (1) The conveyance contractor who intends to install an APM or perform an APM alteration shall conform to the requirements in either Section 2-4-1 or 2-4-2 of these regulations.
- (2) The conveyance owner or managing agent where the APM system is located shall arrange for inspection of verification testing of the installed or altered APM system by a conveyance inspector and shall submit the following items to the Administrator.
 - (a) Report documenting system verification completed at the factory
 - (b) Report documenting on-site system verification
 - (c) certificate of substantial completion
- (3) A conveyance inspector shall witness the testing of the APM system as defined in ASCE 21 Part 4 Section 16.2 (Annual Internal Audit Responsibilities) on an annual frequency. The results of the testing shall be submitted to the Administrator.
- (4) Following the Administrator's determination that the documentation listed in (2) or (3) of this Section indicates that the conveyance conforms to standards listed in Section 2-2-1(1)(d) of these regulations, the Administrator will issue the certificate of operation for the APM system.

Section 2-6 Accident Reporting

- (1) Any accident involving a conveyance that caused or could have caused injury to a person should be investigated by the conveyance owner or managing agent to determine if maintenance or repairs are needed to ensure proper operation of the conveyance and that the conveyance is in compliance with these regulations.
- (2) Following any accident involving a conveyance that causes injury to any person, the conveyance owner or managing agent shall:
 - (a) Conduct a preliminary investigation to determine whether the accident was the result of a component of the conveyance that malfunctioned or was not in compliance with these regulations.
 - (b) Report this information to the Administrator or Approved AHJ via phone or email within 24 hours of the accident. This report shall include the following items:
 - (i) Caller's first and last name, phone number and organization.
 - (ii) Accident location with conveyance description, facility name, facility address and conveyance registration number assigned by the Administrator
 - (iii) Description of the accident and the preliminary determination of whether the accident was a result of a component of the conveyance that malfunctioned or is not in compliance with these regulations
- (3) Based on results of the preliminary accident investigation, the following activities shall be conducted.
 - (a) If the accident is not the result of the malfunction of a component of the conveyance and the conveyance is in compliance with these regulations, the conveyance owner may make the conveyance accessible to the public and shall complete and submit to the Administrator or Approved AHJ an accident investigation report as described in (3)(b)(iii) of this Section.

(b) If the accident is the result of a component of the conveyance that malfunctioned or is not in compliance with these regulations, the Administrator or Approved AHJ will suspend or revoke the certificate of operation for the conveyance and the conveyance owner shall do the following:

- (i) Immediately shut down the conveyance and arrange for an inspection of the conveyance to verify the cause of the accident prior to a conveyance contractor performing any modifications or repairs to the conveyance.
- (ii) Arrange for a full Inspection of the conveyance following any modifications or repairs.
- (iii) Complete and submit to the Administrator or Approved AHJ an accident investigation report, using the form that is provided on the Administrator's website, within 30 days of the accident or as approved by the Administrator. This report shall include a description of the actions taken to investigate the cause of the accident, corrective actions taken to repair and test the performance of the conveyance and any inspection reports.

The conveyance shall not be made accessible to the public without a current Certificate of Operation issued by the Administrator or Approved AHJ.

(4) When the Approved AHJ becomes aware of an accident associated with a conveyance, the Approved AHJ will report this accident to the Administrator within 24 hours from notification.

Section 2-7 Implementation of Adopted Standards for Existing Conveyances

(1) All conveyances installed prior to July 1, 2008 are exempt from complying with currently-adopted edition of ASME A17.3 unless one of the following conditions exists:

- (a) Substantial alteration of a conveyance
- (b) An elevator presents a material risk

Any alteration that is a result of the conditions listed above shall conform to the currently adopted edition of ASME A17.1.

(2) Material risk related to firefighters' service is present unless any of the following conditions apply:

- (a) The elevator complies with ASME A17.1 - 1981 Rules 211.1 and 211.3.
- (b) The elevator travels less than 75 feet above or below the emergency personnel access.
- (c) The building is equipped with an automatic sprinkling system according to the NFPA 13.

Any elevator that does not meet one or more of the conditions listed above shall comply with firefighters' service requirements as described in the currently-adopted version of ASME A17.1. An AHJ may require and enforce more stringent standards than these minimum requirements regarding firefighters' service, including full compliance with ASME A17.3. Contact the AHJ for local requirements.

(3) Regarding Door Restrictors, the following shall apply.

- (a) Door restrictors shall be installed and operational on all elevators installed on or after January 1, 1990.
 - (b) Where there is evidence that door restrictors have been previously installed and not properly maintained, regardless of original installation date, the door restrictors shall be repaired to operate as intended.
 - (c) Door restrictors shall be installed in accordance with ASME A17.1-2013, Section 2.14.5.7 where an alteration permit is issued that includes a change in the type of motion control or operation control.
 - (d) Following review of additional information regarding door restrictors, the Administrator will determine whether door restrictors shall be required on elevators installed prior to January 1, 1990.
- (4) The Administrator will allow continued operation of a hydraulic elevator that has a hydraulic cylinder buried in the ground and is not provided with a safety bulkhead (typically installed prior to 1973) after January 1, 2012, if the conveyance owner completes one of the following actions in conformance with ASME A17.3 – 2005:
- (a) The hydraulic cylinder shall be provided with a safety bulkhead
 - (b) The elevator shall be provided with car safeties, guide rails, guide-rail supports, and fastenings conforming to the currently-adopted edition of ASME A17.1
 - (c) The elevator shall be provided with a plunger gripper that shall grip the plunger when the applicable maximum governor tripping speed is achieved.
- (5) The Administrator will allow continued operation of a private residence conveyance installed in any building other than in a single-family residence if the following conditions are met:
- (a) The conveyance was installed prior to January 1, 2008.
 - (b) The conveyance is registered with the Administrator on a form that is provided on the Administrator's website.
 - (c) The conveyance shall conform to all alteration and inspection requirements included in Article 2 of these regulations, and testing frequency listed in Table 2-3-2 of these regulations.
- (6) The Administrator will only require a code data plate (as required by ASME A17.1) on an existing conveyance if the conveyance was installed on or after July 1, 1997. For conveyances installed prior to July 1, 1997, the absence of a code data plate is not a violation of these regulations, and the edition of ASME A17.1 that will be referenced for inspection purposes will be one of the following:
- (a) The edition in effect, or adopted by a local jurisdiction, on the date of installation
 - (b) The edition listed on an existing code data plate
- (7) The Administrator may allow deviations to specific code requirements for elevators located in law enforcement facilities, mental hospitals or similar facilities that are used to transport prisoners or other detainees. These elevators are still required to comply with the inspection, testing and maintenance requirements of Section 2-3 of these regulations.

Section 2-8 Shut-down of a Dangerous Conveyance

- (1) If a conveyance inspector determines that a conveyance poses imminent danger to passengers or inspection/maintenance personnel or equipment, the conveyance inspector shall immediately notify the Administrator or the Approved AHJ and the conveyance owner of the condition of the conveyance and shall follow the procedures of the Approved AHJ or as listed in the policy on the Administrator's website to shut down the dangerous conveyance.
- (2) If a conveyance mechanic determines that a conveyance poses imminent danger to passengers or inspection/maintenance personnel, the conveyance mechanic shall notify his/her employing conveyance contractor. Upon this notification, the conveyance contractor shall immediately notify the Administrator or the Approved AHJ and the conveyance owner of the condition of the conveyance and follow the procedures of the Approved AHJ or as listed in the policy on the Administrator's website to shut down the dangerous conveyance.
- (3) Any conveyance that has been shut down shall not be placed back into service without first obtaining approval from the Administrator or the Approved AHJ.
- (4) Upon shut-down of a conveyance, the conveyance owner shall have the necessary repairs completed within three months from the date of shut-down or place the conveyance in either a dormant or removed from service state.

Section 2-9 Conveyances Made Dormant

- (1) A conveyance is considered dormant based on the following conditions.
 - (a) The traction (electric) elevator car is parked at the top of the hoistway and the counterweights are parked at the bottom of the hoistway, or the hydraulic elevator is parked at the bottom of the hoistway.
 - (i) The hoistway doors are latched in the closed position.
 - (ii) The fuses are removed from the main line disconnect (if applicable).
 - (iii) The mainline disconnect is locked in the "off" position with a wire seal or a red tag provided by the Administrator is placed on the disconnect switch
 - (b) The escalators/moving walk has been adjusted in the following manner:
 - (i) The mainline disconnect is locked in the "off" position with a wire seal or a red tag provided by the Administrator is placed on the disconnect switch.
 - (ii) Entrances are permanently barricaded. Escalators that have been made dormant cannot be used as a stairway.
- (2) A conveyance inspector or the Administrator shall verify the status of the conveyance as dormant, place a wire seal on the mainline disconnect switch, document the activities on an inspection report and submit the inspection report to the conveyance owner, who shall then submit the report to the Administrator without fee.

- (3) A conveyance shall not be made dormant for more than five years. At the end of five years the conveyance owner shall obtain a valid certificate of operation or remove the conveyance from service pursuant to Section 2-10 of these regulations.
- (4) To place a dormant conveyance back in service, the following conditions shall be met.
 - (a) All applicable tests according to Section 2-3-2 of these regulations must be current, or if the applicable testing schedule was not maintained during dormancy, the applicable Category 1 and Category 5 tests must be completed and witnessed by a conveyance inspector.
 - (b) If the applicable testing schedule was maintained, a conveyance inspector must perform a periodic inspection on the conveyance.
 - (c) Prior to conveyance operation, the conveyance owner must mitigate all violations identified on the inspection report and obtain a valid certificate of operation from the Administrator or Approved AHJ.
 - (d) A temporary certificate of operation will not be issued when placing a dormant conveyance back in operation.

Section 2-10 Conveyances Removed From Service

- (1) A conveyance is removed from service per the following items as listed in the currently-adopted edition of ASME A17.1.
 - (a) Traction (Electric) Elevators and Dumbwaiters
 - (i) Remove the power feed line from the mainline disconnect switch.
 - (ii) Suspension ropes are removed.
 - (iii) Car and counterweights are parked at the bottom of the hoistway.
 - (iv) The hoistway doors are permanently barricaded or sealed in the closed position on the hoistway side. The lowest landing hoistway door may be sealed on the lobby side.
 - (b) Hydraulic Elevators
 - (i) Remove the power feed line from the mainline disconnect switch; and
 - (ii) The hydraulic elevator car is parked at the bottom of the hoistway; and
 - (iii) If provided, suspension means are removed and counterweight is parked at the bottom of the hoistway; and
 - (iv) Pressure piping has been disassembled and a section removed from the premises; and

- (v) The hoistway doors are permanently barricaded or sealed in the closed position on the hoistway side. The lowest landing hoistway door may be sealed on the lobby side.

(c) Escalators/Moving Walks

- (i) The mainline disconnect is locked in the “off” position with a wire seal or a red tag provided by the Administrator is placed on the disconnect switch.
 - (ii) Entrances are permanently barricaded. Escalators that have been removed from service cannot be used as a stairway.
- (2) A conveyance inspector shall verify the status of the conveyance as out of service, place a wire seal on the mainline disconnect switch, document the activities on an inspection report and submit the inspection report to the conveyance owner, who shall then submit the report to the Administrator without fee.
- (3) If a conveyance owner has removed a conveyance from service and intends to place the conveyance back into operation, the conveyance shall conform to all of the provisions of the applicable standard listed in Section 2-2 of these regulations.
- (4) All applicable tests must be performed and witnessed according to Section 2-3-2 of these regulations.
- (5) Prior to conveyance operation, the conveyance owner must mitigate all violations identified on the inspection report and obtain a valid certificate of operation from the Administrator or Approved AHJ. A temporary certificate of operation may not be issued when placing an out-of-service conveyance back in operation.

Section 2-11 Removal of a Conveyance from a Facility

- (1) The conveyance owner must notify the Administrator when a conveyance is removed from a facility.

ARTICLE 3 AUTHORITY HAVING JURISDICTION

Section 3-1 Authority Having Jurisdiction Requirements

- (1) A municipality or county (an authority having jurisdiction), or any agent thereof, may enter into a memorandum of agreement (MOA) with the Administrator under which the Administrator may delegate to the AHJ the authority to regulate conveyances located within the territory of the AHJ, provided that the AHJ program has standards that are equal to or more stringent than the minimum standards listed in Sections 2-2 through 2-11 of these regulations. The Administrator will maintain registration activities described in Section 2-1 of these regulations.
- (2) If an MOA as described above is executed, the AHJ will become an Approved AHJ and will be responsible for enforcing the applicable provisions of these regulations. If the Approved AHJ does not satisfy all requirements listed in Sections 2-2 through 2-11 of these regulations per the executed MOA, the Administrator may terminate the MOA. The Approved AHJ may also terminate the MOA per directions in the MOA.
- (3) The Approved AHJ will submit to the Administrator general information regarding new or existing conveyances as determined by the Administrator and listed in the MOA.
- (4) The Approved AHJ may set fees and collect or contract the collection of those fees to offset the cost of conducting activities described in Section 2-3 of these regulations for conveyances located within the Approved AHJ territory. Fee amounts will be determined by the Approved AHJ or agreed upon by the Approved AHJ and the contracted inspection organization.
- (5) Inspections of public school conveyances in Approved AHJ territories shall be conducted by the Approved AHJ or, with prior consent of the Administrator or Approved AHJ, by a conveyance inspector contracted by the public school district.

ARTICLE 4 LICENSING

Section 4-1 Licensing Qualifications

This section describes the requirements for the licensing of conveyance contractors, conveyance mechanics and conveyance inspectors. Each license allows the applicable licensee to perform installation, alteration, replacement, maintenance, removal, dismantling, or inspection activities of conveyances as identified in Section 1-5 of these regulations and as listed on the license. The Administrator may request documentation in addition to that described in the following sections to verify the accuracy of information provided with a license application.

Table 4-1: Licensing Fees for Conveyance Mechanics, Temporary Mechanics, Contractors and Inspectors	
License Type	License Fee
Mechanic	\$125.00
Temporary Mechanic	\$25.00
Contractor	\$500.00
Inspector	\$175.00
Replacement License	\$25.00

Section 4-1-1 Conveyance Mechanic

- (1) The Administrator may issue a conveyance mechanic license to the applicant if the applicant has provided documentation required in this Section. The conveyance mechanic license will indicate the type(s) of conveyance(s) on which the licensee is allowed to conduct work per these regulations. The types of conveyance mechanic licenses are as follows:
 - (a) Type 1: All conveyances with the exception of APMS, which would include elevators, escalators, moving walkways, platform lifts and dumbwaiters, as described in ASME A17.1 and A18.1
 - (i) If the initial training program or continuing education does not include training for escalators and moving walks, an exclusion will be applied to the license that will not allow the mechanic to work on that type of equipment
 - (b) Type 2: Platform lifts only, as described in ASME A18.1
 - (c) Type 3: APM as described in ASCE 21
 - (d) Type 4: All conveyances listed in (1)(a) and (c) of this Section
- (2) A person applying for a conveyance mechanic license shall submit to the Administrator a completed conveyance mechanic license application using the form that is provided on the Administrator's website, the license fee, listed in Table 4-1 of these regulations and documentation that, as determined by the Administrator, indicates the applicant is qualified under one of the following scenarios:
 - (a) The applicant submits documentation that proves that the applicant has successfully completed a conveyance mechanic training program. This program will be subject to audit by the Administrator. Evaluation criteria for Administrator audit may include, but is not limited to, review of course materials, required classroom and field hours, classroom activities, and test materials and procedures. Based on evaluation of the conveyance

mechanic license training curriculum, the Administrator may set limitations on the license issued. To be approved, the training program shall either:

- (i) Be registered with the United States Department of Labor Office of Apprenticeship (USDOL) under specific apprentice occupation categories assigned by the USDOL to license types listed in (1) of this Section, and shall include classroom and field training according to the USDOL requirements on the actual equipment listed in the license types
 - (ii) Be approved by the Administrator. Applicants seeking licensure under programs approved solely by the Administrator shall submit to the Administrator an executed affidavit on a form that is provided by the Administrator and signed by the applicant which states that during the applicant's participation in the approved program, the applicant's work experience consisted of at least 1,700 hours per year performing activities listed in the work process schedule attached to the affidavit.
- (b) In lieu of qualifying pursuant to (2)(a) of this Section, the applicant may qualify if the applicant submits to the Administrator one of the following types of documentation:
- (i) Documentation that the applicant holds a current and valid license from another state whose standards, as determined by the Administrator, meet or exceed those of these regulations. This documentation will consist of:
 - (A) A copy of the license.
 - (B) Contact name, phone number and name of the issuing department of the state in which the license was obtained.
 - (ii) Documentation that the applicant has obtained both of the following items:
 - (A) Three years of work experience as a conveyance mechanic on non-residential conveyances without supervision. One year of work experience will equal 1,700 hours. Documentation of work experience will consist of:
 - (I) A statement on the employer's letterhead and signed by the personnel administrator or other person of authority affirming that the condition in (A) is true; and
 - (II) Personnel records that indicate the timeframe and listing of hours for completion of the experience described in (A); or
 - (III) An affidavit on a form that is provided by the Administrator and signed by the applicant which states that the work experience indicated in personnel records submitted consists of unsupervised mechanic activities listed in the work process schedule attached to the affidavit.
 - (B) A passing score on an examination provided by the Administrator, or a conveyance contractor thereof, on the codes and standards that relate to the type of conveyance mechanic license applied for, as described in (1) of this Section.

- (3) A person who obtains a conveyance mechanic license shall also complete eight hours of continuing education that has been approved by the Administrator every two years.
- (4) Following review of the application, the Administrator will notify the applicant of the approval or disapproval of the application. If the applicant is approved, the notification will include the conveyance mechanic license number, the type(s) of conveyance(s) on which the conveyance mechanic may perform work, a license card and a payment receipt. If the applicant is not approved, the notification will include a description of the deficiencies in the application.
- (5) The conveyance mechanic license issued by the Administrator shall be valid for one year. The Administrator may renew a license, provided the applicant submits the following:
 - (a) A completed conveyance mechanic license application form
 - (b) License renewal fee, listed in Table 4-1 of these regulations
 - (c) A copy of certification indicating that the applicant completed continuing education required in this Section

Section 4-1-2 Emergency and Temporary Conveyance Mechanic

- (1) When an emergency exists, as defined in § 9-5.5-108 (2) C.R.S., the Administrator may issue an emergency conveyance mechanic license. This license will be issued to a person who, based on the judgment of a conveyance contractor, has acceptable documented experience and education to perform work on specific types of conveyances identified in Section 1-5 of these regulations. Within five business days after commencing work, the applicant will complete and submit the conveyance mechanic license application to the Administrator. There will be no license fee for an emergency conveyance mechanic license.
- (2) Upon notification to the Administrator from a conveyance contractor that there are no mechanics available to perform conveyance work, the Administrator may issue a temporary conveyance mechanic license. This license will be issued to a person who is enrolled in and progressing through a mechanic training program as described in Section 4-1-1(2) of these regulations, and based on the judgment of a conveyance contractor, has acceptable documented experience and education to perform work on specific types of conveyances identified in Section 4-1-1(1) of these regulations. At least five working days prior to commencing work, the conveyance contractor who will employ the temporary conveyance mechanic shall submit the following documentation to the Administrator.
 - (a) A completed temporary conveyance mechanic license application on the form that is provided on the Administrator's website.
 - (b) The license fee, listed in Table 4-1 of these regulations.
- (3) Following review of the application, the Administrator will notify the conveyance contractor and temporary conveyance mechanic applicant of the approval or disapproval of the application. If the applicant is approved, the notification will include the temporary conveyance mechanic license number and the type of conveyance on which the temporary conveyance mechanic may perform work. If the applicant is not approved, the notification will describe the deficiencies in the application.
- (4) The emergency conveyance mechanic license will be valid for 60 days and the temporary conveyance mechanic license will be valid for 30 days. The Administrator may renew a temporary mechanic

license, provided the conveyance contractor submits the license fee and notification to the Administrator that renewal is requested for a license issued the prior month. This documentation may include multiple license renewal requests for several conveyance mechanics.

Section 4-1-3 Conveyance Contractor

(1) The Administrator will consider issuing a conveyance contractor license to a company if the applicant submits to the Administrator a completed conveyance contractor license application using the form provided on the Administrator's website, the license fee, listed in Table 4-1 of these regulations and:

(a) The applicant employs, at a minimum, one conveyance mechanic licensed with the Administrator, as indicated on the license application. The employment of temporary or emergency conveyance mechanics does not satisfy this requirement.

(b) A certificate of insurance, declaration page or insurance policy indicating that the applying company possesses insurance coverage according to § 9-5.5-115 (1) C.R.S.

(2) The conveyance contractor license issued by the Administrator shall be valid for one year. The Administrator may renew a license, provided the applicant maintains current insurance according to (1)(b) of this Section and submits the following:

(a) A completed conveyance contractor license application form

(b) Documentation as described in (1)(a) of this Section

(c) License renewal fee, listed in Table 4-1 of these regulations

Section 4-1-4 Conveyance Inspector

(1) The Administrator may issue a conveyance inspector license to the applicant if the applicant has provided documentation required in this Section. The conveyance inspector license will indicate the type of conveyance for which the licensee is allowed to inspect per these regulations. The types of conveyance inspector licenses are as follows:

(a) Type 1: All conveyances, with the exception of APMs, which would include elevators, escalators, personnel hoists, moving walkways, platform lifts, stairway chairlifts and dumbwaiters, as described in ASME A17.1 and A18.1

(b) Type 2: APM as defined in ASCE 21

(c) Type 3: All conveyances listed in (a) and (b) of this Section

(2) A person applying for a conveyance inspector license shall submit to the Administrator a completed conveyance inspector license application using the form that is provided on the Administrator's website, the license fee, listed in Table 4-1 of these regulations and documentation that, as determined by the Administrator, indicates that the applicant is qualified under one of the following scenarios.

(a) Private Conveyance Inspector.

(i) To obtain a Type 1 conveyance inspector license, the applicant shall submit to the Administrator documentation that, as determined by the Administrator, proves one of the following:

- (A) The applicant is certified to inspect conveyances by a nationally-recognized conveyance association, which will consist of a copy of the front and back of a current certification card from the issuing association.
- (B) The applicant qualifies as Elevator Personnel as defined in ASME A17.1 and has been approved to take the certification exam offered by a nationally-recognized conveyance association as determined by the Administrator. The applicant shall attend the first available exam offered by a nationally-recognized conveyance association and obtain certification within six months of licensure. If the applicant fails the exam, the Administrator may suspend the applicant's license until proof of certification is submitted to the Administrator.

(ii) To obtain a Type 2 conveyance inspector license, the applicant will submit to the Administrator documentation that, as determined by the Administrator, indicates one of the following:

- (A) The applicant possesses a current Professional Engineer license, or
- (B) The applicant has, at a minimum, three years of experience participating in APM inspections and audits.

(b) AHJ Conveyance Inspector or AHJ-appointed Conveyance Inspector

(i) To obtain a Type 1 conveyance inspector license, the applicant shall submit to the Administrator documentation that proves the applicant is certified to inspect conveyances by a nationally-recognized conveyance association as determined by the Administrator, which will consist of a copy of the front and back of a current certification card from the issuing association; or

(ii) The applicant submits the following items to the Administrator.

- (A) Documentation that the applicant intends to obtain certification within one year from licensure
- (B) Documentation showing that the applicant has completed at least eight weeks of conveyance inspection activities under the direct supervision of a conveyance inspector prior to conducting conveyance inspection activities without direct supervision. During this supervised period, the licensee shall be trained on the inspection of any type of conveyance which the licensee will encounter in the inspection territory. This documentation shall be submitted to and approved by the Administrator and should indicate that the applicant has received the required supervision prior to conducting unsupervised conveyance inspection activities.

(3) If a licensee qualifies by (2)(a)(i)(B) or (2)(b)(ii) of this Section and the licensee fails to obtain certification as required, the Administrator may suspend or revoke the licensee's conveyance inspector license.

(4) New applicants shall successfully pass a test that will be administered by the Administrator on these regulations, policies and guidance documents which are available on the Administrator's website.

- (a) New applicants shall successfully pass the test administered by the Administrator before a license will be issued.
 - (b) Applicants shall obtain a passing score of not less than 90%.
 - (c) This exam requirement does not apply to those applying for a Type 2 inspector license or inspectors employed by the Administrator.
 - (d) The Administrator may waive or alter this exam requirement as necessary.
- (5) Any private or AHJ-appointed conveyance inspector applicant shall also submit to the Administrator a certificate of insurance or insurance policy indicating that the applicant possesses insurance coverage according to § 9-5.5-115 (2) C.R.S.
- (6) An AHJ conveyance inspector applicant is exempt from the requirement to provide insurance, pursuant to § 9-5.5-115 (2) C.R.S., while performing Approved AHJ official duties.
- (7) If a licensee receives a Type 1 license and will be conducting inspection activities on escalators or moving walks, the licensee shall complete at least eight hours of inspection training on this equipment prior to conducting unsupervised inspection activities on this equipment. This training shall consist of direct supervision under a conveyance inspector who has at least eight hours of experience inspecting, installing or maintaining this type of equipment. This requirement shall not apply to a licensee who has received training on this type of equipment through an Administrator-approved training program.
- (8) The conveyance inspector license issued by the Administrator shall be valid for one year. The Administrator may renew a license, provided the applicant submits the following:
- (a) A completed conveyance inspector license application form.
 - (b) Documentation that the applicant is certified by a nationally-recognized conveyance association.
 - (c) Certification through the Administrator indicating completion of eight hours of continuing education per year as approved by the Administrator. This requirement is effective July 1, 2017, and will be required for licensing on July 1, 2018.
 - (d) A certificate of insurance, declaration page or insurance policy indicating that the applicant possesses insurance coverage according to § 9-5.5-115 (2) C.R.S.
 - (e) License renewal fee, listed in Table 4-1 of these regulations.

ARTICLE 5 ENFORCEMENT

Section 5-1 Enforcement Program

The Administrator provides these regulations to assist the regulated community with maintaining safe and proper operation of regulated conveyances. When a regulated conveyance or licensed conveyance mechanic, contractor or inspector is found to be out of compliance with these regulations, the Administrator will pursue enforcement actions against the regulated party. The enforcement process will include requiring the regulated party to make repairs and/or upgrades, perform system tests, keep records, maintain current licenses, and other actions to bring the conveyance or licensee back into compliance. During and following the enforcement process, the Administrator will continue to assist the regulated party to remain in compliance. The enforcement process may include monetary penalties up to \$1,000 per conveyance per day of violation according to §8-20-104 C.R.S. if the enforcement obligations are not implemented according to the required schedule.

Section 5-1-1 Notice of Violation

- (1) A Notice of Violation (NOV) may be issued when a conveyance is found to be out of compliance with these regulations and/or §8-20 and 9-5.5 C.R.S. A NOV may also be issued if a licensed contractor, mechanic or inspector has violated any part of these regulations or any applicable statutes.
- (2) Within 10 working days after an NOV has been issued, the person issued the NOV may file a written request with the Administrator for an informal conference regarding the NOV. If the person issued the NOV does not request an informal conference within this time frame, all provisions of the NOV shall become final and not subject to further discussion. If the NOV is not resolved within the prescribed time frame, the Administrator may then seek judicial enforcement of the NOV, or an Enforcement Order may be issued.

Section 5-1-2 Enforcement Order

- (1) An Enforcement Order may be issued when the violations included within an NOV are not resolved within the prescribed time frame. The Enforcement Order may include increased fines up to \$1,000.00 per conveyance for each day of violation. In addition, the Enforcement Order may include shut-down of the conveyance, and suspension and/or revocation of a conveyance license.
- (2) Within 10 working days after an Enforcement Order has been issued, the owner/operator may file a written request with the Executive Director for an informal conference regarding the Enforcement Order. If the owner/operator does not request an informal conference within this time-frame, all provisions of the Enforcement Order shall become final and not subject to further discussion. If the Enforcement Order is not resolved within the prescribed time frame, the Administrator may seek judicial enforcement of the Enforcement Order.

Section 5-1-3 Informal Conference

- (1) Upon receipt of the request, the Administrator shall provide the owner/operator with notice of the date, time and place of the informal conference. The Administrator shall preside at the informal conference, during which the owner/operator and Administrator may present information and arguments regarding the allegations and requirements of the NOV or the Enforcement Order.

- (2) Within 20 days after the informal conference, the Administrator shall issue a Settlement Agreement in which the violations from the NOV and/or Enforcement Order will be upheld, modified or stricken. The Settlement Agreement will include a schedule of required activity for resolution of the violations. If the terms and/or schedule in the Settlement Agreement are not satisfied, either an Enforcement Order will be issued or the Administrator may seek judicial enforcement of the previously issued Enforcement Order.

Section 5-1-4 License Review Board

The Administrator shall establish a License Review Board that shall consist of members of the Conveyance Advisory Board and a designee of the Administrator. This board will make recommendations to the Administrator on matters concerning suspension or revocation of conveyance licenses.

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Tracking number: 2016-00680

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Oil and Public Safety

on 02/03/2017

7 CCR 1101-8

CONVEYANCE REGULATIONS

The above-referenced rules were submitted to this office on 02/03/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 17, 2017 09:19:17

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Inspection and Consumer Services Division

CCR number

8 CCR 1202-4

Rule title

8 CCR 1202-4 FERTILIZERS AND SOIL CONDITIONERS 1 - eff 03/30/2017

Effective date

03/30/2017

COLORADO DEPARTMENT OF AGRICULTURE

Inspection and Consumer Services Division

Fertilizers and Soil Conditioners

8 CCR 1202-4

Part 1. LEGAL AUTHORITY

- 1.1 Title 35, Article 12, Colorado Revised Statutes.

Part 2. DEFINITIONS

- 2.1 These Rules incorporate the official terms and official fertilizer definitions as published in the 2012 Official Publication of the Association of American Plant Food Control Officials, Inc. (AAPFCO), incorporated herein by reference (later amendments not included), except as the Commissioner of Agriculture ("Commissioner") designates otherwise in specific cases. This publication is available for public inspection at the Department office at 2331 West 31st Avenue, Denver, Colorado 80211. Copies of this publication are available for a reasonable charge from the Department or from AAPFCO, No. 1 Natural Resources Drive, Little Rock, Arkansas 72205.
- 2.2 "Index value" means the comparison of the sum of the actual values found for total nitrogen, available phosphate and soluble potash over the sum of the guaranteed values for the same, expressed as a percentage.
- 2.3 "Soil conditioner" means a substance intended to improve the chemical or physical characteristics of the soil for the purpose of growing plants. "Soil conditioner" is synonymous with "soil amendment." It does not include commercial fertilizers, plant amendments, untreated manures, compost and treated manures that are distributed without soil conditioner labeling claims.

Part 3. REGISTRATION

- 3.1 Each commercial fertilizer, soil conditioner, or plant amendment product shall be registered by the person whose name appears on the label before being distributed in this state. All registrations shall expire annually on January 31. Applications for renewal of registrations must be submitted each year on or before that date.
- 3.2 Each manufacturing facility that produces commercial fertilizer custom mixes in this state must be registered as required in Section 35-12-104 (7), C.R.S. All registrations shall expire annually on January 31. Applications for renewal of registrations must be submitted each year on or before such date.
- 3.3 Each manufacturing facility that produces compost in this state must be registered as required in Section 35-12-104(8) (a), C.R.S. All registrations shall expire annually on January 31. Applications for renewal of registrations must be submitted each year on or before such date.
- 3.4 Each manufacturing facility in this state that produces compost shall register with the Commissioner except that:
- 3.4.1 Producers of less than ten (10) tons of compost per calendar year shall not be required to register;

- 3.4.2 Any facilities regulated under Section 14 of Part 1 of the Colorado Department of Public Health and Environment Regulations Pertaining to Solid Waste Sites and Facilities, 6 CCR 1007-2, shall not be required to register.
- 3.5 Only fertilizers containing essential plant nutrients derived from sources recognized by AAPFCO may be registered.

Part 4. DISTRIBUTION FEES - REPORTS

- 4.1 Each registrant shall file an affidavit annually with the Commissioner within forty-five (45) days after January 1 each year that discloses the pounds or tonnage of commercial fertilizer, soil conditioner, or plant amendment sold or distributed in the state during the preceding twelve (12) month period.
- 4.1.1 In addition, each registrant shall report the composition of fertilizer and the county in which fertilizer was distributed by the registrant.
- 4.2 Such affidavit shall be accurately reported and submitted on the form (electronic or otherwise) that is furnished by the Commissioner.

Part 5. LABEL REQUIREMENTS

- 5.1 Fertilizer labels

The following information shall be displayed on the product label in a readable and conspicuous form:

- 5.1.1 Product name

- 5.1.2 Grade

- 5.1.3 Guaranteed Analysis in the following format and order:

Guaranteed Analysis

Total Nitrogen (N) _____%

_____ % Ammoniacal Nitrogen**

_____ % Nitrate Nitrogen**

_____ % Water Insoluble Nitrogen*

_____ % Urea Nitrogen**

_____ % (other recognized and determinable forms of Nitrogen)**

- 5.1.4 Available Phosphate (P_2O_5) _____%

- 5.1.5 Soluble Potash (K_2O) _____%

- 5.1.6 (Other nutrients, elemental basis) _____%***

5.1.7 Directions for use sufficient to ensure the safe and effective use of the product that, at a minimum, specify:

5.1.7.1 The type(s) of plant(s) for which the product is intended

5.1.7.2 The recommended application method(s) and rate(s)

5.1.7.3 Any warning or caution statements necessary to avoid harm to the target plant(s), or other plants or animals

5.1.8 Net weight or mass, net volume of liquid or dry material, or count.

5.1.9 The date of manufacture, processing, packaging or repackaging or a code that permits the determination of the date; or if bulk, the shipment or delivery date.

5.1.10 The name and address of the registrant.

*If claimed or the statement "organic" or "slow acting nitrogen" or similar terms are used on the label

**If claimed.

***As prescribed by Rule 5.2

5.2 Plant Nutrients in addition to Nitrogen, Phosphorous, and Potassium

5.2.1 Other plant nutrients, when mentioned in any form or manner, shall be guaranteed only on an available elemental basis. Sources of the elements guaranteed and proof of availability shall be provided to the Commissioner upon request. Except guarantees for those water soluble nutrients labeled for ready to use foliar fertilizers, ready to use specialty liquid fertilizers, hydroponic or continuous liquid feed programs and guarantees for potting soils, the minimum percentages that will be accepted for registration are as follows:

<u>Element</u>	<u>Minimum %</u>
Calcium (Ca)	1.00
Magnesium (Mg)	0.50
Sulfur (S)	1.00
Boron (B)	0.02
Chlorine (Cl)	0.10
Cobalt (co)	0.0005
Copper (Cu)	0.05
Iron (Fe)	0.10
Manganese (Mn)	0.05
Molybdenum (Mo)	0.0005
Nickel (Ni)	0.0010
Sodium (Na)	0.10
Zinc (Zn)	0.05

Any of the above-listed elements which are guaranteed shall appear in the order listed, immediately following guarantees for the primary nutrients, nitrogen, phosphorous and potassium.

5.2.2 Guarantees or claims for the above-listed plant nutrients are the only ones which will be accepted except that fertilizer guarantees may include other nutrients, recognized by AAPFCO. Proposed labels and directions for use of the fertilizer shall be furnished with the application for registration upon request.

5.3 Slowly Released Plant Nutrients

- 5.3.1 No fertilizer label shall bear a statement that connotes or implies that certain plant nutrients contained in a fertilizer are released slowly over a period of time, unless the slow release components are identified and guaranteed at a level of at least 15% of the total guarantee for that nutrient(s).
- 5.3.2 Types of products recognized by the Commissioner to have slow release properties include, but are not limited to, (1) water insoluble products, such as natural organics, urea form materials, urea-formaldehyde products, isobutylidene diurea, and oxamide; (2) coated slow release products, such as sulfur coated urea and other encapsulated soluble fertilizers; (3) occluded slow release products in which fertilizers or fertilizer materials are mixed with waxes, resins, or other inert materials and formed into particles; and (4) products containing water soluble nitrogen such as ureaform materials, urea-formaldehyde products, methylenediurea (mdu), dimethylenetriurea (dmtu), and dicyanodiamide (dcd).
- 5.3.3 The term, "water insoluble", and "occluded slow release" are accepted as descriptive of these products, provided the manufacturer can demonstrate a testing program to substantiate the claim that is acceptable to the Commissioner.
- 5.3.4 A laboratory procedure, acceptable to the Commissioner for evaluating the release characteristics of the product(s) must be provided by the manufacturer if requested by the Commissioner.

5.4 Soil Conditioner and Plant Amendment Labels

The following information must be displayed on the product label in a readable and conspicuous form:

- 5.4.1 Net Weight or mass, net volume of liquid or dry material, or count.
- 5.4.2 Product Name.
- 5.4.3 Statement of composition including the name and percentage of each conditioning and amending ingredient identified by the name published in the 2012 Official Publication of the Association of American Plant Food Control Officials, Inc., incorporated herein by reference as above in Rule 2.1 (later amendments not included). If no AAPFCO name exists, the common or usual name shall be used.
- 5.4.4 Total percent of other ingredients.
- 5.4.5 Purpose of product.
- 5.4.6 Directions for use sufficient to ensure the safe and effective use of the product that, at a minimum, specify:
 - 5.4.6.1 The type(s) of plant(s) or soil(s) for which the product is intended.
 - 5.4.6.2 The recommended application method(s) and rate(s).
 - 5.4.6.3 Any warning or caution statements necessary to avoid harm to the target plants (if applicable), or other plants or animals.
- 5.4.7 Name and address of the registrant.

5.4.8 The date of manufacture, processing, packaging or repackaging or a code that permits the determination of the date; or if bulk, the shipment or delivery date.

5.5 Compost Labels

5.5.1 The following information shall be displayed on the product label in a readable and conspicuous form:

5.5.1.1 Product name.

5.5.1.2 Directions for use sufficient to ensure the safe and effective use of the product that at minimum specify:

5.5.1.2.1 The type(s) of plant(s) or soil(s) for which the product is intended;

5.5.1.2.2 The recommended application method(s) and rate(s); and

5.5.1.2.3 Any warning or caution statements necessary to avoid harm to the target plants (if applicable), or other plants or animals.

5.5.1.3 Name and address of the manufacturer or distributor.

5.5.1.4 Net weight or volume.

5.5.1.5 Additional analytical information, if supplied, shall be listed under the heading "typical analysis" and shall not be considered to be a guarantee.

5.5.2 Compost distributed in bulk must be accompanied by a printed or written statement showing the pH level & soluble salt level in addition to the information required above.

5.5.3 Any product labeled as compost must meet the following minimum standards:

5.5.3.1 The product must contain carbon and nitrogen in a ratio of less than or equal to 18, as determined by the method specified in Rule 6.2.1.

5.5.3.2 The product must have a SOLVITA Ammonia Test result of greater than or equal to 4, as determined by the method specified in Rule 6.2.2.

5.5.3.3 The product must have a SOLVITA Carbon Dioxide test result of greater than or equal to 5, as determined by the method specified in Rule 6.2.2.

Part 6 Analytical and Sampling Methods

6.1 The methods of sampling for fertilizers, soil conditioners and plant amendments shall be those set forth in the 19th Edition of the Official Methods of Analysis of AOAC International, incorporated herein by reference (later amendments not included). This publication is available for public inspection at the Department office at 2331 West 31st Avenue, Denver, Colorado 80211. Copies of this publication are available for a reasonable charge from the Department or from AOAC International, 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877.

6.2 The methods of analysis for fertilizers, soil conditioners and plant amendments shall be the methods set forth in the 19th Edition of the Official Methods of Analysis of AOAC International, incorporated herein by reference as above in Rule 6.1, or such other methods adopted by the Commissioner from authoritative sources that the Commissioner deems reliable, including but not

limited to Colorado State University. The Commissioner shall maintain a current public list of the methods used by the Department and make such list available on the Department Internet site and from the Department office.

- 6.3 The methods for sampling and analysis of compost shall be those specified in Test Methods for the Examination of Composting and Compost, U. S. Composting Council Research and Education Foundation (CCREF), and United States Department of Agriculture (USDA) (TMECC, 2002) incorporated herein by reference (later amendments not included); or such other methods adopted by the Commissioner from authoritative sources that the Commissioner deems reliable, including but not limited to Colorado State University. The Commissioner shall maintain a current public list of official methods used by the Department and make such list available on the Department Internet site and from the Department office. The above-mentioned TMECC publication is available for public inspection at the Department office at 2331 West 31st Avenue, Denver, Colorado 80211. Copies of this publication are available for a reasonable charge from the Department or from CCREF at 5400 Grosvenor Lane, Bethesda, MD 20814.

6.4 Investigational Allowances

- 6.4.1 A commercial fertilizer shall be deemed deficient if the analysis of any nutrient is below the guarantee percent by an amount exceeding the applicable value specified in the following schedule, or if the index value of the fertilizer is below 98%:

<u>Guarantee percent</u>	<u>Nitrogen percent</u>	<u>Available Phosphate percent</u>	<u>Soluble Potash percent</u>
4 or less	0.49	0.67	0.41
5	0.51	0.67	0.43
6	0.52	0.67	0.47
7	0.54	0.68	0.53
8	0.55	0.68	0.60
9	0.57	0.68	0.65
10	0.58	0.69	0.70
12	0.61	0.69	0.79
14	0.63	0.70	0.87
16	0.67	0.70	0.94
18	0.70	0.71	1.01
20	0.73	0.72	1.08
22	0.75	0.72	1.15
24	0.78	0.73	1.21
26	0.81	0.73	1.27
28	0.83	0.74	1.33
30	0.86	0.75	1.39
32 or more	0.88	0.76	1.44

For guarantees not listed, calculate the appropriate value by Interpolation.

- 6.4.2 Other elements shall be deemed deficient if any element is below the guarantee by an amount exceeding the applicable value specified in the following schedule:

<u>ELEMENT</u>	<u>GUARANTEE</u>	<u>ALLOWABLE DEFICIENCY</u>
----------------	------------------	-----------------------------

Calcium and Sulfur	1% and up	0.2 units + 5% of guarantee
Magnesium	0.5% and up	0.2 units + 5% of guarantee
Boron	.02% to 5%	.003 units + 15% of guarantee
	5.0% and up	Potash Schedule 6.3 (a)
Cobalt and Molybdenum	.0005% to 1.0%	.0001 units + 30% of guarantee
	1.0% to 4.0%	.2 units + 10% of guarantee
	4.1% and up	Potash Schedule 6.3 (a)
Chlorine, Iron & Sodium	0.1% to 4.0%	.005 units + 10% of guarantee
	4.1% and up	Potash Schedule 6.3 (a)
Copper, Manganese, & Zinc	.05% to 4.0%	.005 units + 10% of guarantee
	4.1% and up	Potash Schedule 6.3 (a)

6.4.4 Soil conditioner ingredients and plant amending ingredients shall be deemed deficient if found below an amount exceeding 0.2 unit + 5% of the guarantee.

6.4.5 The above tolerances listed in 6.4.1. and 6.4.2 are for single samples run in duplicate.

Part 7.0 ADULTERATION

7.1 Fertilizer

7.1.1 Any product distributed as a fertilizer that contains guaranteed amounts of phosphates and/or micronutrients shall be deemed adulterated if it contains one or more metals in amounts greater than the levels of metals established by the following table:

<u>Metals</u>	<u>ppm per 1% P₂O₅</u>	<u>ppm per 1% Micronutrients¹</u>
1. Arsenic	13	112
2. Cadmium	10	83
3. Cobalt	136 ²	2228 ²
4. Lead	61	463
5. Mercury	1	6
6. Molybdenum	42	300 ²
7. Nickel	250	1,900
8. Selenium	26	180
9. Zinc	420	2,900 ²

¹ Micro-nutrients include secondary and micro plant nutrients. Secondary plant nutrients are calcium, magnesium, and sulfur. Micro plant nutrients are boron, chlorine, cobalt, copper, iron, manganese, molybdenum, nickel, sodium, and zinc.

² Only applies when not guaranteed.

7.1.2 To use the above table:

7.1.2.1 First:

7.1.2.1.1 For fertilizers with a phosphate guarantee but no micro-nutrient guarantee, multiply the percent guaranteed P_2O_5 in the product by the values in the table to obtain the maximum allowable concentration of each metal. The minimum value for P_2O_5 utilized as a multiplier shall be 6.0.

7.1.2.1.2 For fertilizers with one or more micro-nutrient guarantees but no phosphate guarantee, multiply the sum of the guaranteed percentages of all micro-nutrients in the product by the value in the appropriate column in the Table to obtain the maximum allowable concentration (ppm) of each metal. The minimum value for micro-nutrients utilized as a multiplier shall be 1.

7.1.2.1.3 For fertilizers with both a phosphate and a micro-nutrient guarantee, multiply the guaranteed percent P_2O_5 by the value in the appropriate column. The minimum value for P_2O_5 utilized as a multiplier shall be 6.0.

7.1.2.2 Then multiply the sum of the guaranteed percentages of the micro-nutrients by the value in the appropriate column. The minimum value for micro-nutrients utilized as a multiplier shall be 1.

7.1.2.3 Utilize the higher of the two resulting values as the maximum allowable concentration (ppm) of each metal.

7.2 Compost

7.2.1 Any product labeled and distributed as compost shall be deemed adulterated if it contains one or more metals in amounts greater than the levels of metals established by the following table:

<u>Metals</u>	<u>Maximum level mg/kg dry weight basis</u>
Arsenic	41
Cadmium	39
Copper	1500
Lead	300
Mercury	17
Nickel	420
Selenium	100
Zinc	2800

7.2.2 Any product labeled and distributed as compost shall be deemed adulterated if it contains a pathogen concentration greater than either of the following levels:

7.2.2.1 Fecal coliform in an amount greater than 1000 most probable number per gram of total solids (dry weight basis); or

7.2.2.2 Salmonella sp. bacteria in an amount greater than three (3) most probable number per four (4) grams of total solids (dry weight basis).

Part 8. MATERIAL INCORPORATED BY REFERENCE

All materials incorporated by reference into these Rules may be examined at the state publications depository and distribution center located at 201 East Colfax Avenue in Denver, Colorado 80203. For further information on how the incorporated materials may be obtained or examined, please contact the Technical Services Section Chief at the Division of Inspection and Consumer Services, Department of Agriculture, 2331 West 31st Avenue, Denver, Colorado 80211.

Part 9. STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

The Statements of Basis, Specific Statutory Authority and Purpose for rulemaking activity from 1971 to 1984 are no longer in the Department's files.

9.1 October 9, 2008 – Effective November 30, 2008

STATUTORY AUTHORITY:

The Commissioner of Agriculture, Colorado Department of Agriculture, adopts these permanent rules pursuant to the provisions and requirements of the Colorado Commercial Fertilizer, Soil Conditioner and Plant Amendment Act, Section 35-12-114, C. R. S.

PURPOSE:

The purpose of these Rules is to comply with the requirements of the Colorado Commercial Fertilizer, Soil Conditioner and Plant Amendment Act to provide specific guidelines for the manufacture, labeling, and distribution of commercial fertilizers, soil conditioners, plant amendments, and compost.

These rules:

- Adopt the most current version of the official terms as published in the 2008 Official Publication of the Association of American Plant Food Control Officials (AAPFCO).
- Establish registration dates for commercial fertilizer, soil conditioner, and plant amendment products.
- Establish registration dates for fertilizer and compost manufacturers.
- Establish the due date for distribution (tonnage) reports.
- Establish minimum standards and labeling requirements for compost.
- Establish directions for use requirements for fertilizer products.
- Remove all references to agricultural liming materials. These references were originally incorporated into these Rules because they are included in the AAPFCO Model Rules and Regulations. Due to the alkaline nature of Colorado soils, lime is not used; therefore, regulations that pertain to these materials are not needed.
- Establish the level of concentration of certain metals that would deem fertilizer to be adulterated.

- Establish the level of concentration of certain metals and pathogens that would deem compost to be adulterated.
- Update sampling and laboratory analysis methods for fertilizers and soil conditioners.
- Establish the laboratory analysis method for iron sucrate.
- Establish sampling and laboratory analysis methods for compost.
- Update rules and remove outdated language.

FACTUAL AND POLICY ISSUES:

The factual and policy issues encountered in the proposal of these permanent Rules are as follows:

1. On August 6, 2008, The Colorado Commercial Fertilizer, Soil Conditioner, and Plant Amendment Act was amended by House Bill 08-1231.
 - a. HB 08-1231 requires the Department to set minimum standards for compost produced by those facilities that are not regulated by Colorado Department of Public Health and Environment (CDPHE).
 - b. The Department worked with compost industry stakeholders, CDPHE, and Colorado State University to develop compost minimum standards.
2. These new, revised rules are based upon national standard (model) regulations developed by AAPFCO, an organization comprised of state fertilizer regulatory officials. These rules promote standardization of fertilizer industry regulation amongst the states.
3. The Department met with fertilizer industry groups throughout the rule drafting process. The industry groups have indicated support for these Rules.

9.2 January 13, 2009 – Effective March 2, 2009

STATUTORY AUTHORITY:

The Commissioner of Agriculture, Colorado Department of Agriculture, adopts these permanent rules pursuant to the provisions and requirements of the Colorado Commercial Fertilizer, Soil Conditioner and Plant Amendment Act, 35-12-114, C.R.S.

PURPOSE:

The purpose of these rules is to add additional labeling requirements to fertilizer and soil conditioning labeling guidelines.

FACTUAL AND POLICY ISSUES:

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

1. Upon review of the recent amendments to these rules, filed with the Secretary of State on October 16, 2008, the Office of Legislative Legal Services (OLLS) requested additions to Rule 5.1 to conform labeling requirements for fertilizer products with those in section 35-12-105(1), C.R.S.

2. In addition to the changes requested by OLLS, the Department will add similar language to Rule 5.4 to conform labeling requirements for soil conditioners and plant amendments to those in section 35-12-105(3), C.R.S.

9.3 November 13, 2012 – Effective December 30, 2012

STATUTORY AUTHORITY:

The Commissioner of Agriculture is authorized to adopt these permanent rules pursuant to section 35-12-114, C.R.S., of the Colorado Commercial Fertilizer, Soil Conditioner and Plant Amendment Act.

PURPOSE:

The specific purposes of these rule changes are as follows:

1. Amend rule 2.1 to adopt the most current version of the official terms as published in the Official Publication of the Association of American Plant Food Control Officials (AAPFCO) and update the rule language to reflect the most current version of the statutory requirements for incorporating such information by reference.
2. Add a new rule 2.2 to define “index value.”
3. Add a new rule 2.3 to define “soil conditioner.”
4. Amend rule 3.5 to remove restrictions on the use of iron sucrate as a source.
5. Amend rule 5.2 (a) to change the requirements for minimum nutrient guarantees for specialty fertilizers.
6. Amend rule 5.2 (b) to remove restrictions on testing requirements for minor nutrients and allow the use of iron oxide and similar sources.
7. Amend rule 6.1 to separate sampling and analytical methods for clarity and update the rule language to reflect the most current version of the statutory requirements for incorporating such information by reference.
8. Add a new rule 6.2 to:
 - a. Provide more flexibility on fertilizer test methods and nutrient sources, and
 - b. Require internet posting of all official test methods.
9. Amend existing rule 6.2 to:
 - A. Provide more flexibility on compost test methods, and
 - B. Require internet posting of all official test methods.
10. Delete existing rule 6.3(c) to remove the reference to section 35-14-110 C.R.S., which no longer exists.
11. Amend rules 5.4(c), 6.3(a) and 6.3(b) for accuracy.

FACTUAL AND POLICY ISSUES:

The Department has been in contact with industry groups and interested parties throughout the rule drafting process. All have indicated support for the proposed changes.

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

1. Rule 2.1 of the prior revision incorporated terms listed in the 2008 Official Publication of AAPFCO, which is updated annually. This revision updates the terms to the current 2012 publication. AAPFCO is an organization comprised of state fertilizer regulatory officials that develops national models to promote standardization of fertilizer industry regulation amongst the states.
2. "Index value" is used in existing rule 6.3(a) to determine whether a fertilizer is deficient. It was not previously defined, except indirectly in 6.3 (c), which is being deleted.
3. A definition of "soil conditioner" is required by section 35-12-103(29), C.R.S., of the Commercial Fertilizer, Soil Conditioner, and Plant Amendment Act. "Soil amendment" is a generally used, but less descriptive term synonymous with "soil conditioner."
4. A simplified regulatory approach towards fertilizer nutrient sources and analytical testing is adopted with these revisions. The use of iron sucrate is no longer restricted to specialty fertilizers.
5. Removing the requirements for minimum nutrient guarantees for specialty fertilizers changes the rule to reflect the national models developed by AAPFCO.
6. This revision simplifies the regulatory approach for minor nutrients. Regulation will now reflect AAPFCO national models.
7. Amended rule 6.1 clarifies the regulatory approach for sampling.
8. New rule 6.2 simplifies the regulatory approach towards fertilizer analytical testing and nutrient sources.
 - a. Rule 6.1 of the prior revision required specific test methods for minor nutrients and nutrient sources such as iron oxide and resulted in restrictions on the use of such sources. This revision removes the restrictions and updates test and nutrient source requirements.
 - b. Transparency in government is promoted with the requirement to post all current test methods on the internet.
9. Amended rule 6.3 simplifies the regulatory approach towards compost sampling and analytical testing.
 - a. This change allows the Department to respond more quickly to technological changes in analytical test methods.
 - b. Transparency in government is promoted with the new requirement to post all test methods on the internet.
10. Deleting previous revision rule 6.3(c):
 - a. Removes a reference to section 35-12-110, C.R.S., which no longer exists.

- b. Allows for a clear definition of “Index value” which is used in rule 6.3(a) to determine whether a fertilizer is deficient. Index value was not previously defined, except indirectly in 6.3 (c), which is being deleted.

11. Minor textual errors were identified which are addressed in this rule revision.

9.4 April 9, 2013 – Effective January 1, 2014

STATUTORY AUTHORITY:

The Commissioner's authority for the adoption of these permanent rule amendments is set forth in § 35-12-104(1), § 35-12-104(7) and § 35-1-107(5)(a), C.R.S.

PURPOSE:

The purpose of these permanent rule amendments is to amend Part 3.1 to change the expiration date for a fertilizer registration and amend Part 3.2 to change the expiration date for a fertilizer manufacturing facility registration from June 30 to December 31.

FACTUAL AND POLICY BASIS:

The factual and policy issues pertaining to the adoption of these permanent rule amendments are as follows:

1. This change is necessary to allow the Department to consolidate licensing functions to one time per year for all licenses issued by the ICS Division.
2. The Department of Agriculture is moving its licensing functions from a paper based system to an online system. To accommodate licensee's who hold multiple licenses with the Department of Agriculture, we are establishing a common licensing date so a licensee can obtain all their licenses in one transaction.

9.5 Adopted November 9, 2016- Effective December 30, 2016

STATUTORY AUTHORITY:

The Commissioner's authority for the adoption of these permanent rule amendments is set forth in § 35-12-104(1), § 35-12-104(7) and § 35-12-106(4), C.R.S.

PURPOSE:

The purpose of these permanent rule amendments is to:

1. Amend Part 4 to clarify the reporting requirements.
2. Change the date in Parts 3.1, 3.2, and 3.3 to align the registration renewals with the tonnage reporting deadline.
3. Update formatting to be consistent with other Rules within the Department.

FACTUAL AND POLICY BASIS:

The factual and policy issues pertaining to the adoption of these permanent rule amendments are as follows:

1. The previous version of Part 4 was not specific to the types of data required to be reported on fertilizer distribution.
2. Currently, fertilizer registrants have to log into the Department's licensing system at separate times of the year to complete the registration and reporting process. This can be burdensome to registrants and be prone to mistakes.
3. After consulting with industry stakeholders, the Department has proposed to synchronize all deadlines associated with the larger registration process to make the process more efficient for registrants.

9.6 February 8, 2017 – Effective March 30, 2017

Statutory Authority:

The Commissioner's authority for the adoption of these permanent rule amendments is set forth in § 35-12-104(1), § 35-12-104(7) and § 35-12-106(4), C.R.S.

Purpose:

The purpose of this rule-making is to incorporate the changes that were effective December 30, 2012 which were inadvertently omitted when the rule was further amended through rules adopted November 9, 2016 to be effective December 30, 2016. See Part 9.3 for the specific changes.

CYNTHIA H. COFFMAN
Attorney General

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Office of the Attorney General

Tracking number: 2016-00650

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 02/08/2017

8 CCR 1202-4

FERTILIZERS AND SOIL CONDITIONERS

The above-referenced rules were submitted to this office on 02/09/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 17, 2017 09:23:56

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Plant Industry Division

CCR number

8 CCR 1203-23

Rule title

8 CCR 1203-23 RULES PERTAINING TO THE ADMINISTRATION AND
ENFORCEMENT OF THE INDUSTRIAL HEMP REGULATORY PROGRAM ACT 1 - eff
03/30/2017

Effective date

03/30/2017

COLORADO DEPARTMENT OF AGRICULTURE

Plant Industry Division

Rules Pertaining to the Administration and Enforcement of the Industrial Hemp Regulatory Program Act

8 CCR 1203-23

Pursuant to the provisions and requirements of the Industrial Hemp Regulatory Program Act, Title 35, Article 61, C.R.S., the following Rules are hereby promulgated to regulate the cultivation of Industrial Hemp:

Part 1 DEFINITIONS

- 1.1 “Act” means the Industrial Hemp Regulatory Program Act, Title 35, Article 61, C.R.S.
- 1.2 “CDA Approved Certified Seed” means Cannabis seed that is approved and labeled by the Department for cultivating Industrial Hemp.
- 1.3 “Commercial” means the growth of Industrial Hemp, for any purpose including engaging in commerce, market development and market research, by any person or legal entity other than an institution of higher education or under a pilot program administered by the Department for purposes of agricultural or academic research in the development of growing Industrial Hemp.
- 1.4 “Commissioner” means the Commissioner of Agriculture and any employee of the Department of Agriculture associated with the Industrial Hemp Regulatory Program.
- 1.5 “Department” means the Colorado Department of Agriculture.
- 1.6 “Harvest” means the termination of the cultivation process or the movement of Industrial Hemp from a Registered Land Area to another location or movement within a Registered Land Area between indoor and outdoor planting areas.
- 1.7 “Industrial Hemp” means a plant of the genus Cannabis and any part of the plant, whether growing or not, containing a delta-9 tetrahydrocannabinol (THC) concentration of no more than three-tenths of one percent (0.3%) on a dry weight basis.
- 1.8 “Law Enforcement” means the activities of the federal, state and local agencies responsible for maintaining public order and enforcing the law.
- 1.9 “Registrant” means any individual or legal entity who holds a valid Registration to grow Industrial Hemp under these Rules.
- 1.10 “Registration” means authorization by the Commissioner for any individual or legal entity to grow Industrial Hemp on a Registered Land Area.
- 1.11 “Registered Land Area” means a contiguous land area registered with the Department on which a Registrant plans to cultivate Industrial Hemp. A Registered Land Area may include land and buildings that are not used for cultivation.
- 1.12 “Research and Development” means cultivation of Industrial Hemp either by an institution of higher education or under a pilot program administered by the Department for purposes of agricultural or academic research in the development of growing Industrial Hemp.

- 1.13 “Variety” means a group of plants or an individual plant that exhibits distinctive observable physical characteristic(s) or has a distinct genetic composition.

Part 2 REGISTRATION

- 2.1 Each applicant for a Commercial Industrial Hemp Registration shall submit a signed, complete, accurate and legible application form provided by the Commissioner at least 30 days prior to planting which includes the following information:
- 2.1.1 The name and address of the applicant.
 - 2.1.2 Type of business entity, such as corporation, LLC, partnership, sole proprietor, etc.
 - 2.1.3 Business name(s) if different from (2.1.1) above.
 - 2.1.4 The legal description (Section, Township, Range) in which the growing area is located.
 - 2.1.5 The global positioning system location coordinates taken at the approximate center of the Registered Land Area.
 - 2.1.6 A map of the Registered Land Area on the which the applicant plans to grow the Industrial Hemp, showing the boundaries and dimensions of the growing area(s) in acres or square feet.
 - 2.1.7 By submitting an application the Registrant acknowledges and agrees to the following terms and conditions:
 - 2.1.7.1 Any information provided to the Department may be publicly disclosed and be provided to law enforcement agencies without further notice to the Registrant.
 - 2.1.7.2 The Registrant shall allow and fully cooperate with any inspection and sampling that the Department deems necessary.
 - 2.1.7.3 The Registrant shall pay for any inspection and laboratory analysis costs that the Department deems necessary within 30 days of the date of the invoice.
 - 2.1.7.4 The Registrant shall submit all required reports by the applicable due-dates specified by the Commissioner.
 - 2.1.8 A Registrant must have the legal right to cultivate Industrial Hemp on the Registered Land Area and the legal authority to grant the Department access for inspection and sampling.
- 2.2 Each applicant for a Research and Development Industrial Hemp Registration shall submit a signed, complete, accurate and legible application form provided by the Commissioner at least 30 days prior to planting which includes the following information:
- 2.2.1 The name and address of the applicant.
 - 2.2.2 Type of business or organization such as corporation, LLC, partnership, sole proprietor, etc.
 - 2.2.3 Business name(s) if different from (2.2.1) above.
 - 2.2.4 The legal description (Section, Township, Range) of the growing area.

- 2.2.5 The global positioning system location coordinates taken at the approximate center of the Registered Land Area.
- 2.2.6 A map of the Registered Land Area on which the applicant plans to grow the Industrial Hemp, showing the boundaries and dimensions of the growing area in acres or square feet.
- 2.2.7 By submitting an application the Registrant acknowledges and agrees to the following terms and conditions:
 - 2.2.7.1 Any information provided to the Department may be publicly disclosed and be provided to law enforcement agencies without further notice to the Registrant.
 - 2.2.7.2 The Registrant shall allow and fully cooperate with any inspection and sampling that the Department deems necessary.
 - 2.2.7.3 The Registrant shall pay for any inspection and laboratory analysis costs that the Department deems necessary within 30 days of the date of the invoice.
 - 2.2.7.4 The Registrant shall submit all required reports by the applicable due-dates specified by the Commissioner.
- 2.3 Registrations cannot be assigned or transferred to another business, individual or other entity.
- 2.4 No Industrial Hemp plant shall be included in more than one Registration simultaneously.
- 2.5 No Registered Land Area may contain Cannabis plants or parts thereof that the Registrant knows or has reason to know are of a variety that will produce a plant that when tested will produce more than 0.3% delta-9 THC concentration on a dry weight basis. No Registrant shall use any such variety for any purpose associated with the cultivation of Industrial Hemp.
- 2.6 Each noncontiguous land area on which Industrial Hemp is grown shall require a separate Registration. Any addition to a Registered Land Area shall also require a separate Registration.
- 2.7 In addition to the application form, each applicant for a Registration shall submit the Registration fee set by the Commissioner. If the Registration fee does not accompany the application, the application for Registration will be deemed incomplete.
- 2.8 The annual Registration fee for Commercial production of Industrial Hemp shall be \$500 plus \$5.00/acre outdoors and/or \$.33/1000 sq. ft. indoors.
- 2.9 The annual Registration fee for production of Industrial Hemp for Research and Development shall be \$500 plus \$5/acre outdoors and/or \$.33/1000 sq. ft. indoors.
- 2.10 All Registrations shall be valid for one year from date of issuance.
- 2.11 All Industrial Hemp plant material must be planted, grown and harvested under a valid Registration. Any plant material that is not harvested in the Registration period in which it was planted or volunteer plants that are not destroyed, must be declared for inclusion in a subsequent Registration.
- 2.12 Any Registrant that wishes to alter the growing area(s) on which the Registrant will conduct Industrial Hemp cultivation for either Commercial or Research and Development purposes shall, before altering the area, submit to the Department an updated legal description, global positioning system location, and map specifying the proposed alterations. Amendments to an existing

Registration are limited to changes within the original land area registered, including variety changes, location(s) of varieties, and actual acreage or square feet of each variety planted.

- 2.13 Incomplete applications will not be processed and application fees will not be refunded if a Registration is not granted.
- 2.14 Any changes to contact information must be provided within 10 days of the change.
- 2.15 No Land area may be included in more than one Registration at the same time.

Part 3 REPORTS

- 3.1 Prior to planting any Cannabis Commercial Industrial Hemp Registrant shall file, on a form provided by the Commissioner, a Pre-Planting Report that includes:
 - 3.1.1 A statement of verification that the Registrant has reasonable grounds to believe that the crop the Registrant will plant is of a type and variety of Cannabis that will produce a delta-9 THC concentration of no more than 0.3% on a dry weight basis.
 - 3.1.2 A description of the Cannabis varieties to be planted on the Registered Land Area . All plant material to be used for cultivation of Cannabis within a Registered Land Area must be included.
 - 3.1.3 A statement of intended end use for all parts of any Cannabis plants grown within a Registered Land Area.
- 3.2 Within 10 days after planting any Cannabis, and/or 10 days after emergence of any volunteer Cannabis plants in a Registered Land Area that the Registrant chooses to cultivate and not destroy, each Commercial Registrant shall submit, on a form provided by the Commissioner, a Planting Report that includes:
 - 3.2.1 A list or description of all varieties of Cannabis planted, or of volunteer Cannabis plants that have emerged and are not destroyed, within a Registered Land Area.
 - 3.2.2 The global positioning system coordinates and a map showing the location and actual acreage or square feet of each variety of Cannabis planted, or of volunteer Cannabis plants that have emerged and are not destroyed, within a Registered Land Area.
 - 3.2.3 A Planting Report must be submitted any time Cannabis is planted in, moved within or moved into a Registered Land Area, except for replanting into a larger container within the same indoor location.
- 3.3 At least 30 days prior to harvest, each Commercial Industrial Hemp Registrant shall file a Harvest Report, on a form provided by the Commissioner that includes:
 - 3.3.1 Documentation that the Commercial Registrant has entered into a purchase agreement with an in-state Industrial Hemp processor. If the Registrant has not entered into such an agreement, the Registrant shall include a statement of intended disposition of its Industrial Hemp crop.
 - 3.3.2 The harvest date(s) and location of each variety of Industrial Hemp cultivated within a Registered Land Area.

- 3.3.3 A Registrant must notify the Commissioner immediately of any changes in the reported harvest date(s) in excess of 5 days. If any such changes are made the Commissioner may require additional testing prior to harvest.
 - 3.3.4 A Registrant is not required to document the removal of male Cannabis plants on a Harvest Report provided that the male Cannabis plants are destroyed or utilized on the Registered Land Area prior to filing a Harvest Report for the remaining Cannabis plants.
- 3.4 Prior to planting, each Research and Development Industrial Hemp Registrant shall file, on a form provided by the Commissioner, a Pre-Planting Report that includes:
 - 3.4.1 A statement of verification that the Registrant has reasonable grounds to believe that the crop the Registrant will plant is of a type and variety of Cannabis that will produce a delta-9 THC concentration of no more than 0.3% on a dry weight basis.
 - 3.4.2 A description of the Cannabis varieties to be planted on the Registered Land Area . All plant material to be used for cultivation of Cannabis within a Registered Land Area must be included.
 - 3.4.3 A statement of intended end use for all parts of any Cannabis plants grown within a Registered Land Area.
- 3.5 Within 10 days after planting any Cannabis, and/or 10 days after emergence of any volunteer Cannabis plants in a Registered Land Area that the Registrant chooses to cultivate and not destroy, each Research and Development Registrant shall submit, on a form provided by the Commissioner, a Planting Report that includes:
 - 3.5.1 A list or description of all varieties of Cannabis planted, or of volunteer Cannabis plants that have emerged and are not destroyed within a Registered Land Area.
 - 3.5.2 The global positioning system coordinates and a map showing the location and actual acreage or square feet of each variety of any Cannabis planted, or of volunteer Cannabis plants that have emerged and are not destroyed, within a Registered Land Area.
 - 3.5.3 A Planting Report must be submitted any time Cannabis is planted in, moved into or moved within a Registered Land Area, except for replanting into a container of the same size within the same indoor location.
- 3.6 At least 30 days prior to harvest, each Research and Development Industrial Hemp Registrant shall file a Harvest Report, on a form provided by the Commissioner that includes:
 - 3.6.1 A statement of the intended use of all Industrial Hemp cultivated within a Registered Land Area.
 - 3.6.2 The harvest date(s) and location of each variety cultivated within a Registered Land Area.
 - 3.6.3 A Registrant must notify the Commissioner immediately of any changes in the reported harvest date(s) in excess of 5 days. If any such changes are made the Commissioner may require additional testing prior to harvest.
 - 3.6.4 A Registrant is not required to document the removal of male Cannabis plants on a Harvest Report provided that the male Cannabis plants are destroyed or utilized on the Registered Land Area prior to filing a Harvest Report for the remaining Cannabis plants.

- 3.7 Each Commercial and Research and Development Registrant shall report to the Commissioner any changes to information provided in the Registration or any previously submitted reports, including any changes to the purchase agreement or statement of intended disposition, within 10 days of such change.

Part 4 INSPECTION AND SAMPLING PROGRAM

- 4.1 All Registrations are subject to routine inspection and sampling to verify that the delta-9 THC concentration of the Cannabis planted within a Registered Land Area does not exceed 0.3% on dry weight basis. The Commissioner may select up to 100% of the Registrants to be inspected. The Commissioner shall send notification to each Registrant of their selection. The notification shall inform the Registrant of the scope and process by which the inspection will be conducted and require the Registrant to contact the Department within 10 days to set a date and time for the inspection to occur. Failure to contact the Department as required will result in the initiation of disciplinary proceedings pursuant to Part 6 of these Rules against the Registration.
- 4.2 In addition to any routine inspection and sampling under Rule 4.1, the Commissioner may inspect and take samples from any Registered Land Area during normal business hours without advance notice if he has reason to believe a violation of the Act or these Rules may be occurring or has occurred. The Commissioner may also conduct such additional inspection and sampling to verify compliance with the reporting requirements of these Rules.
- 4.3 A Registered Land Area may be subject to inspection and sampling prior to voluntary termination of the Registration before its expiration date.
- 4.4 During the inspection, the Registrant or authorized representative shall be present at the growing operation. The Registrant or authorized representative shall provide the Department's Inspector with complete and unrestricted access to all Cannabis plants, parts and seeds within a Registered Land Area whether growing or harvested, and all land, buildings and other structures used for the cultivation and storage of Industrial Hemp, and all documents and records pertaining to the Registrant's Industrial Hemp growing business.
- 4.5 All Cannabis plants within a Registered Land Area may be sampled to ensure compliance with the Industrial Hemp Program.
- 4.5.1 Individual or composite samples of each variety of Cannabis may be sampled from the Registered Land Area at the Department's discretion.
- 4.5.2 The sampled material will be prepared for testing using protocols approved by the Commissioner.
- 4.5.3 Quantitative laboratory determination of the delta-9 THC concentration on a dry weight basis will be performed according to protocols approved by the Commissioner.
- 4.5.4 A sample test result with a delta-9 concentration on a dry weight basis greater than 0.3% THC shall constitute evidence that at least one Cannabis plant or part of a plant in the Registered Land Area contains a delta-9 THC concentration on a dry weight basis of more than 0.3% and that the Registrant of that Registered Land Area is therefore not in compliance with the Act. Upon receipt of such a test result, the Commissioner may summarily suspend or revoke the Registration of an Industrial Hemp Registrant in accordance with the Act, these Rules and 24-4-104, C.R.S. Sample test results for Industrial Hemp Registrations with a delta-9 THC concentration greater than 0.3% on a dry weight basis may be provided to the appropriate law enforcement agencies.

- 4.6 Fields planted with CDA Approved Certified Seed may be inspected and sampled to confirm consistency with the Planting Report(s). The Department will waive all inspection and/or sampling costs if no inconsistencies or violations are identified.
- 4.7 Fees
 - 4.7.1 Registrants selected for inspection and sampling shall pay a charge of \$35 dollars per hour per inspector for actual drive time, mileage, inspection and sampling time.
 - 4.7.2 Registrants selected for inspection and sampling shall reimburse the Department for all

Part 5 WAIVER

- 5.1 Notwithstanding the fact that a sample of a Research and Development Registrant's Industrial Hemp tests higher than 0.3% but less than 1.0% delta-9 THC concentration the Registrant shall not be subject to any penalty under the Act or these Rules if:
 - 5.1.1 The sampled Industrial Hemp was grown solely for Research and Development purposes by an individual or entity holding a Research and Development Registration, and the crop is destroyed or utilized on site in a manner approved of and verified by the Commissioner.
 - 5.1.2 Test results from a Research and Development Registrant may, at the Commissioner's discretion, be accepted in lieu of Department sampling.
- 5.2 Notwithstanding the fact that a sample of a Commercial Registrant's Industrial Hemp tests higher than 0.3% but less than 1.0% delta-9 THC concentration the Registrant shall not be subject to revocation or suspension of their Registration if the crop is destroyed or utilized on site in a manner approved of and verified by the Commissioner.
- 5.3 Registrants shall have 10 days from the date of notification of test results higher than 0.3% delta-9 THC concentration to request a waiver as provided for in Rules 5.1 or 5.2.

Part 6 VIOLATIONS/DISCIPLINARY SANCTIONS/CIVIL PENALTIES

- 6.1 In addition to any other violations of Title 35, Article 61, C.R.S., or these Rules, the following acts and omissions by any applicant or Registrant or authorized representative thereof shall constitute violations for which civil penalties up to \$2,500 per violation and disciplinary sanctions, including denial of an application or summary suspension or revocation of a Registration, may be imposed by the Commissioner in accordance with Sections 35-61-107 and 24-4-104, C.R.S.:
 - 6.1.1 Refusal or failure by an applicant, Registrant or authorized representative to fully cooperate and assist the Department with all aspects of the administration and enforcement of the Act and these Rules, including the application, registration, reporting, inspection and sampling, and waiver processes.
 - 6.1.2 Failure to provide any information required or requested by the Commissioner for purposes of the Act or these Rules.
 - 6.1.3 Providing false, misleading, or incorrect information pertaining to the Registrant's cultivation of Industrial Hemp to the Commissioner by any means, including but not limited to information provided in any application form, report, record or inspection required or maintained for purposes of the Act or these Rules.
 - 6.1.4 Failure to submit any required report in accordance with Part 3.

- 6.1.5 Growing Cannabis that when tested is shown to have a delta-9 THC concentration greater than 0.3% on a dry weight basis.
- 6.1.6 Failure to pay fees assessed by the Commissioner for inspection or laboratory analysis costs.

Part 7 CDA APPROVED CERTIFIED SEED

- 7.1 A variety of Industrial Hemp may be approved by the Department as CDA Approved Certified Seed if it is tested by the Department and confirmed to produce mature plants with a delta-9 THC concentration of no more than 0.3% on a dry weight basis in approved multiple geographic trials in Colorado.
 - 7.1.1 The genetics of the plant material must be accepted by the Colorado Seed Growers Association ("CSGA") variety review board or the variety review board of the Association Of Seed Certifying Agencies ("AOSCA").
 - 7.1.2 The variety must fit the description on the application form as submitted to the CSGA or AOSCA variety review board.
 - 7.1.3 The seed must be produced and certified in accordance with the certification requirements of a CDA approved seed certifying agency.
 - 7.1.4 The seed must be labeled with a CDA Approved Certified Seed tag.
- 7.2 In addition to the Registration fees required by Rules 2.8 and 2.9 all Registrants shall pay to the Department an additional fee established by the Committee, for the purpose of funding the costs of administering the CDA Approved Seed Certification program.
- 7.3 An applicant that submits a variety for approval under the CDA Approved Seed Certification program shall pay the testing costs incurred by the Department.

Part 8 RESERVED

Part 9 STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

9.1 Adopted November 12, 2013 – Effective December 30, 2013

Statutory Authority

These rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Industrial Hemp Regulatory Program Act (the "Act"), §§ 35-61-104(5) and 35-61-105(2), C.R.S.

Purpose

The purposes of these proposed rules are to:

1. Adopt a Part 1 setting forth definitions of specific terms used in these Rules.
2. Adopt Rules in Part 2 establishing a process for registering growers of industrial hemp and setting forth the information and fees required.
3. Adopt Rules in Part 3 establishing the information reporting requirements with which registrants must comply.

4. Adopt Rules in Part 4 establishing an inspection program to ensure compliance with the provisions of the Act and these Rules.
5. Adopt Rules in Part 5 creating conditional penalty waiver provisions for registrants whose industrial hemp crop THC content tests between 0.3% and 1.0% by dry weight.
6. Adopt Rules in Part 6 specifying violations of these Rules for which penalties may be imposed.

Factual and Policy Basis

The factual and policy issues encountered when developing these rules include:

1. Senate Bill 13-241 authorized the creation of a program within the Department of Agriculture to regulate industrial hemp cultivation.
2. The bill created a nine-member advisory committee to work with the Department to develop rules establishing an Industrial Hemp Regulatory Program. This committee was appointed by Senator Gail Schwartz and Representative Randy Fischer.
3. The committee held three public meetings to determine what rules were necessary to implement this program and draft the appropriate language. The committee will continue to work with the Department to refine and update these Rules over the coming years, as well as review the testing protocols that Department staff is currently developing.

9.2 Adopted June 11, 2014 – Effective June 11, 2014

Statutory Authority

These emergency rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Industrial Hemp Regulatory Program Act (the "Act"), Sections 35-61-104(5) and 35-61-105(2), C.R.S.

Purpose

The purposes of these proposed rules are to:

1. Adopt a registration time period of 30 days prior to planting with the elimination of the May 1 registration deadline.
2. Allow the Department to collect crop intended harvest date and disposition information 30 days prior to harvest, rather than 7 days prior to harvest.

Factual and Policy Basis

The factual and policy issues encountered when developing these rules include:

1. Senate Bill 14-184 eliminated the May 1 deadline for program registration. The Department needs 30 days to process hemp applications.
2. The Department needs 3 -4 weeks to plan sampling.

9.3 Adopted August 5, 2014 – Effective September 30, 2014

Statutory Authority

These rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Industrial Hemp Regulatory Program Act (the "Act"), Sections 35-61-104(5) and 35-61-105(2), C.R.S.

Purpose

The purposes of these proposed rules are to make permanent emergency rules effective June 11, 2014. Specifically, these amendments:

1. Adopt a registration time period of 30 days prior to planting with the elimination of the May 1 registration deadline.
2. Allow the Department to collect crop intended harvest date and disposition information 30 days prior to harvest, rather than 7 days prior to harvest.

Factual and Policy Basis

The factual and policy issues encountered when developing these rules include:

1. Senate Bill 14-184 eliminated the May 1 deadline for program registration. The Department needs 30 days to process hemp applications.
2. The Department needs 3 -4 weeks to plan sampling.

9.4 Adopted February 11, 2015 – Effective March 30, 2015

Statutory Authority

These Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Industrial Hemp Regulatory Program Act (the "Act"), Sections 35-61-104(5) and 35-61-105(2), C.R.S.

Purpose

The purposes of these proposed Rules are to:

1. Amend the definition of "Commercial" in Rule 1.2. to establish clear separation between the activities permitted under a Commercial registration and a Research and Development registration.
2. Amend the definition of "Law Enforcement" in Rule 1.7.
3. Adopt a new Rule 1.8 to define "Registrant."
4. Adopt a new Rule 1.9 to define "Registration."
5. Adopt a new Rule 1.10 to define "Registered Land Area" and delete the definition of "Growing Area."
6. Amend the definition of "Research and Development" in Rule 1.11 to follow the 2014 Farm Bill language.
7. Adopt a new Rule 1.12 to define "Variety."

8. Amend language referencing site and growing area(s) used throughout the Rules to reflect the above definition changes.
9. Amend language referencing sampling and analysis costs and add terms of payment used in Rules 2.1.7.3 and 2.2.7.3.
10. Separate language from Rule 2.2.5 and create Rule 2.2.6 for Rule language consistency between Commercial and Research & Development Rules format.
11. Create a new Rule 2.3 barring the transfer of ownership of a registration.
12. Create a new Rule 2.4 language barring registration of one plant under two registrations.
13. Create a new Rule 2.5 barring any cannabis plants other than Industrial Hemp on a registered land area.
14. Create a new Rule 2.6 to define what can be included in a single registration.
15. Amend registration fees in Rules 2.8 and 2.9 to cover the cost of administering the program.
16. Adopt a new Rule 2.11 to require harvest of all plants within a registration period. Allow for material that is planted under one registration to be included in subsequent registrations through declaration during registration.
17. Adopt a new Rule 2.13 limiting amendments to a registration.
18. Adopt a new Rule 2.13 regarding processing of applications.
19. Adopt a new Rule 2.14 requiring registrants to maintain current contact information with the Department.
20. Amend Rules 3.1.2 and 3.4.1 to require reporting of all plant material used in an Industrial Hemp registered land area.
21. Adopt new Rules 3.1.3 and 3.4.2 requiring registrants to report the intended use of all parts of the Industrial Hemp crop included in a registered land area.
22. Adopt new Rules 3.2 and 3.5 requiring reporting of the varieties and location of all Industrial Hemp planted in a registered land area.
23. Adopt a new Rule 3.5.3 requiring research and development registrants to verify that all the Industrial Hemp to be cultivated is reasonably believed to produce a crop with a THC of 0.3% or less on a dry weight basis.
24. Amend Rules 3.3.2 and 3.6.2 to require reporting of specific crop location information at least 30 days prior to harvest.
25. Adopt a new Rule 3.7 to require reporting of any changes in information previously submitted to the Department within 10 days.
26. Amend Rule 4.1 to allow sampling of all cannabis plants on a registered Industrial Hemp land area, allow sampling of up to 100% of the registrants, allow the Department to notify the registrant of inspection by methods other than certified mail, require registrants to

contact the Department within 10 days of inspection notification and explain the consequence for failing to do so.

27. Amend Rule 4.2 to allow access to all cannabis material associated with a registration.
28. Amend Rules 4.3 and 4.3.1 to allow individual or composite sampling of all cannabis plants on a registered Industrial Hemp land area.
29. Amend Rule 4.3.2 to allow more valid scientific testing protocols.
30. Amend Rule 4.3.4 to include the updated language from existing Rule 4.3.4.1 and remove the term commercial so any registration found not in compliance could be suspended or revoked in accordance with C.R.S. 24-4-104.
31. Amend Rule 4.4.2 to set terms of payment to 30 days of invoice.
32. Amend Rule 5.1 to include the same 1.0% THC limit for a waiver from penalty as applied to commercial registrations.
33. Amend Rule 6.1 to clarify scope and add summary suspension language for clarity purposes.
34. Amend Rule 6.1.5 to include proper terminology for cannabis exceeding 0.3% THC.

Factual and Policy Basis

The factual and policy issues encountered when developing these Rules include:

1. The revised definitions for "Commercial" and "Research and Development" in Rules 1.2 and 1.11 are intended to establish a clear separation between the activities allowed under a Commercial registration and a Research and Development registration. All Industrial Hemp production activities not authorized by the 2014 Farm Bill Research and Development language, including all privately-conducted research and development, are covered by a commercial registration. In addition to private scientific research, this change in definitional language will allow research for competitive advantage or product development without limiting the sale or distribution of plant material used and produced under a commercial registration, similar to what commercial enterprises in other industries do for product development in a research division of a company. This Rule change meets the needs of registrants who have requested sale of material from their research and development registrations by aligning their research to be conducted under commercial registration without structurally changing their research practices.
2. Rule 1.7 is intended to clarify the broad scope of governmental agencies involved in law enforcement and eliminate unnecessary language about their activities.
3. Rules 1.8 and 1.9 are intended to define the difference between a person or entity who has been granted approval from and the authorization to grow Industrial Hemp on a specific site.
4. Rule 1.10 creates a definition for an area registered to grow Industrial Hemp that includes property the registrant may want to include that is not a growing area.
5. Rule 1.12 creates a definition for plants used in the Rules that clarifies registration, planting and harvest requirements. The definition is also necessary for delineation purposes during sampling.

6. The changes in Rules 2.1, 2.2, 3.1, and 3.4 are needed to make the language in those Rules consistent with other language in the Rules.
7. Amending the language in 2.1.7.3 and 2.2.7.3 is intended to standardize the terminology with that used in Part 4, clarify the costs for which a registrant is responsible, and set the terms of payment which are not currently specified. This clarification is necessary because some registrants have delayed payment of fees until another registration is granted or until they have negotiated individual payment terms, creating administrative confusion and increasing program costs.
8. Separating the requirements in Rule 2.2.6 and 2.2.5 improves consistency with 2.1.6 and 2.1.5 for ease of Rule readability.
9. The prohibition in Rule 2.3 on the transfer of registration is necessary to facilitate inspection and sampling and to prevent the transfer of registrations to persons or entities who would not otherwise qualify for a registration due to previous sanctions and penalties. This also closes a potential loophole through which a legally acquired Industrial Hemp registration could be transferred to another individual for purposes of evasion in growing or transporting of Marijuana.
10. Rule 2.4 is necessary to avoid confusion when a registrant holds multiple registrations. This Rule will enable the Department to accurately identify, inspect and sample all of the plants grown under a specific registration.
11. Under Article XVIII, Section 16 of the Colorado Constitution (Adopted by voters as “Amendment 64”) “Industrial Hemp” is defined and regulated separately from “Marijuana”. The Department therefore has no legal jurisdiction over cannabis that contains more than 0.3% THC on a dry weight basis because it is constitutionally defined as Marijuana and not Industrial Hemp. The Department thus does not have the authority to grant the possession or use of any cannabis material above 0.3% THC within its Industrial Hemp registration program; all such material is regulated as Marijuana under the authority of the Department of Revenue. Rule 2.5 is necessary to prevent the use or presence of plant material in a registered land area that would be outside the Department of Agriculture’s jurisdiction. The proposed Rule language does not limit the right to possess or conduct Marijuana research but does prevent Marijuana material from knowingly being used under the Industrial Hemp program by excluding it from the area the registrant has agreed is dedicated to Industrial Hemp.
12. Rule 2.6 defines what may be included in a single registration. The change is necessary to track registration sites, what is planted on a registered land area and ensure accurate testing can be done. The current system has created administrative issues as registrants have added sites miles away from existing registrations during the growing season and cancelled growing areas registered under the same registration, creating situations where it has become difficult to track where plant material currently is being grown for inspection purposes. These changes in registrations have also increased the cost of program administration as the Department attempts to track sites currently registered to grow Industrial Hemp. The Rule does not limit the registrants ability to stagger planting within a registered land area. The Rule is also intended to facilitate the establishment of an equitable fee structure to self-fund the program as mandated in the Act.
13. The Department is proposing to increase the fees in Rule 2.8 and 2.9 to comply with the self-funding mandate set forth in Section 35-61-106 (2), C.R.S. Current fees have generated less than 20% of the necessary revenue to support the program. Section 35-61-106 (2), C.R.S., limits the sources of revenue to registration fees and land area. Leaving registration fees at current levels would require per acre fees to exceed \$55. The new registration fee structure was developed to equitably generate sufficient revenue to

self-fund the program at current registration levels. The fees for Commercial and Research & Development registrations were set at the same level so as not to favor either type of registration or disadvantage research for competitive advantage conducted under a commercial registration.

14. Section 35-61-104(3), C.R.S. defines the effective period of a valid registration to one year. To regulate the program it is necessary for plant material to be registered before planting as required in Rules 2.1 and 2.2. To insure that all plant material is regulated under a valid registration and therefore protected under Section 35-61-102(2), C.R.S., Rule 2.11 was created to clarify the requirement to harvest within a registration and add language necessary for the perpetuation of genetics.
15. Rule 2.12 is necessary to prohibit the expansion of a registration outside of the original land area described in the application for registration. Without this limitation it is very difficult and time consuming for the Department to track plant material to a registration or ensure compliance with planting reports. Registrants have used the current amendment language to establish new growing sites and assume sites originally registered to another registrant. The current system allowing registrants to add new locations through amendments without cost has significantly increased the administrative costs of the program which must be passed on to all registrants.
16. Rule 2.13 insures that the cost to process an application incurred by the Department prior and regardless of whether a registration is issued are not passed along to other registrants should a registration not be granted. Under Section 35-61-106(2), C.R.S., the Commissioner is required to collect fees to cover all of the program's costs, including those associated with applications that are denied.
17. The Department has spent considerable resources trying to contact the registrants after registration due to changes in contact information. This has increased administrative costs for the program. Rule 2.14 requires registrant contact information remain current so the Department can contact registrants regarding sampling and inspection without added administrative costs. Some registrants have changed their contact information including mailing address, e-mail address and phone numbers to evade requests by the Department to conduct inspections.
18. Rules 3.1.2 and 3.4.1 require a registrant to disclose all plant material intended for use in a registered land area to be disclosed. This is necessary to enable the Department to confirm that all plant material used within a land area registered with the Industrial Hemp program is of a type and variety that will produce plants with a THC content not to exceed 0.3% on a dry weight basis.
19. Rules 3.1.3 and 3.4.2 are necessary to facilitate the inspection and sampling of Industrial Hemp grown in the program. The Industrial Hemp inspection is done by a limited number of inspectors who also inspect multiple other programs for the Department. To accomplish inspections required for all the programs considerable planning and coordination occurs months prior to the need to facilitate optimum use of inspection staff and control costs.
20. The requirement of a planting report in Rules 3.2 and 3.5 is necessary for the Department to determine what fields have actually been planted so we can determine what fields may need inspection, allocate resources for inspection, collect variety information to support a seed certification program and collect agronomic data on the crop to determine economic value to the state.

21. Rule 3.5.3 is intended to ensure that research and development registrants plant material that they reasonably believe will not exceed 0.3% THC on a dry weight basis and that all material used in the research project is included in the planting report.
22. Rules 3.3.2 and 3.6.2 are necessary for the Department to determine what will be harvested compared to what was actually planted, identify gaps, and schedule inspections appropriately. This will also allow the Department to collect harvest data to determine the size of the final crop and document crop size developments for economic purposes.
23. Rule 3.7 is necessary to ensure that the Department has the most current information on all registrants so that it can effectively plan inspection resources and monitor industry developments.
24. The change in Rule 4.1 allowing sampling of up to 100% of registrants is necessary to accommodate the July 1, 2014 statutory change allowing year round registration while still conducting an effective inspection program including testing in the event an unanticipated violation is reported or suspected. The amended language also eliminates the exemption from testing after two years which could prevent the Department from retesting registrants with prior violations in a timely or effective manner. The current language has the potential for abuse by registrants who have been tested for two years and thus could grow Marijuana without concern of inspection the third year.

The amended language in Rule 4.1 with respect to notice of inspection allows the Department to communicate with the registrants in a method agreed to with the registrant or deemed effective from previous communications with the registrant. The use of certified mail has allowed some registrants to see the Department is sending them communication and avoid signing for it in an effort to evade inspection notification. In other cases the address provided has been returned as undeliverable via certified mail and the registrant has asked for an e-mail or phone call so they can comply.

The time period for response to notification was changed from 30 days after notification to 10 days to allow the Department to determine harvest timing and arrange for inspections. The 30 days hampered the Departments ability to coordinate inspections of multiple sites increasing the inspection travel costs for the registrant as harvest in many cases was more immediate once the registrant replied.

25. Registrants have agreed under Rule 2.5 not to include plant material known or that should reasonably be known will exceed 0.3% THC on a registered land as terms of registration. This amended section of 4.2 is necessary to support, verify and enforce Rules 2.5, 3.1.2, 3.4.1, 4.1, 4.3, and 4.3.1.

The changes to Rule 4.2 are necessary to allow the Department to inspect all plants in the registered land area. Registrants have used the current Rule language to assert that some plants used by them for cultivation of Industrial Hemp cannot be tested by the Department because they are Marijuana that is being grown for personal use or under a Medical Marijuana card application. The amendments to Rule 4.2 are necessary to verify compliance with Rules 2.5, 3.1.2, 3.4.1, 4.2, 4.3, and 4.3.1 which prohibit the presence or use of Marijuana within a land area registered for the cultivation of Industrial Hemp.

26. The amended language in Rules 4.3 and 4.3.1 allows all cannabis material grown in a land area under an Industrial Hemp registration to be sampled. It allows the Department or registrant to determine if a specific plant or group of plants is to be sampled. This amended language allows the Department to work with Industrial Hemp breeding projects where sampling every individual plant would be cost prohibitive to a registrant and could effectively destroy a breeding program if all plants were selected for inspection.

27. The amended language in Rule 4.3.2 clarifies a procedural process that inaccurately represented scientific methodology. Samples are divided after preparation for testing so that the two samples are of the same composite make up.
28. The amended language in Rule 4.3.4 clarifies the legal effect of tests results that exceed 0.3% THC for both commercial and research and development registrants.
29. The amended language in Rule 4.4.2 is for administrative purpose. Registrants have used the lack of clear terms of payment in Rule as a negotiation point to make payment plans for services or delay payment until a new registration is needed.
30. Amending Rule 5.1 to include an upper THC limit in plant material used in research and development is necessary to ensure programs are not knowingly using Marijuana with a high THC content under an Industrial Hemp registration.
31. The amendment to Rule 6.1 clarifies that a registration may be summarily suspended in appropriate circumstances under 35-61-107 and 24-4-104, C.R.S.
32. The amendment to Rule 6.1.5 conforms with the changes to other Rules prohibiting the presence or use of plant material that exceeds 0.3% THC on a registered land area.
33. These amendments incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

9.5 Adopted February 10, 2016-Effective March 30, 2016

Statutory Authority

These Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Industrial Hemp Regulatory Program Act (the "Act"), Sections 35-61-104(5) and 35-61-105(2), C.R.S.

Purpose

1. Adopt a new Rule 1.2 defining "CDA Approved Certified Seed".
2. Adopt a new Rule 1.6 defining "Harvest".
3. Adopt a new Rule 2.1.8 requiring Registrants to have all legal rights necessary to cultivate Industrial Hemp on a Registered Land Area.
4. Amend language in Rule 2.11 to clarify the process for material that is perpetuated from one Registration to another Registration.
5. Adopt a new Rule 2.15 clarifying that land area cannot be covered by more than one Registration.
6. Amend Rules 3.1, 3.2, 3.3, 3.4, 3.5 and 3.6 to require reports be submitted on a form provided by the Commissioner.
7. Amend Rules 3.2 and 3.5 to address reporting of any volunteer Cannabis plants that the Registrant chooses to cultivate rather than destroy.
8. Adopt Rules 3.2.3 and 3.5.3 specifying when submission of a Planting Report is required.

9. Adopt Rules 3.3.3 and 3.6.3 requiring notification to the Commissioner of any changes to the reported harvest date of more than 5 days.
10. Adopt a new Rule 4.2 to allow the Commissioner to do additional inspection or sampling to confirm compliance with the Act and Rules.
11. Adopt a new Rule 4.3 to allow for inspection or sampling of a Registered Land Area that is voluntarily exiting the program.
12. Amend Rule 4.5.4 to clarify the legal limits where law enforcement has jurisdiction.
13. Adopt a new Rule 4.6 to allow reduced testing for Registrants who plant CDA Approved Certified Seed.
14. Adopt a new Rule 5.3 to establish a time period for requesting a waiver.
15. Adopt a new Part 7 to allow the Department to approve varieties of Industrial Hemp as CDA Approved Certified Seed and establish fees to cover the costs of the program.
16. Make non-substantive edits with respect to wording and capitalization changes throughout to improve consistency and readability.

Factual and Policy Basis

The factual and policy issues encountered when developing these Rules include:

1. The definition in Rule 1.2 of “CDA Approved Certified Seed” is intended to establish the term used in the development of a seed program to assist Industrial Hemp growers to purchase seed that is known to produce mature plants that will not exceed 0.3% THC.
2. The definition in Rule 1.6 of “Harvest” is intended to clarify when reporting to the Department is required and assist Industrial Hemp growers in meeting the reporting requirements.
3. Rule 2.1.8 is intended to ensure that the Department has the ability to inspect and sample land areas Registered in the Industrial Hemp Program and ensure that Registrants understand their obligations when entering into land lease agreements.
4. Rule 2.11 will allow Registrants the ability to carry plant material over from one Registration that is expiring into another Registration. The Rule will allow plant material to finish its life cycle under a new Registration rather than requiring premature harvest under the Registration period in which it was planted. This will allow perpetuation of parent stock for breeding purposes.
5. Rule 2.15 will ensure the Department has the ability to determine which Registration covers the plant material on a Registered Land Area and can apply any sanctions that may occur only to the Registration the plants are cultivated under.
6. The Amendments to Rules 3.1 through 3.6 requiring use of forms provided by the Department will ensure that the information reported by Registrants is complete and consistent.
7. The amendments to Rules 3.2 and 3.5 allow for the Registration and cultivation of volunteer plants so long as they are reported within 10 days of emergence. This provision

allows growers to register volunteer plants on land areas on which Industrial Hemp was previously grown.

8. Rules 3.2.3 and 3.5.3 are intended to clarify for Registrants how to document the movement of plant material within or into a Registered Land Area. This facilitates the movement of young plant material to final growing locations.
9. Rules 3.3.3 and 3.6.3 provide growers a 10 day window for harvest. This recognizes the harvest date may vary due to factors beyond a Registrant's control such as weather events.
10. Rule 4.2 clarifies that the Department has the authority to conduct inspections and sampling in addition to the routine inspection and sampling described in Rule 4.1 when the Department determines that it is necessary to ensure compliance with the Act and Rules.
11. Rule 4.3 ensures that a Registrant cannot avoid inspection and sampling through early termination of their Registration.
12. Rule 4.5.4 was changed to clarify that 0.3% delta-9 THC concentration is the legal limit of the Program and does not limit the Departments ability to reach out to law enforcement when appropriate circumstances arise.
13. Rule 4.6 will allow the Department to set testing protocols for fields planted with CDA Approved Certified Seed that differ from the protocols for fields planted with non-certified seed. Registrants who plant CDA Approved Certified Seed will not be subjected to inspection and testing fees unless inspections establish that the variety planted was not the same variety as indicated on the Planting Report.
14. Rule 5.3 sets a reasonable time for a Registrant to indicate his desire to exercise the waiver provisions set forth in Rule 5.1 and 5.2. The Rule is necessary to ensure the Department can communicate with law enforcement the timeliness of actions the Registrant is taking to destroy the crop should he chose to exercise the waiver.
15. Under Rule 7.1 a variety of seed to be certified must first undergo testing conducted by the Department to verify that it will consistently produce mature plants with a delta-9 THC concentration at or below 0.3% on a dry weight basis. These trials will be conducted in various regions in the state to ensure stability across the different growing environments in the state. Varieties approved by the Department may be certified by Colorado State University or the authorized seed certifying agency of another state when produced under certified field standards.
16. Rules 7.2 and 7.3 establishes the mechanism for equitably funding the CDA Approved Certified Seed program between the breeder applicants and Registrants. This is intended to encourage the development of CDA Approved Certified Seed while also recognizing the economic benefits to Registrants of planting CDA Approved Certified Seed.

9.6. Adopted February 8, 2017 -Effective March 30, 2017

Statutory Authority

These Rules are proposed for adoption by the Commissioner of the Colorado Department of Agriculture ("CDA") pursuant to his authority under the Industrial Hemp Regulatory Program Act (the "act"), Sections 35-61-104(5) and 35-61-105(2), C.R.S.

Purpose

The purpose of these proposed Rules are to:

1. Amend the definition of “CDA Approved Certified Seed” in Rule 1.2.
2. Amend the definition of “Harvest” in Rule 1.6 to add the common language used to define the term “Harvest”.
3. Amend Rules 2.1.6, 2.2.6, 3.1.2 and 3.4.2 to remove premature requirement for submitting a variety location map.
4. Amend Rules 3.2.2 and 3.5.2 to move the variety location requirements to a more appropriate time when the Registrants can comply.
5. Amend Rule 3.5.3 to exempt reporting of changes in growing container except for larger sizes.
6. Adopt Rules 3.3.4 and 3.6.4 to allow the removal of unwanted male Cannabis plants prior to harvest without submitting a Harvest Report.
7. Amend Rule 4.2 to include both present and past tense of potential violations as cause for inspection.
8. Amend Part 6 to expand the scope of the obligation to cooperate and assist the Department to all aspects of the administration and enforcement of the Act and these Rules.
9. Amend Rule 7.1 to clarify the requirements for CDA Approved Certified Seed.
10. Adopt Rules 7.1.1, 7.1.2, 7.1.3 and 7.1.4 to add clarity to the CDA Approved Certified Seed process.
11. Make typographical, grammatical, and non-substantive changes throughout for clarification.

Factual and Policy Basis

The factual and policy issues encountered when developing these Rules include:

1. Rule 1.2 was amended to clarify that the term “CDA Approved Certified Seed” is specific to seed lots that meet the program standards and not just the variety name.
2. The definition of “Harvest” in Rule 1.6 was amended to clarify that this term includes the normal and common practice of reaping a mature plant.
3. The map requirements under Rules 2.1.6, 2.2.6, 3.1.2 and 3.4.2 as part of their Pre-Planting requirement required premature reporting by Registrants. Realigning the time of reporting to the Planting Report in Rules 3.2.2 and 3.5.2 allows Registrants to accurately report their final planting locations at the appropriate time.
4. Amending Rule 3.5.3 to reduce the reporting burden for normal occurrences of the growing such as broken pots while still allows for the Department to adequately regulate the cultivation and growing cycle.

5. The removal of unwanted male plants is a common practice in breeding programs and all female plant production. New Rules 3.3.4 and 3.6.4 accommodate and facilitate this industry practice by eliminating the need to file unnecessary Harvest Reports for discarded male plants within some specific parameters.
6. Amend Part 6 to reflect the equal importance of cooperation and assistance by an applicant or registrant with all aspects of the administration of the program. This will help ensure the Commissioner has all information necessary to ensure compliance with the Program requirements.
7. The amendment to Rule 7.1 identifies CDA Approved Certified Seed as seed that will produce mature plants that will not exceed the .3% delta-9 tetrahydrocannabinol concentration standard. The Rule distinguishes CDA Approved Certified Seed from other certified seed not approved by the CDA for which the mature plants' delta-9 tetrahydrocannabinol concentration has not been verified in CDA trials conducted across the state.
8. Rule 7.1.1 establishes a system through a variety review board to ensure that the investments in breeding and the intellectual property rights of breeders are protected. Breeders entering a variety must be able to demonstrate ownership of the variety to a panel of experts by identifying unique characteristics that distinguish their entry from other varieties.
9. Rule 7.1.2 ensures that the information submitted to the variety review board accurately represents the variety when viewed in the field and ensures integrity in the process.
10. Rule 7.1.3 ensures the same production practices used in other agricultural crops are applied to CDA Approved Certified Seed lots to ensure purity and trueness to type.
11. The labeling requirement in Rule 7.1.4 provides consumer confidence and easily identifies seed being purchased as true to type and pure, and verifies that mature plants of this variety have not surpassed the .3% delta-9 tetrahydrocannabinol concentration limit in CDA trials conducted across the state.

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Tracking number: 2016-00651

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 02/08/2017

8 CCR 1203-23

**RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE INDUSTRIAL
HEMP REGULATORY PROGRAM ACT**

The above-referenced rules were submitted to this office on 02/09/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 17, 2017 09:22:56

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Conservation Services Division

CCR number

8 CCR 1206-2

Rule title

8 CCR 1206-2 RULES PERTAINING TO THE ADMINISTRATION AND
ENFORCEMENT OF THE COLORADO NOXIOUS WEED ACT 1 - eff 03/30/2017

Effective date

03/30/2017

Conservation Services Division

8 CCR 1206-2

RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE COLORADO NOXIOUS WEED ACT

Part 1 Definitions

- 1.1. "Act" means the Colorado Noxious Weed Act, §§ 35-5.5-101 through 119, C.R.S. (2003).
- 1.2. "Compliance waiver" means a written exemption granted to a local governing body or landowner by the Commissioner that releases the local governing body and/or landowner from certain management obligations for a specific population of a List A or List B species.
- 1.3. "Elimination" means the removal or destruction of all emerged, growing plants of a population of List A or List B species designated for eradication by the Commissioner. It is the first step in achieving eradication and is succeeded by efforts to detect and destroy newly emerged plants arising from seed, reproductive propagule, or remaining root stock for the duration of the seed longevity for the particular species.
- 1.4. "Infested acreage" means an area of land containing one or more plants of a noxious weed species.
- 1.5. "Population" means a group of designated noxious weeds of the same species occupying a particular geographic region and capable of interbreeding.
- 1.6. "Ordinary high water mark" means that line on the shore of any river or perennial or intermittent stream established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.
- 1.7. "Public open space" means publicly-owned land that is managed for its natural or agricultural value.
- 1.8. All definitions in Section 35-5.5-103, CRS apply to these Rules.

Part 2 General Provisions

- 2.1. At any time, affected persons may suggest and the Commissioner may approve additional prescribed integrated management techniques not specified in these Rules for the eradication, elimination, containment, or suppression of designated state noxious weeds. Such approval may be site-specific or broadly applicable. The Commissioner will publish a list on the Colorado Department of Agriculture website (<http://www.ag.state.co.us/csd/weeds/Weedhome.html>) of the herbicides, cultural techniques, and mechanical techniques approved for use under the specific state noxious weed management plans for List A and List B species.
- 2.2. As a condition for granting a compliance waiver releasing a local governing body and/or landowner from certain management obligations, the Commissioner may require the local governing body and/or landowner to implement other specified management actions with respect to a specific population.

- 2.3. No recommendations or requirements in these Rules concerning the use of herbicides are intended to contradict or supersede any other federal, state or local law regulating herbicide use. All use of herbicides to achieve any management objectives specified in these Rules must comply with all applicable federal, state and local legal requirements, including but not limited to compliance with all directions for use, cautionary statements and any other requirements in the labeling of the particular herbicide product.

Part 3 List A Noxious Weed Species

- 3.1. List A of the Colorado noxious weed list comprises the following noxious weed species:

African rue (*Peganum harmala*) [Rule 3.6.1.]

Camelthorn (*Alhagi maurorum*) [Rule 3.6.2.]

Common crupina (*Crupina vulgaris*) [Rule 3.6.3.]

Cypress spurge (*Euphorbia cyparissias*) [Rule 3.6.4.]

Dyer's woad (*Isatis tinctoria*) [Rule 3.6.5.]

Elongated mustard (*Brassica elongata*) [Rule 3.6.18.]

Flowering rush (*Butomus umbellatus*) [Rule 3.6.24]

Giant reed (*Arundo donax*) [Rule 3.6.19.]

Giant salvinia (*Salvinia molesta*) [Rule 3.6.6.]

Hairy willow-herb (*Epilobium hirsutum*) [Rule 3.6.23]

Hydrilla (*Hydrilla verticillata*) [Rule 3.6.7.]

Japanese knotweed (*Polygonum cuspidatum*) [Rule 3.6.20.]

Giant knotweed (*Polygonum sachalinense*) [Rule 3.6.21.]

Bohemian knotweed (*Polygonum x bohemicum*) [Rule 3.6.22.]

Meadow knapweed (*Centaurea nigrescens*) [Rule 3.6.8.]

Mediterranean sage (*Salvia aethiopis*) [Rule 3.6.9.]

Medusahead (*Taeniatherum caput-medusae*) [Rule 3.6.10.]

Myrtle spurge (*Euphorbia myrsinites*) [Rule 3.6.11.]

Orange hawkweed (*Hieracium aurantiacum*) [Rule 3.6.12.]

Parrotfeather (*Myriophyllum aquaticum*) [Rule 3.6.25]

Purple loosestrife (*Lythrum salicaria*) [Rule 3.6.13.]

Rush skeletonweed (*Chondrilla juncea*) [Rule 3.6.14.]

Squarrose knapweed (*Centaurea virgata*) [Rule 3.6.15.]

Tansy ragwort (*Senecio jacobaea*) [Rule 3.6.16.]

Yellow starthistle (*Centaurea solstitialis*) [Rule 3.6.17.]

- 3.2. All populations of List A species in Colorado are designated by the Commissioner for eradication.
- 3.3. It is a violation of these rules to allow any plant of any population of any List A species to produce seed or develop other reproductive propagules.
- 3.4. Prescribed management techniques must be applied to every population of List A noxious weeds present in Colorado to achieve the following objectives:
 - 3.4.1. The plants of every population of List A species must be eliminated prior to seed development.
 - 3.4.2. Once all mature plants are eliminated, appropriate efforts must be made to detect and eliminate new plants arising from seed, reproductive propagule, or root stock for the duration of the seed longevity for the particular species.
 - 3.4.3. In order to ensure that seeds or other reproductive propagules are not produced or spread, any plant with flowers, seeds, or other reproductive propagules must be placed in sealed plastic bags and disposed of by:
 - 3.4.3.1. high intensity burning in a controlled environment that completely destroys seed viability;
 - 3.4.3.2. removal of plant materials to a solid waste landfill which covers refuse daily with six inches of soil or alternative material; or
 - 3.4.3.3. any other method approved by the Commissioner.
- 3.5. Within one year of detection, any local governing body with a population of any List A species must provide to the State Weed Coordinator mapping data pertinent to each population including:
 - 3.5.1. Species name
 - 3.5.2. Population location(s) including distribution and abundance
 - 3.5.3. Estimated infested acreage
- 3.6. State Noxious Weed Management Plans for List A Noxious Weed Species
 - 3.6.1. African rue (*Peganum harmala*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for African rue:
 - 3.6.1.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.1.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.1.3. Seed longevity is unknown.

- 3.6.2. Camelthorn (*Alhagi maurorum*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for camelthorn:
 - 3.6.2.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.2.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.2.3. Seed longevity is at least several years.
- 3.6.3. Common crupina (*Crupina vulgaris*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for common crupina:
 - 3.6.3.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.3.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.3.3. Seed longevity is three years.
- 3.6.4. Cypress spurge (*Euphorbia cyparissias*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for cypress spurge:
 - 3.6.4.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.4.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.4.3. Seed longevity is estimated to be eight years.
- 3.6.5. Dyer's woad (*Isatis tinctoria*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for dyer's woad:
 - 3.6.5.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.5.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.5.3. Seed longevity is at least eight years.

- 3.6.6. Giant salvinia (*Salvinia molesta*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for giant salvinia:
- 3.6.6.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, water drawdown (controlled water drainage), and hand-removal, or other mechanical techniques approved by the Commissioner.
 - 3.6.6.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.6.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.
 - 3.6.6.4. Spore longevity is negligible.
- 3.6.7. Hydrilla (*Hydrilla verticillata*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for hydrilla:
- 3.6.7.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, water drawdown (controlled water drainage), and hand-removal, or other mechanical techniques approved by the Commissioner.
 - 3.6.7.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.7.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered reproductive propagules.
 - 3.6.7.4. Seed longevity is unknown.
- 3.6.8. Meadow knapweed (*Centaurea nigrescens*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for meadow knapweed:
- 3.6.8.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.8.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.8.3. Seed longevity is estimated to be at least seven years.
- 3.6.9. Mediterranean sage (*Salvia aethiopis*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for Mediterranean sage:
- 3.6.9.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and digging, or other mechanical techniques approved by the Commissioner.

- 3.6.9.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 3.6.9.3. Seed longevity is unknown.
- 3.6.10. Medusahead (*Taeniatherum caput-medusae*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for medusahead:
 - 3.6.10.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, prescribed fire in conjunction with herbicide application, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.10.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.10.3. Seed longevity is at least two years.
- 3.6.11. Myrtle spurge (*Euphorbia myrsinites*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for myrtle spurge:
 - 3.6.11.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.11.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.11.3. Seed longevity is estimated to be eight years.
- 3.6.12. Orange hawkweed (*Hieracium aurantiacum*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for orange hawkweed:
 - 3.6.12.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner.
 - 3.6.12.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.12.3. Seed longevity is estimated to be eight years.
- 3.6.13. Purple loosestrife (*Lythrum salicaria*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for purple loosestrife:
 - 3.6.13.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

- 3.6.13.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 3.6.13.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.
- 3.6.13.4. Seed longevity is unknown but at least ten years.
- 3.6.14. Rush skeletonweed (*Chondrilla juncea*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for rush skeletonweed:
 - 3.6.14.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.14.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.14.3. Seed longevity is at least three years.
- 3.6.15. Squarrose knapweed (*Centaurea virgata*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for squarrose knapweed:
 - 3.6.15.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, prescribed fire in conjunction with herbicide application, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.15.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.15.3. Seed longevity is at least three years.
- 3.6.16. Tansy ragwort (*Senecio jacobaea*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for tansy ragwort:
 - 3.6.16.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.16.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.16.3. Seed longevity is at least sixteen years.
- 3.6.17. Yellow starthistle (*Centaurea solstitialis*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for yellow starthistle:

- 3.6.17.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, prescribed fire in conjunction with herbicide application, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 3.6.17.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 3.6.17.3. Seed longevity is at least ten years.
- 3.6.18. Elongated mustard (*Brassica elongata*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for elongated mustard:
 - 3.6.18.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.18.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.18.3. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 3.6.19. Giant reed (*Arundo donax*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for giant reed:
 - 3.6.19.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.19.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.19.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.
 - 3.6.19.4. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 3.6.20. Japanese knotweed (*Polygonum cuspidatum*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for Japanese knotweed:
 - 3.6.20.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.20.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

- 3.6.20.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.
- 3.6.20.4. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 3.6.21. Giant knotweed (*Polygonum sachalinense*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for Giant knotweed:
 - 3.6.21.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.21.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.21.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.
 - 3.6.21.4. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 3.6.22. Bohemian knotweed (*Polygonum x bohemicum*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for Bohemian knotweed:
 - 3.6.22.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.22.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 3.6.22.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered plant propagules.
 - 3.6.22.4. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 3.6.23. Hairy willow-herb (*Epilobium hirsutum*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for hairy willow-herb:
 - 3.6.23.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 3.6.23.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

- 3.6.23.3. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 3.6.24. Flowering rush (*Butomus umbellatus*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for flowering rush:
- 3.6.24.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, water drawdown (controlled water drainage), and hand-removal, or other mechanical techniques approved by the Commissioner.
- 3.6.24.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 3.6.24.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered reproductive propagules.
- 3.6.24.4. Seed longevity is unknown. Reproduction by seed is rare; most plants are sterile. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent reproduction.
- 3.6.25. Parrotfeather (*Myriophyllum aquaticum*). In addition to the requirements set forth in this Part 3 for the management of all List A species, the following conditions also apply for parrotfeather:
- 3.6.25.1. The prescribed integrated management techniques are limited to the use of herbicides approved by the Commissioner, water drawdown (controlled water drainage), and hand-removal, or other mechanical techniques approved by the Commissioner.
- 3.6.25.2. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 3.6.25.3. Any efforts to physically remove plants must prevent fragmentation as stem fragments are considered reproductive propagules.
- 3.6.25.4. Seed longevity is unknown. Reproduction by seed is rare; seeds are seldom encountered outside its native range. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent reproduction.

Part 4 List B Noxious Weed Species

- 4.1. List B of the Colorado noxious weed list comprises the following noxious weed species:
- Absinth wormwood (*Artemisia absinthium*) [Rule 4.7.1.]
- Black henbane (*Hyoscyamus niger*) [Rule 4.7.6.]
- Bouncingbet (*Saponaria officinalis*) [Rule 4.7.29.]

Bull thistle (*Cirsium vulgare*) [Rule 4.7.19.]

Canada thistle (*Cirsium arvense*) [Rule 4.7.34.]

Chinese clematis (*Clematis orientalis*) [Rule 4.7.2.]

Common tansy (*Tanacetum vulgare*) [Rule 4.7.30.]

Common teasel (*Dipsacus fullonum*) [Rule 4.7.24.]

Corn chamomile (*Anthemis arvensis*) [Rule 4.7.22.]

Cutleaf teasel (*Dipsacus laciniatus*) [Rule 4.7.25.]

Dalmatian toadflax, broad-leaved (*Linaria dalmatica*) [Rule 4.7.12.]

Dalmatian toadflax, narrow-leaved (*Linaria genistifolia*) [Rule 4.7.12.]

Dame's rocket (*Hesperis matronalis*) [Rule 4.7.26.]

Diffuse knapweed (*Centaurea diffusa*) [Rule 4.7.7.]

Eurasian watermilfoil (*Myriophyllum spicatum*) [Rule 4.7.20.]

Hoary cress (*Cardaria draba*) [Rule 4.7.16.]

Houndstongue (*Cynoglossum officinale*) [Rule 4.7.10.]

Jointed goatgrass (*Aegilops cylindrica*) [Rule 4.7.27.]

Leafy spurge (*Euphorbia esula*) [Rule 4.7.13.]

Mayweed chamomile (*Anthemis cotula*) [Rule 4.7.22.]

Moth mullein (*Verbascum blattaria*) [Rule 4.7.28.]

Musk thistle (*Carduus nutans*) [Rule 4.7.21.]

Oxeye daisy (*Leucanthemum vulgare*) [Rule 4.7.8.]

Perennial pepperweed (*Lepidium latifolium*) [Rule 4.7.11.]

Plumeless thistle (*Carduus acanthoides*) [Rule 4.7.3.]

Russian knapweed (*Acroptilon repens*) [Rule 4.7.17.]

Russian-olive (*Elaeagnus angustifolia*) [Rule 4.7.35.]

Salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*) [Rule 4.7.5.]

Scentless chamomile (*Tripleurospermum perforatum*) [Rule 4.7.22.]

Scotch thistle (*Onopordum acanthium*) [Rule 4.7.23.]

Scotch thistle (*Onopordum tauricum*) [Rule 4.7.23.]

Spotted knapweed (*Centaurea stoebe*) [Rule 4.7.4.]

Spotted x diffuse knapweed hybrid (*Centaurea x psammogena* = *C. stoebe* x *C. diffusa* ssp. *micranthos*) [Rule 4.7.4.]

Sulfur cinquefoil (*Potentilla recta*) [Rule 4.7.18.]

Wild caraway (*Carum carvi*) [Rule 4.7.31.]

Yellow nutsedge (*Cyperus esculentus*) [Rule 4.7.32.]

Yellow toadflax (*Linaria vulgaris*) [Rule 4.7.9.]

Yellow x Dalmatian toadflax hybrid (*Linaria vulgaris* x *L. dalmatica*) [Rule 4.7.12.]

- 4.2. List B noxious weed species are species for which the Commissioner, in consultation with the state noxious weed advisory committee, local governments, and other interested parties, develops and implements state noxious weed management plans designed to stop the continued spread of these species. List B species must be managed in accordance with all the provisions of this Part 4, including any applicable state noxious weed management plans.
- 4.3. Local governing bodies and other interested parties are encouraged to make special note of the distribution and abundance of bouncingbet, corn, mayweed and scentless chamomile; common tansy, Dame's Rocket, moth mullein, sulfur cinquefoil, and wild caraway as the Commissioner will consult with the state noxious weed advisory committee, local governments, and other interested parties, in order to update and implement state noxious weed management plans in 2017 designed to stop the continued spread of these species.
- 4.4. It is a violation of these rules to allow any plant of any population of a List B species designated for elimination by the Commissioner in a state noxious weed management plan (Rules 4.7.1-4.7.23) to produce seed or develop other reproductive propagules after the time specified in the plan for elimination.
- 4.5. Prescribed management techniques must be applied to every population of List B species designated for elimination by the Commissioner in a state noxious weed management plan (Rules 4.7.1-4.7.23) to achieve the following objectives:
 - 4.5.1. The plants of every population of List B species designated for elimination must be eliminated prior to seed development in the year specified.
 - 4.5.2. Any population that is discovered in areas designated for elimination subsequent to the year specified for elimination must be eliminated prior to the development of viable seed. If the population is discovered after seed development has occurred, then efforts must be made to minimize the dispersion of seed and elimination is required prior to seed development in the following year.
 - 4.5.3. Once all plants are eliminated, appropriate efforts must be made in subsequent years to detect and eliminate new plants arising from seed, reproductive propagule, or root stock prior to seed development for the duration of the seed longevity for the particular species.
 - 4.5.4. In order to ensure that seeds or other reproductive propagules are not produced or spread, any plant with flowers, seeds, or other reproductive propagules must be placed in sealed plastic bags and disposed of by:
 - 4.5.4.1. high intensity burning in a controlled environment that completely destroys seed viability;

4.5.4.2. removal of plant materials to a solid waste landfill which covers refuse daily with six inches of soil or alternative material; or

4.5.4.3. any other method approved by the Commissioner.

4.6. Within one year of detection, any local governing body with a population of any List B species for which the Commissioner has developed and implemented a state noxious weed management plan must provide to the State Weed Coordinator mapping data pertinent to distribution and abundance of such species in a form prescribed by the State Weed Coordinator.

4.7. State Noxious Weed Management Plans for List B Noxious Weed Species

4.7.1. Absinth wormwood (*Artemisia absinthium*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for absinth wormwood:

4.7.1.1. Elimination of all populations is required prior to seed development in 2018 and each year thereafter in all Colorado counties except for Eagle, El Paso, Garfield, Gunnison, Mesa, Ouray, Pitkin, and Weld counties.

4.7.1.2. Except as specified in Part 4.7.1.6 and Part 4.7.1.7, elimination of all populations in Eagle, El Paso, Mesa, Ouray, and Weld counties is required prior to seed development in 2020 and each year thereafter.

4.7.1.3. Elimination of all populations in Garfield County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the southern and eastern borders of Garfield County, Interstate Highway 70 on the north, and State Highways 82 and 133 on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.1.6 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.1.4. Elimination of all populations in Gunnison County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) Latitude 38°52'21.2"N on the north; Longitude 107°7'16.8"W, Latitude 38°41'21.6"N, and Longitude 107°0'28.8"W on the west; Latitude 38°30'8.4"N on the south; and Longitude 106°52'51.6"W, Latitude 38°41'21.6"N; and Longitude 106°56'33.8"W on the east; and (Area 2) the eastern and northern borders of Gunnison County, Longitude 107°16'59.9"W on the west, and Latitude 39°2'14"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.1.6 and as otherwise specified in this Section, for all lands within the areas described above, suppression is the specified State management objective.

4.7.1.5. Elimination of all populations in Pitkin County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the northern and western borders of Pitkin County, Latitude 39°7'26.6"N on the south, and Longitude 106°44'20.3"W on the east.

except as specified in Part 4.7.1.6 and Part 4.7.1.7 for all lands within the area described above, suppression is the specified State management objective.

- 4.7.1.6. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.1.7. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2018, and each year thereafter.
- 4.7.1.8. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.1.9. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 4.7.1.10. Seed longevity is estimated to be three to four years. Infested sites must be monitored for at least five years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.2. Chinese clematis (*Clematis orientalis*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for Chinese clematis:
 - 4.7.2.1. Elimination of all populations is required prior to seed development in 2018 and each year thereafter in all Colorado counties except for Clear Creek, El Paso, Garfield, Gilpin, Gunnison, Jefferson, Mesa, Ouray, and Rio Grande counties.
 - 4.7.2.2. Except as specified in Part 4.7.2.4 and in Part 4.7.2.5, elimination of all populations in Clear Creek, El Paso, Garfield, Gilpin, Gunnison, Jefferson, Mesa, Ouray, and Rio Grande counties is required prior to seed development in 2020 and each year thereafter.
 - 4.7.2.3. The Commissioner may determine that some populations cannot safely be eliminated because of the steepness or instability of the mountainous terrain on which they are located. In such cases, the requirement for elimination may be waived.
 - 4.7.2.4. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
 - 4.7.2.5. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2020, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem

river to 15 feet beyond the ordinary high water mark by 2020, and each year thereafter.

- 4.7.2.6. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and digging, or other mechanical techniques approved by the Commissioner.
 - 4.7.2.7. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 4.7.2.8. Seed longevity is unknown. Infested sites must be monitored for at least ten years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.3. Plumeless thistle (*Carduus acanthoides*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for plumeless thistle:
- 4.7.3.1. Elimination of all populations is required prior to seed development in 2018 and each year thereafter in all Colorado counties except for Garfield, Gunnison, and Jefferson counties, and those counties specified in Part 4.7.3.5.
 - 4.7.3.2. Except as specified in Part 4.7.3.6 and Part 4.7.3.7, elimination of all populations in Jefferson County is required prior to seed development in 2020 and each year thereafter.
 - 4.7.3.3. Elimination of all populations in Garfield County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the southern and eastern borders of Garfield County and Interstate Highway 70 on the north and west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.3.6 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
 - 4.7.3.4. Elimination of all populations in Gunnison County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Gunnison County, State Highway 133 on the west, Latitude 39°3'6.15"N on the south, and Longitude 107°7'51.49"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.3.6 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
 - 4.7.3.5. Except as specified in Part 4.7.3.6 and Part 4.7.3.7, suppression is the specified State management objective for all populations in Eagle and Pitkin counties.

- 4.7.3.6. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.3.7. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2018, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2018, and each year thereafter.
- 4.7.3.8. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.3.9. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 4.7.3.10. Seed longevity is unknown. Infested sites must be monitored for at least ten years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.4. Spotted knapweed (*Centaurea stoebe*) and Spotted x diffuse knapweed hybrid (*Centaurea x psammogena*; *C. stoebe* x *C. diffusa* ssp. *micranthos*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for spotted knapweed and spotted x diffuse knapweed hybrid:
- 4.7.4.1. Elimination of all populations is required prior to seed development in 2018 and each year thereafter in all Colorado counties except for Alamosa, Boulder, Clear Creek, Costilla, Dolores, Eagle, El Paso, Fremont, Garfield, Gilpin, Jefferson, Larimer, La Plata, Mesa, Moffat, Montezuma, Montrose, Ouray, Park, Rio Blanco, Rio Grande, and Summit counties.
- 4.7.4.2. Except as specified in Part 4.7.4.7 and Part 4.7.4.8, elimination of all populations in Alamosa, Boulder, Clear Creek, Dolores, Eagle, Fremont, Garfield, Gilpin, Jefferson, Larimer, Mesa, Moffat, Montezuma, Montrose, Ouray, Park, Rio Blanco, and Rio Grande counties is required prior to seed development in 2020 and each year thereafter.
- 4.7.4.3. Elimination of all populations in Costilla County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 37°18'56.24"N, Camino Tio Irving, State Highway 159 and County Road X on the north; County Roads 12 and P, and State Highway 159 on the west; the southern border of Costilla County; and Longitude 105°16'12.14"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.4.7 and as otherwise specified in

this Section, for all lands within the area described above, suppression is the specified State management objective.

- 4.7.4.4. Elimination of all populations in El Paso County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern, northern, and western borders of El Paso County; and Latitude 38°48'30.13"N, US Highway 24, and State Highway 94 on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.4.7 and as otherwise specified in this Section, for all lands within the area described above, suppression is the specified State management objective.
- 4.7.4.5. Elimination of all populations in La Plata County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 160 on the north, County Roads 141 and 136 on the east, Latitude 37°1'14.31"N connecting County Road 136 where it joins State Highway 140 and the La Plata River, the La Plata River and County Road 105 on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.4.7 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.4.6. Elimination of all populations in Summit County is required prior to seed development in 2018 and each year thereafter for all land beyond 600-feet from the center of State Highway 9 between the northern border of Summit County and the town limits of Silverthorne. Except as specified in Part 4.7.4.7 and Part 4.7.4.8, for all lands within the area described above suppression is the specified State management objective.
- 4.7.4.7. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.4.8. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2018, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2018, and each year thereafter.
- 4.7.4.9. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.4.10. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.4.11. Seed longevity is estimated to be at least eight years. Infested sites must be monitored for at least nine years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.5. Salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for any salt cedar populations in public open space areas, and any populations within 300 feet of any intermittent or perennial streams, rivers, water conveyance ditches, ponds, lakes and reservoirs, whether natural or man-made. These conditions also apply to any salt cedar populations that are directly contiguous to any salt cedar populations within this 300-foot treatment area.

4.7.5.1. Elimination of all populations is required prior to seed development in 2019 and each year thereafter in all Colorado counties except for Adams, Arapahoe, Archuleta, Broomfield, Delta, Dolores, Eagle, El Paso, Fremont, Huerfano, Jefferson, La Plata, Larimer, Lincoln, Morgan, Ouray, Rio Blanco, San Miguel, Sedgwick, Washington, Weld, and Yuma counties, and those counties specified in Part 4.7.5.16.

4.7.5.2. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, elimination of all populations in Arapahoe, Archuleta, Jefferson, Larimer, Lincoln, Ouray, Rio Grande, Sedgwick, Washington, and Weld counties is required prior to seed development in 2021 and each year thereafter.

4.7.5.3. Elimination in Adams County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern, western, and southern borders of Adams County, and toll road E-470, State Highway 2 (also known as Sable Boulevard and South 4th Avenue), East Bridge Street, and North Main Street on the east; and (Area 2) the northern, western, and southern borders of Adams County, and toll road E-470. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.5.17 and as otherwise specified in this Section, for all lands within the area described above, suppression is the specified State management objective.

4.7.5.4. Elimination in Broomfield County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the western and southern borders of Broomfield County, State Highway 128 and Interlocken Loop on the east, and US Highway 36 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.5.17 and as otherwise specified in this Section, for all lands within the area described above, suppression is the specified State management objective.

4.7.5.5. Elimination in Delta County is required prior to seed development in 2021 and each year thereafter for all land beyond: (Area 1) a mile from the center of the Gunnison River between the Town of Delta and the western border of Delta County; and (Area 2) 0.25 mile from the center of the Uncompahgre River between the confluence of the Uncompahgre River and the Gunnison River and the southern border of Delta County; and (Area 3) 0.25 mile from the center of

Roubideau Creek between the confluence of Roubideau Creek and the Gunnison River and the southern border of Delta County. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, for all land within the areas described above, suppression is the specified State management objective.

- 4.7.5.6. Elimination in Dolores County is required prior to seed development in 2019 and each year thereafter for outside the boundaries of an area demarcated by: (Area 1) the northern, western and southern borders of Dolores County, and the Dolores River on the east; and (Area 2) the northern borders of Dolores County and Disappointment Road (also known as County Road D), County Road 18 on the west, County Roads H and 27 on the south, and County Road 29 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.5.17 and as otherwise specified in this Section, for all lands within the area described above, suppression is the specified State management objective.
- 4.7.5.7. Elimination in Eagle County is required prior to seed development in 2021 and each year thereafter for all land beyond: (Area 1) a mile from the center of the Colorado River between the confluence of the Colorado River and Piney River and the western border of Eagle County; and (Area 2) a mile from the center of the Eagle River between the confluence of the Eagle River and Squaw Creek and the confluence of the Eagle River and the Colorado River. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.5.17 and as otherwise specified in this Section, for all lands within the area described above, suppression is the specified State management objective.
- 4.7.5.8. Elimination in El Paso County is required prior to seed development in 2019 and each year thereafter for all land beyond seven miles from the center of Fountain Creek between the intersection of Fountain Creek and US Highway 24 and the southern border of El Paso County. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.5.9. Elimination in Fremont County is required prior to seed development in 2019 and each year thereafter for all land beyond: (Area 1) a mile from the center of the Arkansas River between the eastern and western borders of Fremont County; and (Area 2) a mile from the center of the Copper Gulch Between the headwaters of Copper Gulch and the confluence of Copper Gulch and the Arkansas River; and (Area 3) a mile from the center of the Tallahassee Creek River between the confluence of the Tallahassee Creek and Kelly Creek and the confluence of the Tallahassee Creek and the Eagle River. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.5.17 and as otherwise specified in this Section, for all lands within the area described above, suppression is the specified State management objective.

- 4.7.5.10. Elimination in Huerfano County is required prior to seed development in 2021 and each year thereafter for all land beyond: (Area 1) 0.25 mile from the center of the Huerfano River between Interstate 25 and the northern border of Huerfano County; and (Area 2) 0.25 mile from the center of the Cucharas River between the intersection of the Cucharas River and County Road 430 and the northern border of Huerfano County. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.5.11. Elimination in La Plata County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western, southern, and eastern borders of La Plata County and Latitude 37°27'24.0"N on the north. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.5.12. Elimination in Morgan County is required prior to seed development in 2021 and each year thereafter for all land beyond 5.0 mile from the center of the South Platte River between the western and eastern borders of Morgan County. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.5.13. Elimination in Rio Blanco County is required prior to seed development in 2019 and each year thereafter for all land beyond: (Area 1) 0.5 mile from the center of the White River between the confluence of the White River and Yellow Creek and the western border of Rio Blanco County; and (Area 2) 0.5 mile from the center of Douglas Creek between the southern border of Rio Blanco County and the confluence of Douglas Creek and Cathedral Creek. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.5.14. Elimination in San Miguel County is required prior to seed development in 2021 and each year thereafter for all land beyond: (Area 1) 0.5 mile from the center of the Dolores River between the northern and southern borders of San Miguel County; and (Area 2) 0.5 mile from the center of Disappointment Creek between the southern border of San Miguel County and the confluence of Disappointment Creek and the Dolores River. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.5.15. Elimination of all populations in Yuma County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Yuma County; County Road CC, County Road 5, US Highway 385 on the east; and County Road 7 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.4.17 and as otherwise specified in this Section, for all lands within the area described above, suppression is the specified State management objective.
- 4.7.5.16. Except as specified in Part 4.7.5.17 and Part 4.7.5.18, suppression is the specified State management objective for all populations in Alamosa, Bent, Crowley, Garfield, Kiowa, Las Animas, Mesa, Moffat, Montezuma, Montrose, Otero, Prowers, and Pueblo counties.

- 4.7.5.17. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.5.18. All populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2019, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 300 feet beyond the ordinary high water mark by 2019, and each year thereafter.
- 4.7.5.19. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, sawing, or other mechanical techniques approved by the Commissioner.
- 4.7.5.20. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.
- 4.7.5.21. Seed longevity is less than one year. Infested sites must be monitored for at least one year after the populations have been eliminated and treatments must be repeated when necessary to prevent stump and root re-sprouting.
- 4.7.6. Black henbane (*Hyoscyamus niger*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for black henbane:
- 4.7.6.1. Elimination of all populations is required prior to seed development in 2018 and each year thereafter in all Colorado counties except for Costilla, Eagle Grand, Moffat, Rio Blanco, Rio Grande, and Saguache counties.
- 4.7.6.2. Except as specified in Part 4.7.6.5 and Part 4.7.6.6, elimination of all populations in Costilla, Eagle, Grand, Moffat, and Rio Grande counties is required prior to seed development in 2020 and each year thereafter.
- 4.7.6.3. Elimination of all populations in Rio Blanco County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by County Road 5 on the west and south, County Road 3 and the Main Prong of Dry Fork Piceance Creek on the east, and County Road 22 on the east and north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.6.5 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.6.4. Elimination of all populations in Saguache County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by: (Area 1) the northern border of Saguache County; Longitude 106°48'18.0"W on the west; Latitude 38°11'37.25"N, Longitude 106°41'24.17"W, and Latitude 38°16'44.98"N on the south; and

Longitude 106°34'42.15"W on the east; and (Area 2) the northern and western borders of township T46N R10E, County Road LL57, US Highway 285, and State Highway 114 on the north; County Roads 41G and 38A on the west; the southern border of Saguache County on the south; and State Highway 17, County Road AA, Latitude 38°6'1.05"N, and the eastern border of Saguache County on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.6.5 and as otherwise specified in this Section, for all land within the areas described above, suppression is the specified State management objective.

- 4.7.6.5. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.6.6. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2018, and each year thereafter. For the mainstem of the Rio Grande where it forms the boundary between Conejos and Costilla counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2018, and each year thereafter.
- 4.7.6.7. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.6.8. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 4.7.6.9. Seed longevity is estimated to be at least four years. Infested sites must be monitored for at least four years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.7. Diffuse knapweed (*Centaurea diffusa*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for diffuse knapweed:
 - 4.7.7.1. Elimination of all populations is required prior to seed development in 2019 and each year thereafter in all Colorado counties except for Adams, Arapahoe, Boulder, Chaffee, Custer, Dolores, Eagle, Fremont, Grand, Gunnison, Huerfano, Larimer, Lincoln, Mesa, Montezuma, Montrose, Morgan, Ouray, Park, Pueblo, Rio Blanco, Summit, Teller, Weld, Yuma and those counties specified in Part 4.7.7.14.
 - 4.7.7.2. Except as specified in Part 4.7.7.15 and Part 4.7.7.16, elimination of all populations in Chaffee, Custer, Dolores, Eagle, Fremont, Grand, Gunnison, Lincoln, Mesa, Montrose, Park, Rio Blanco, Teller, and Yuma counties is required prior to seed development in 2021 and each year thereafter.

- 4.7.7.3. Elimination of all populations in Adams County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western border of Adams County, the southern border of Adams County and US Highway 36 on the south, Imboden Road on the east, and East 120th Avenue, Interstates 76 and 25 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.7.15 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.7.4. Elimination of all populations in Arapahoe County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Arapahoe County, and South Wolf Creek Road, East Baughman Road, and South Strasburg Road on the east. Except as specified in Part 4.7.7.15 and Part 4.7.7.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.7.5. Elimination of all populations in Boulder County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Boulder County, Longitude 105°19'33.2"W on the west, the southern border of Boulder County, and the eastern border of Boulder County, State Highways 7, 157, and 119, and Longitude 105°11'20.9"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.7.15 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective .
- 4.7.7.6. Elimination of all populations in Huerfano County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 160 on the north, Longitude 105°59'40"W on the east, Latitude 37°25'54"N on the south, and Longitude 105°3'57"W on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.7.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.7.7. Elimination of all populations in Larimer County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the North Fork of the Big Thompson River and the Big Thompson River on the north, Longitude 105° 3'25"W and the eastern border of Larimer County on the east, the southern border of Larimer County, and Longitude 105° 37'45"W on the west; and (Area 2) County Road 54G and Rist Canyon Road (County Road 52E) on the north, County Road 27 on the west, US Highway 34 on the south, and US Highway 287 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high

water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.7.15 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

- 4.7.7.8. Elimination of all populations in Montezuma County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by Lebanon Road (County Road 25) and US Highway 491 on the west, US Highway 160 on the south, and State Highway 184 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.7.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.7.9. Elimination of all populations in Morgan County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by State Highway 71 on the west, County Road EE and Latitude 40°26'13"N on the south, and the eastern and northern borders of Morgan County. Except as specified in Part 4.7.7.15 and Part 4.7.7.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.7.10. Elimination of all populations in Ouray County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) Latitude 36°14'52"N on the north, Longitude 107°57'56.5"W on the west, Latitude 38°13'34"N on the south, and Longitude 107°55'25.8"W on the east, and (Area 2) US Highway 550 on the west, County Road 14 and Latitude 38°3'26.3"N on the south, Longitude 107°37'36.3"W on the east, and Latitude 38°7'45"N on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.7.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.7.11. Elimination of all populations in Pueblo County must be completed prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western, southern, and eastern borders of Pueblo County and the Arkansas River on the north. Except as specified in Part 4.7.7.15 and Part 4.7.7.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.7.12. Elimination of all populations in Summit County is required prior to seed development in 2021 and each year thereafter for all land beyond 1 mile from the center of State Highway 9 between the northern border of Summit County and Interstate 70. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.7.15, for all land within the area described above, suppression is the specified State management objective.

- 4.7.7.13. Elimination of all populations in Weld County must be completed prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 85 on the west, County Road 42 and Latitude 40°17'27.7"N on the south, the eastern border of Weld County, Longitude 107°8'42.7"W and County Road 97 on the east, and State Highway 14 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.7.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.7.14. Except as specified in Part 4.7.7.15 and Part 4.7.7.16, suppression is the specified State management objective for all populations in Broomfield, Denver, Douglas, El Paso, Elbert, and Jefferson counties.
- 4.7.7.15. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.7.16. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2019, and each year thereafter.
- 4.7.7.17. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.7.18. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 4.7.7.19. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.8. Oxeye daisy (*Leucanthemum vulgare*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for oxeye daisy:
- 4.7.8.1. Elimination of all populations is required prior to seed development in 2018 and each year thereafter in all Colorado counties except for Archuleta, Boulder, Chaffee, Clear Creek, Conejos, Delta, Dolores, Douglas, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Jackson, La Plata, Lake, Larimer, Mesa, Mineral, Moffat, Montezuma, Montrose, Rio Blanco, Rio Grande, and San Miguel counties, and those counties specified in Part 4.7.8.20.
- 4.7.8.2. Except as specified in Part 4.7.8.20 and in Part 4.7.8.21, elimination of all populations in Chaffee, Clear Creek, Douglas, El Paso, Fremont, Jackson, Larimer, Montezuma, Rio Blanco, and Rio Grande counties is required prior to seed development in 2020 and each year thereafter.

- 4.7.8.3. Elimination of all populations in Archuleta County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Archuleta County and US Highway 160, County Road 500, Rio Blanco, and US Highway 84 on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.4. Elimination of all populations in Boulder County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Boulder County, Longitude 105°37'38.2"W on the west, the southern border of Boulder County, and Longitude 105°27'40.5"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.5. Elimination of all populations in Conejos County is required prior to seed development in 2018 and each year thereafter for all land beyond a ½-mile from the center of County Road 250 and State Highway 17 between the town limits of Platoro and County Road 101. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.6. Elimination of all populations in Delta County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of the areas demarcated by (Area 1) the eastern and northern borders of Delta County; Longitude 107°37'17.56"W and Stevens Gulch Road on the west; and State Highway 133 on the south and (Area 2) NW Sage Avenue and Latitude 38°54'53.94"N on the north; Longitude 108°2'26.96"W, Fairlamb Road, and Oak Creek Road on the west, North Road on the south, and State Highway 65 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.8.7. Elimination of all populations in Dolores County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by 38.00 Road on the north and west, the southern border of Dolores County, and State Highway 145 on the east. Except as

specified in Part 4.7.8.20 and in Part 4.7.8.21, for all land within the area described above, suppression is the specified State management objective.

- 4.7.8.8. Elimination of all populations in Garfield County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Garfield County; and Interstate 70 and Buford Road on the west. Except as specified in Part 4.7.8.20 and in Part 4.7.8.21, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.9. Elimination of all populations in Gilpin County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Gilpin County; and State Highway 119 on the west. Except as specified in Part 4.7.8.20 and in Part 4.7.8.21, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.10. Elimination of all populations in Grand County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of the areas demarcated by (Area 1) Willow Creek Latitude 40° 17'7.74"N to the confluence North Inlet of Grand Lake and Ptarmigan Creek, North Inlet and Latitude 40° 15'23.05"N on the north; the eastern and southern borders of Grand County; and Latitude 39°43'15.51"N, Bobtail Creek, Williams Fork River, US Highway 40, and State Highway 125 on the west; and (Area 2) the northern and western borders of Grand County; US Highway 40 on the east; and State Highway 134 on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.8.11. Elimination of all populations in Gunnison County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of the areas demarcated by (Area 1) the northern border of Gunnison County; Henderson Creek, County Road 265, and State Highway 133 on the west; Latitude 39°3'32.83"N to the confluence of Crystal River and South Fork Crystal River on the south; and Crystal River on the east; (Area 2) Latitude 38°56'18.67"N, East River, and Latitude 38°52'35.97"N on the north; Longitude 107°5'53"W, County Road 730, and State Highway 135 on the west; and County Roads 10 and 743 on the south; Longitude 106°45'52.24"W on the east; and (Area 3) Latitude 38°36'22.73"N on the north, Longitude 106°27'24.20"W on the west, the southern border of Gunnison County on the south, and US Highway 50 and eastern border of Gunnison County on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.8.12. Elimination of all populations in La Plata County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of areas demarcated by the eastern and northern borders of La Plata County;

Hermosa Creek and US Highway 550 on the west; County Roads 310, 318, 172, and 151 on the South. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

- 4.7.8.13. Elimination of all populations in Lake County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern, northern, and western borders of Lake County and township line T10S. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.14. Elimination of all populations in Mesa County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the southern and eastern borders of Mesa County; township line T9S on the north; and County Road 58.6 and State Highways 330 and 65 on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.15. Elimination of all populations in Mineral County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 37°30'47"N on the north, the eastern and southern borders of Mineral County, and Longitude 106°55'26"W on the west. Except as specified in Part 4.7.8.20 and in Part 4.7.8.21, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.16. Elimination of all populations in Moffat County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern and eastern borders of Moffat County, Latitude 40°48'47"N on the south, and State Highway 13 on the west; and (Area 2) the southern and eastern borders of Moffat County; Latitude 40°27'17"N on the north; and County Road 30 and Longitude 107°44'3"W on the west. Except as specified in Part 4.7.8.20 and in Part 4.7.8.21, for all land within the area described above, suppression is the specified State management objective.
- 4.7.8.17. Elimination of all populations in Montrose County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the southern and eastern borders of Montrose County, US Highway 50 and Main St on the north, and US Highway 550; and (Area 2) the northern border of Montrose County, State Highway 141 on the west, the southern border of Montrose County, and the Uncompahgre National Forest border and the eastern border of Montrose County on the east.

Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the areas described above, suppression is the specified State management objective.

4.7.8.18. Elimination of all populations in San Miguel County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by McKenzie Creek and County Road Z60 on the north, the eastern and southern borders of San Miguel County, and County Road 49G, Beaver Creek, and the San Miguel River to its confluence with McKenzie Creek, on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.8.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.8.19. Except as specified in Part 4.7.8.20 and in Part 4.7.8.21, suppression is the specified State management objective for all populations in Eagle, Jefferson, Ouray, Pitkin, Routt, San Juan, and Summit Counties.

4.7.8.20. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.8.21. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2018, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2018, and each year thereafter.

4.7.8.22. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

4.7.8.23. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.8.24. Seed longevity is estimated to be at least thirty-eight years. Infested sites must be monitored for at least thirty-nine years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.9. Yellow toadflax (*Linaria vulgaris*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for yellow toadflax:

- 4.7.9.1. Elimination of all populations is required prior to seed development in 2019 and each year thereafter in all Colorado counties except for Adams, Alamosa, Archuleta, Boulder, Chaffee, Clear Creek, Denver, El Paso, Elbert, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Jackson, La Plata, Lake, Larimer, Mineral, Montezuma, Montrose, Ouray, Park, Pitkin, Rio Blanco, Rio Grande, San Miguel, and Teller counties, and those counties specified in Part 4.7.9.17.
- 4.7.9.2. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, elimination of all populations in Adams, Alamosa, Boulder, Chaffee, Fremont, Gilpin, Hinsdale, Jackson, Larimer, Montezuma, Montrose, Ouray, Park, Pitkin, and Teller counties is required prior to seed development in 2021 and each year thereafter.
- 4.7.9.3. Elimination of all populations in Archuleta County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 37°18'45"N on the north, Longitude 107°3'46"W on the west, Latitude 37°14'59"N on the south, and Longitude 107°0'7"W on the east. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.9.4. Elimination of all populations in Clear Creek County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Clear Creek County and Longitude 105°32'24.7"W on the west. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.9.5. Elimination of all populations in Denver County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Denver County and Peña Boulevard and East 56th Avenue on the east. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.9.6. Elimination of all populations in El Paso County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the western and northern borders of El Paso County, Ramah Highway on the east, and Judge Orr Road, Eastonville Road, Woodmen Road, Marksheffel Road, Link Road, Old Pueblo Road, Latitude 38°36'10.3"N, eastern border of Fort Carson, and Latitude 38°45'54"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.9.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.9.7. Elimination of all populations in Elbert County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the western and southern borders of Elbert County, West Bijou Creek on the east, and State Highway 86 the north, and (Area 2) Comanche Creek Road on the west, Latitude 39°29'57.6"N on the north, Longitude 104°11'20.6"W on the east, Latitude 39°22'33.5"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream

boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.9.18, for all land within the area described above, suppression is the specified State management objective.

- 4.7.9.8. Elimination of all populations in Garfield County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern and eastern borders of Garfield County, Latitude 39°44'5.5"N, Main Elk Creek, and Elk Creek on the east, Interstate 70 on the south, and State Highway 13 and the western border of Garfield County on the west, and (Area 2) Interstate 70, Longitude 107°15'5"W, and Latitude 39°29'59"N on the north, the eastern and southern borders of Garfield County, and Longitude 107°22'55"W on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.9.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.9.9. Elimination of all populations in Grand County is required prior to seed development in 2021 and each year thereafter for all land beyond two miles from the center of Williams Fork River from its confluence with Boham Creek to Williams Fork Reservoir and two miles beyond the ordinary high water mark at the Williams Fork Reservoir. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.9.18, for all land the area described above, suppression is the specified State management objective.
- 4.7.9.10. Elimination of all populations in Gunnison County is required prior to seed development in 2021 and each year thereafter for all land beyond 1.5 miles from the center of State Highway 135 and Gothic Road (County Road 317) between the intersection of State Highway 135 and County Road 742, and the intersection of Gothic Road (County Road 317) and the East River. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.9.11. Elimination of all populations in La Plata County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 37°28'11.9"N on the north, Longitude 107°46'41"W and County Road 234, State Highway 172 on the east, Latitude 37°11'48.7"N, County Road 141, State Highway 140, and County Road 100 on the south, and County Road 105, US Highway 160, and the western border of La Plata County on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.9.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.9.12. Elimination of all populations in Lake County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries

of an area demarcated by the northern and eastern borders of Lake County, Latitude 39°11'11.5"N, Longitude 106°16'18.9"W, and the southern border of Lake County on the south, and Longitude 106°21'33.9"W on the west. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, for all land within the area described above, suppression is the specified State management objective.

4.7.9.13. Elimination of all populations in Mineral County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western and southern borders of Mineral County, US Highway 160 on the east, and Latitude 37°28'35.8"N on the north. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, for all land within the area described above, suppression is the specified State management objective.

4.7.9.14. Elimination of all populations in Rio Blanco County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the the northern, eastern, and southern borders of Rio Blanco County, and State Highway 13 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.9.18, for all land within the area described above, suppression is the specified State management objective.

4.7.9.15. Elimination of all populations in Rio Grande County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern border of Rio Grande County, County Road 8S, State Highway 15, US Highway 160, and Latitude 37°37'57"N on the south, the western border of Rio Grande County, and the Rio Grande River, Woman Creek, and the northern Border of Rio Grande County on the north. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, for all land within the area described above, suppression is the specified State management objective.

4.7.9.16. Elimination of all populations in San Miguel County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by State Highway 62 on the northern, the eastern and southern borders of San Miguel County, and Bilk Creek and the San Miguel River on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.9.18, for all land within the area described above, suppression is the specified State management objective.

4.7.9.17. Except as specified in Part 4.7.9.18 and Part 4.7.9.19, suppression is the specified State management objective for all populations in Douglas, Eagle, Jefferson, Routt, San Juan, and Summit counties.

4.7.9.18. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.9.19. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water

mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2019, and each year thereafter.

4.7.9.20. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling seedlings, or other mechanical techniques approved by the Commissioner.

4.7.9.21. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.9.22. Seed longevity is estimated to be at least ten years. Infested sites must be monitored for at least ten years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.10. Houndstongue (*Cynoglossum officinale*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for houndstongue:

4.7.10.1. Elimination of all populations is required prior to seed development in 2018 and each year thereafter in all Colorado counties except for Baca, Broomfield, Boulder, Costilla, Delta, Denver, Dolores, Douglas, Fremont, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Mesa, Moffat, Montezuma, Montrose, Pueblo, San Miguel, and Summit counties, and those counties specified in Part 4.7.10.15.

4.7.10.2. Except as specified in Part 4.7.10.16 and in Part 4.7.10.17, elimination of all populations in Baca, Broomfield, Costilla, Denver, Douglas, Fremont, Hinsdale, Jackson, and Montezuma counties is required prior to seed development in 2020 and each year thereafter.

4.7.10.3. Elimination of all populations in Boulder County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Boulder County; Longitude 105°22'46"W on the west, the southern border of Boulder County, and State Highway 93, US Highway 36, State Highway 119, and US Highway 287 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.10.4. Elimination of all populations in Delta County is required prior to seed development in 2048 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the southern and eastern borders of Delta County, township line T15S on the north, range line R92W and State Highway 92 on the west, and (Area 2) the Grand Mesa National Forest border on the north, range line R94W on the west, State Highway 92 on the south, and range line R93W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the

treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.10.5. Elimination of all populations in Dolores County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Dolores County and County Roads 31.0 and D on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.10.6. Elimination of all populations in Grand County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the northern and western borders of Grand County, Latitude 40°0'6.6"N on the south, and US Highway 40 and State Highway 125 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.10.7. Elimination of all populations in Gunnison County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern and western borders of Gunnison County, Latitude 38°53'10"N on the south, and Longitude 107°10'55"W on the east; (Area 2) Latitude 38°56'3.5"N on the north, Longitude 107°1'53"W on the west, Latitude 38°51'7.2"N on the south, and Longitude 106°53'46"W and County Road 738 on the east; and (Area 3) western border of Gunnison County; State Highway 92 on the north; US Highway 50, and County Roads 25 (Blue Mesa Cutoff Road) and 25A (Willow Road) on the east; and Latitude 38°20'4"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.10.8. Elimination of all populations in Huerfano County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the western border of Huerfano County; Latitude 37°22'39.9"N and Dodgeton Creek on the south; State Highway 12, Ryus Avenue, County Roads 450, 451, 160, and 520 on the east; and County Road 5202, Dog Springs Arroyo, and Latitude 37°36'49.4"N on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise

specified in this Section, for all land within the area described above, suppression is the specified State management objective.

- 4.7.10.9. Elimination of all populations in Mesa County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern and eastern borders of Mesa County; Latitude 38°56'5"N on the south; and, Longitude 108° 18'47"W, US Interstate 70, Latitude 39° 14'57"N, and Longitude 108°41'15"W on the west; and (Area 2) the western border of Mesa County; township line T15S on the south; Longitude 108°40'37.7"W and JS.00 Road on the east; and Little Park Road (CS.00 Road) and DS.00 Road on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.10.10. Elimination of all populations in Moffat County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by the southern, eastern, and northern borders of Moffat County, and State Highway 13, US Highway 40, and the western border of Moffat County on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in PART 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.10.11. Elimination of all populations in Montrose County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area1) US Highway 50 on the north, the eastern and southern borders of Montrose County, and US Highway 550 on the west; and (Area2) Latitude 38°19'55"N on the north, the eastern and southern borders of Montrose County, and Naturita Creek and Longitude 108°30'0"W on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.10.12. Elimination of all populations in Pueblo County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the western and southern borders of Pueblo County; Longitude 104°38'38.5"W and Prairie Avenue on the east; and State Highway 96 on the north; (Area 2) Latitude 38°24'3.8"N, Gobatti Road, and Purcell Boulevard on the north; State Highway 45 on the west; US Highway 50 and State Highway 47 on the south; Baculite Mesa (503) Road and Longitude 104°32'51"W on the east; and (Area 3) DOT Test Road on the north; Longitude 104°27'28.4"W, State Highway 231, County Road 331, and 36th Lane on the west; Latitude 38°11'3"N, County Road 3325, and Grape Road on the south; 58th Lane, County Road 702, US Highway 50, State Highway 209 and 96, and

County Road 601 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.10.13. Elimination of all populations in San Miguel County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the southern border of San Miguel County; County Road 44Z on the west; County Road M44, 46M, and G49 on the north; and Longitude 108°4'7.5"W on the east; (Area 2) the eastern border of San Miguel County; State Highway 62 on the north; County Road 58P on the west; and County Road T60, State Highway 145 (Colorado Avenue), County Road K69, and Latitude 37°55'12.7"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.10.14. Elimination of all populations in Summit County is required prior to seed development in 2018 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern border of Summit County, range line R81W on the west, township line T3S on the south, and range line R79W on the east; and (Area 2) the northern border of Summit County, range line R78W on the west, Interstate Highway 70 and township line T5S on the south, and range line R77W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.10.16 and as otherwise specified in this Section, for all land within the areas described above, suppression is the specified State management objective.

4.7.10.15. Except as specified in Part 4.7.10.16 and Part 4.7.10.17, suppression is the specified State management objective for all populations in Eagle, Garfield, Jefferson, La Plata, Larimer, Ouray, Pitkin, Rio Blanco, Routt, and San Juan counties.

4.7.10.16. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.10.17. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2018, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, and the mainstem of the Rio Grande where it forms the boundary between Conejos and Costilla counties, all populations need to be eliminated on both banks from

the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2018, and each year thereafter.

- 4.7.10.18. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
 - 4.7.10.19. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
 - 4.7.10.20. Seed longevity is estimated to be at least three years. Infested sites must be monitored for at least four years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.11. Perennial pepperweed (*Lepidium latifolium*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for perennial pepperweed:
- 4.7.11.1. Elimination of all populations is required prior to seed development in 2019 and each year thereafter in all Colorado counties except for Adams, Archuleta, Bent, Boulder, Chaffee, Conejos, Costilla, Custer, Denver, El Paso, Elbert, Gunnison, Jefferson, La Plata, Larimer, Mesa, Mineral, Moffat, Montezuma, Montrose, Morgan, Ouray, Prowers, Rio Blanco, Rio Grande, Saguache, Summit, and Weld counties, and those counties specified in Part 4.7.11.17.
 - 4.7.11.2. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, elimination of all populations in Archuleta, Bent, Chaffee, Custer, El Paso, Elbert, Gunnison, La Plata, Mineral, Montezuma, Montrose, Prowers, Rio Blanco, and Summit counties is required prior to seed development in 2021 and each year thereafter.
 - 4.7.11.3. Elimination of all populations in Adams County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern, western, and southern borders of Adams County, and toll road E-470, State Highway 2 (also known as Sable Boulevard and South 4th Avenue), East Bridge Street, and North Main Street on the east; and (Area 2) the northern, western, and southern borders of Adams County, and toll road E-470. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.11.18, for all land within the area described above, suppression is the specified State management objective.
 - 4.7.11.4. Elimination of all populations in Boulder County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Boulder County, State Highway 93 and US Highway 36 on the west, and State Highway 66 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part

4.7.11.18, for all land within the area described above, suppression is the specified State management objective.

- 4.7.11.5. Elimination of all populations in Conejos County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Conejos County; and US Forest Service Road 103, State Highway 17, County Road 250, Latitude 37°14'40"N, and Longitude 106°20'22.6"W on the west. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.11.6. Elimination of all populations in Costilla County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern, southern, and western borders of Costilla County; and State Highway 142, County Road P, State Highway 159, and Latitude 37°11'58.2"N on the north. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.11.7. Elimination of all populations in Denver County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Denver County and Toll Road E-470 on the east. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.11.8. Elimination of all populations in Jefferson County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western, northern, and eastern borders of Jefferson County; and Deckers Road, County Road 126, Ouray Road, Pine Valley Road, and US Highway 285 on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.11.18, for all other land within the County, suppression is the specified State management objective.
- 4.7.11.9. Elimination of all populations in Larimer County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Larimer County, US Highway 287 on the west, County Roads 80 and 82 (Buckeye Road) on the north. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.11.10. Elimination of all populations in Mesa County is required prior to seed development in 2021 and each year thereafter for all land beyond two miles from the center of the Colorado River between the northern and western borders of Mesa County. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, for all land within the area described above, suppression is the specified State management objective.
- 4.7.11.11. Elimination of all populations in Moffat County is required prior to seed development in 2019 and each year thereafter for all land beyond (Area 1) two miles from the center of the Green River between the western border of Moffat County and the confluence of the Green River and Vermillion Creek, and two

miles from the center of Vermillion Creek between the intersection of Vermillion Creek and State Highway 318 and the confluence of Vermillion Creek and The Green River; (Area 2) one mile from the center of US Highway 40 between its intersection with County Road 64W on the west and East Victory Way on the east, and one mile from the center of State Highway 13 between its intersection with County Road 54 on the north and County Road 93 on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.11.18, for all land within the area described above, suppression is the specified State management objective.

4.7.11.12. Elimination of all populations in Morgan County is required prior to seed development in 2021 and each year thereafter for all land beyond two miles from the center of the South Platte River between the eastern and western borders of Morgan County. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, for all land within the area described above, suppression is the specified State management objective.

4.7.11.13. Elimination of all populations in Ouray County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern border of Ouray County, County Roads 8 and 10, US Highway 550, and County Road 24 on the south, County Road 1 on the west, and Latitude 37°11'58.2"N on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.11.18, for all land within the area described above, suppression is the specified State management objective.

4.7.11.14. Elimination of all populations in Rio Grande County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Rio Grande County, Longitude 106°16'28.7"W and Latitude 37°38'59"N on the south, the western border of Rio Grande County on the west, and Latitude 37°44'49.3"N and the northern border of Rio Grande County on the north. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, for all other land within the county, suppression is the specified State management objective.

4.7.11.15. Elimination of all populations in Saguache County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the southern border of Saguache County; County Roads 43, E, and 42, and Longitude 106°13'53"W on the west; State Highway 114, US Highway 285, and County Road GG on the north; County Roads 65, DD, 64, and V.5, and Longitude 105°48'47"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.11.18, for all land within the area described above, suppression is the specified State management objective.

- 4.7.11.16. Elimination of all populations in Weld County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the western and southern borders of Weld County, US Highway 85, State Highway 392, County Roads 68 on the south, and County Road 97 and Longitude 104°8'51.9"W on the east, and State Highway 14 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.11.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.11.17. Except as specified in Part 4.7.11.18 and Part 4.7.11.19, suppression is the State management objective for all populations in Alamosa, Eagle, Garfield, and Pueblo counties.
- 4.7.11.18. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.11.19. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2019, and each year thereafter. For the mainstem of the Rio Grande where it forms the boundary between Conejos and Costilla counties, and the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2019, and each year thereafter.
- 4.7.11.20. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner.
- 4.7.11.21. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 4.7.11.22. Seed longevity is unknown. Infested sites must be monitored for at least ten years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.12. Dalmatian toadflax (*Linaria dalmatica* and *Linaria genistifolia*) and yellow x Dalmatian toadflax hybrid (*Linaria vulgaris* x *L. dalmatica*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for Dalmatian toadflax and yellow x Dalmatian toadflax hybrid:
- 4.7.12.1. Elimination of all populations is required prior to seed development in 2019 and each year thereafter in all Colorado counties except for Arapahoe, Boulder, Broomfield, Chaffee, Denver, Dolores, Douglas, Eagle, El Paso, Garfield, La Plata, Lake, Mesa, Moffat, Montezuma, Routt, Summit, and Weld counties, and those counties specified in Part 4.7.12.13.

- 4.7.12.2. Except as specified in Part 4.7.12.14, elimination of all populations in Denver, Dolores, El Paso, La Plata, Lake, Mesa, Montezuma, and Summit counties is required prior to seed development in 2021 and each year thereafter.
- 4.7.12.3. Elimination of all populations in Arapahoe County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Arapahoe County and toll road E-470 on the east. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.12.4. Elimination of all populations in Boulder County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Boulder County, and Longitude 105°18'18"W on the west. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.12.5. Elimination of all populations in Broomfield County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western and southern borders of Broomfield County, State Highway 128 and Interlocken Loop on the east, and US Highway 36 on the north. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.12.6. Elimination of all populations in Chaffee County is required prior to seed development in 2021 and each year thereafter for all land (Area 1) outside the boundaries of an area demarcated by the Arkansas River on the east, Latitude 38°48'22.4"N and Cottonwood Pass Road on the south, Longitude 106°15'31"W on the west, and Latitude 38°52'8.3"N, County Road 356, and Latitude 38°52'2.7"N on the north; and (Area 2) beyond a mile from the center of County Road 162 Between Fish Hatch Road and the intersection of Chalk Creek and County Road 162 by Chalk Lake. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.12.7. Elimination of all populations in Douglas County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern, northern, and western borders of Douglas County and Latitude 39°18'15.6"N on the south. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.12.8. Elimination of all populations in Eagle County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern and western borders of Eagle County, Sweetwater Road (County Road 40) on the south, Colorado River Road (County Road 301), Derby Mesa Loop (County Road 39), and Sunnyside Road on the east, and (Area 2) all land beyond 1.5 miles from the center of Interstate 70 Between Hells Pocket Road and Bighorn Road. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.12.9. Elimination of all populations in Garfield County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 39°37'30"W on the north, the eastern border

of Garfield County, Latitude 39°26'7"N on the south, and Divide Creek and Longitude 107°37'16"W on the west. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.

4.7.12.10. Elimination of all populations in Moffat County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the southern border of Moffat County; the eastern border of Moffat County and County Road 36 on the east; County Road 18, Latitude 40°37'21.5"N, and County Road 7 on the north, County Roads 17 and 51 on the west, Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.

4.7.12.11. Elimination of all populations in Routt County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the western border of Routt County, Latitude 40°23'38.8"N on the south, County Road 27, US Highway 40, County Road 70, Longitude 107°10'7.8"W, and County Road 80 on the east, County Roads 56 and 76 on the north. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.

4.7.12.12. Elimination of all populations in Weld County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the northern and western borders of Weld County, County Road 126 and Latitude 40°53'59.7"N on the south, and Longitude 104°38'21.7"W on the east. Except as specified in Part 4.7.12.14, for all land within the area described above, suppression is the specified State management objective.

4.7.12.13. Except as specified in Part 4.7.12.14, suppression is the specified State management objective for all populations in Jefferson and Larimer counties.

4.7.12.14. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.12.15. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling seedlings, or other mechanical techniques approved by the Commissioner.

4.7.12.16. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.12.17. Seed longevity is estimated to be at least ten years. Infested sites must be monitored for at least ten years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.13. Leafy spurge (*Euphorbia esula*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for leafy spurge:

4.7.13.1. Elimination of all populations is required prior to seed development in 2019 and each year thereafter in all Colorado counties except for Adams, Arapahoe, Archuleta, Boulder, Chaffee, Custer Delta, Eagle, El Paso, Fremont, Garfield, Gilpin, Grand, Huerfano, La Plata, Lincoln, Mesa, Moffat, Montezuma,

Montrose, Morgan, Ouray, Pitkin, Pueblo, Rio Blanco, Routt, San Miguel, Sedgwick, Summit, Teller, and Weld counties, and those counties specified in Part 4.7.13.21.

- 4.7.13.2. Except as specified in Part 4.7.13.22 and Part 4.7.13.23, elimination of all populations in Chaffee, Custer, Delta, Garfield, Gilpin, Grand, Lincoln, Mesa, Montezuma, Montrose, Pitkin, San Miguel, and Sedgwick counties is required prior to seed development in 2021 and each year thereafter.
- 4.7.13.3. Elimination of all populations in Adams County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern, western, and southern borders of Adams County and Toll Road E-470 and Interstate 76 on the east, and (Area 2) the northern, western, and southern borders of Adams County and Toll Road E-470 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.
- 4.7.13.4. Elimination of all populations in Arapahoe County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Arapahoe County and Strasburg Road on the east. Except as specified in Part 4.7.13.22 and in Part 4.7.13.23, for all land within the area described above, suppression is the specified State management objective.
- 4.7.13.5. Elimination of all populations in Archuleta County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 160 on the east and south, Piedra Road (County Road 600) on the west, and Latitude 37°19'9.8"N on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.
- 4.7.13.6. Elimination of all populations in Boulder County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by Overland Road on the north, State Highway 72 on the west, Lefthand Canyon Road on the south, and County Road 94 (Overland Road) on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.
- 4.7.13.7. Elimination of all populations in Eagle County is required prior to seed development in 2021 and each year thereafter for all land (Area 1) outside the boundaries of an area demarcated by the western, northern, and eastern borders of Eagle County and Latitude 39°48'45"N on the south, and (Area 2) beyond

seven miles from the center of Interstate 70 between the western border of Eagle County and the intersection of Interstate 70 and Vail Road. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

- 4.7.13.8. Elimination of all populations in El Paso County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western, northern, and eastern borders of El Paso County and Latitude 38°56'28"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.
- 4.7.13.9. Elimination of all populations in Fremont County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the western and northern borders of Fremont County, High Park Road (County Road 11) and State Highway 9 on the east, and US Highway 50 on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.
- 4.7.13.10. Elimination of all populations in Huerfano County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Huerfano County and Longitude 104°53'7.7"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.
- 4.7.13.11. Elimination of all populations in La Plata County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the western border of La Plata County, US Highway 160, County Roads 105 and 100, and State Highway 140 on the west, the southern border of La Plata County, Longitude 108°5'41"W, Reservation Road 111, County Roads 136 and 141, Basin Creek, Latitude 37°12'55"N and on the south, County Road 213, US Highway 550, and Junction Creek on the east, and Latitude 37°22'23.6"N on the north, and (Area 2) the eastern and southern borders of La Plata County, State Highway 172 on the west, and State Highway 151, County Roads 334 and 335 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark

on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

4.7.13.12. Elimination of all populations in Moffat County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) Longitude 108°47'44"W on the west, the northern border of Dinosaur National Monument on the south, Longitude 108°37'44"W on the east, and County Roads 10 and 56 on the north; (Area 2) Latitude 40°56'19.4"N on the north, Longitude 107°28'27.9"W on the east, State Highway 13 and County Road 108 on the south, and County Road 3 on the west; and (Area 3) the eastern border of Moffat County, State Highway 317 on the south, State Highway 13, Longitude 107°37'12.8"W, County Roads 64, 204, and 7 on the west, and County Roads 31, 24, and 22, State Highway 13, and County Road 20 of the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

4.7.13.13. Elimination of all populations in Morgan County is required prior to seed development in 2021 and each year thereafter for all land beyond two miles from the center of the South Platte River between the western and eastern borders of Morgan County. Except as specified in Part 4.7.13.22 and in Part 4.7.13.23, for all land within the area described above, suppression is the specified State management objective.

4.7.13.14. Elimination of all populations in Ouray County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by Dallas Creek on the north, the Uncompahgre River and Longitude 107°44'57"W on the east, Latitude 38°3'45"N on the south, and East Fork Dallas Creek and Dallas Creek on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

4.7.13.15. Elimination of all populations in Pueblo County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western and southern borders of Pueblo County; Interstate 25, State Highway 165, Crow Cutoff, Burnt Mill Road, Waterbarrel Road, State Highway 78, and Siloam Road on the east; and State Highway 96 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

4.7.13.16. Elimination of all populations in Rio Blanco County is required prior to seed development in 2019 and each year thereafter for all land outside the

boundaries of an area demarcated by (Area 1) State Highway 64 on the north, Hay Gulch Road (County Road 127) on the east, Dry Fork Road (County Road 22) on the south, Piceance Creek Road (County Road 5) on the west; (Area 2) the northern border of Rio Blanco County, Longitude 107°44'23.9"W and Thornsburg Road (County Road 15) on the east, Latitude 40°5'7.4"N and Threemile Gulch on the South, and Strawberry Creek Road and Wilson Creek Road on the west; and (Area 3) Latitude 38°52'23.5"N on the south, Longitude 107°45'44.6"W on the west, Little Beaver Road, Upper Beaver Road, Latitude 40°2'2.3"N, and East Beaver Creek on the north, and Longitude 107°37'2.6"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

4.7.13.17. Elimination of all populations in Routt County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) Longitude 107°11'11"W on the east, County Road 29 and the East Fork of the Williams Fork River on the south, the western border of Routt County, and the southern border of the Medicine Bow-Routt National Forest on the north, and (Area 2) the northern border of Routt County, Longitude 107°14'40.4"W on the west, Latitude 40°56'44.7"N on the south, and County Road 129 and US Forest Service Road 551 on the east. Except as specified in Part 4.7.13.22 and in Part 4.7.13.23, for all land within the area described above, suppression is the specified State management objective.

4.7.13.18. Elimination of all populations in Summit County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 39°41'15"N and the northern border of Summit County on the north, Longitude 105°59'60"W on the east, Latitude 39°27'31.1"N on the south, and Longitude 106°7'30"W on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

4.7.13.19. Elimination of all populations in Teller County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern border of Teller County, Latitude 38°53'26.8"N on the south, the western border of Teller County, and Latitude 39°0'18.5"N on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

4.7.13.20. Elimination of all populations in Weld County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the western and southern borders of Weld County, US Highway 85, State Highway 392, County Roads 68 on the south, and County

Road 97 and Longitude 104°8'51.9"W on the east, and State Highway 14 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.13.22, for all land within the area described above, suppression is the specified State management objective.

4.7.13.21. Except as specified in Part 4.7.13.22 and in Part 4.7.13.23, suppression is the specified State management objective for all populations in Alamosa, Denver, Douglas, Jefferson, and Larimer counties.

4.7.13.22. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.13.23. All populations in this state that are within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be eliminated prior to seed development in 2019 and each year thereafter.

4.7.13.24. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and digging or hand-pulling seedlings, or other mechanical techniques approved by the Commissioner.

4.7.13.25. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.13.26. Seed longevity is estimated to be at least 8 years. Infested sites must be monitored for at least 8 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.14. Spurred anoda (*Anoda cristata*). Removed from this Rule in 2014.

4.7.15. Venice mallow (*Hibiscus trionum*). Removed from this Rule in 2014.

4.7.16. Hoary cress (*Cardaria draba*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for hoary cress:

4.7.16.1. Elimination of all populations is required prior to seed development in 2019 and each year thereafter in all Colorado counties except for Adams, Alamosa, Arapahoe, Archuleta, Bent, Boulder, Broomfield, Chaffee, Conejos, Costilla, Douglas, El Paso, Fremont, Grand, Gunnison, Jackson, Kit Carson, Larimer, Las Animas, Logan, Mineral, Montezuma, Montrose, Morgan, Prowers, Rio Blanco, Rio Grande, Saguache, San Miguel, Sedgwick, and Weld counties, and those counties specified in Part 4.7.16.24.

4.7.16.2. Except as specified in Part 4.7.16.25 and in Part 4.7.16.26, elimination of all populations in Arapahoe, Bent, Costilla, Douglas, Grand, Gunnison, Jackson, Kit Carson, Mineral, and Prowers counties is required prior to seed development in 2021 and each year thereafter.

- 4.7.16.3. Elimination of all populations in Adams County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Adams County and State Highway 79 on the east. Except as specified in Part 4.7.16.25 and in Part 4.7.16.26, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.4. Elimination of all populations in Alamosa County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western and southern borders of Alamosa County, South 112 Road on the east, Latitude 37°34'32.6"N and County Road 0.0 (Stanley Road) on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.5. Elimination of all populations in Archuleta County is required prior to seed development in 2019 and each year thereafter for all land beyond a mile from the center of US Highway 160 between County Road 700 (Cat Creek Road) and US Highway 84. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.6. Elimination of all populations in Boulder County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Boulder County, State Highway 93 and US Highway 36 on the west, and State Highway 66 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.7. Elimination of all populations in Broomfield County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the western, southern, and eastern borders of Broomfield County, and West 136th Avenue and Aspen St on the northern. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.8. Elimination of all populations in Chaffee County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 285 on the west, US Highway 50 on the

south, and State Highway 291 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.

4.7.16.9. Elimination of all populations in Conejos County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Conejos County; and US Forest Service Road 103, State Highway 17, County Road 250, Latitude 37°14'40"N, and Longitude 106°20'22.6"W on the west. Except as specified in Part 4.7.16.25 and Part 4.7.16.26, for all land within the area described above, suppression is the specified State management objective.

4.7.16.10. Elimination of all populations in El Paso County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area beyond (Area 1) a mile from the center of US Highway 24 between Ute Pass Avenue and the intersection of US Highway 24 and French Creek, and (Area 2) two miles from the center of Interstate 25 between Fillmore Street and the southern border of El Paso County. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.

4.7.16.11. Elimination of all populations in Fremont County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 38° 29'59"N on the north, the eastern and southern borders of Fremont County, and Longitude 105° 15'1"W on the west. Except as specified in Part 4.7.16.25 and in Part 4.7.16.26, for all land within the area described above, suppression is the specified State management objective.

4.7.16.12. Elimination of all populations in Larimer County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the southern and eastern borders of Larimer County, Latitude 40°47'45.5"N and County Road 76 on the north, and Longitude 105°13'14.4"W on the west. Except as specified in Part 4.7.16.25 and in Part 4.7.16.26, for all land within the area described above, suppression is the specified State management objective.

4.7.16.13. Elimination of all populations in Las Animas County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by Longitude 104°32'10.9"W on the west; County Roads 67.4, 69.8, and 69.6, Goddard Avenue, US Highway 160, Main Street, County Road 24.6 (Gray Creek Road), and County Road 22 on the south; Longitude 104°18'50.5"W on the east; and County Roads 40, 83.3, 42, and 83, and Latitude 38°18'48.3"N on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.

- 4.7.16.14. Elimination of all populations in Logan County is required prior to seed development in 2019 and each year thereafter for all land beyond 1.5 miles from the center of the South Platte River between the eastern and southern borders of Logan County. Except as specified in Part 4.7.16.25 and in Part 4.7.16.26, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.15. Elimination of all populations in Montezuma County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern border of Montezuma County, Latitude 37°11'54.1"N on the south, Longitude 108°39'47"W on the west, and State Highway 184 and US Highway 160 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.16. Elimination of all populations in Montrose County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the western border of Montrose County, West Paradox Creek and the Bureau of Land Management Border on the north, the Dolores River on the east, and State Highway 90 on the south; (Area 2) the southern border of Montrose County, Longitude 108°36'11.3"W and State Highway 141 on the west, Tabeguache Creek on the north, and the western border of the Uncompahgre National Forest, Longitude 108°24'27.8"W, and the San Miguel River on the east; and (Area 3) the northern border of Montrose County; Ironstone Canal, CQ Lateral, Shavano Valley Road, State Highway 90, County Road 62.5, and Davewood Road on the west; the southern border of Montrose County and Latitude 38°19'55"N on the south; and Cimarron Road, the Cimarron River, the Gunnison River, and the western border of the Black Canyon of the Gunnison National Park on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.17. Elimination of all populations in Morgan County is required prior to seed development in 2021 and each year thereafter for all land beyond two miles from the center of the South Platte River between the eastern and western borders of Morgan County. Except as specified in Part 4.7.16.25 and in Part 4.7.16.26, for all land within the area described above, suppression is the specified State management objective.
- 4.7.16.18. Elimination of all populations in Rio Blanco County is required prior to seed development in 2021 and each year thereafter for all land (Area 1) beyond 0.5 mile from the center of the White River between the western border of Rio Blanco County and Kenny Reservoir; (Area 2) outside the boundaries of an area demarcated by the northern border of Rio Blanco County, Wilson Creek Road and Strawberry Creek Road on the east, Latitude 40°7'11.8"N on the south, and Smith Gulch on the west; and (Area 3) outside the boundaries of an area demarcated by the northern border of Rio Blanco County on the north and the Medicine Bow – Routt National Forest border on the east, south, and west.

Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.

4.7.16.19. Elimination of all populations in Rio Grande County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Rio Grande County, Longitude 106°16'28.7"W and Latitude 37°38'59"N on the south, the western border of Rio Grande County on the west, and Latitude 37°44'49.3"N and the northern border of Rio Grande County on the north. Except as specified in Part 4.7.16.25 and Part 4.7.16.26, for all land within the area described above, suppression is the specified State management objective.

4.7.16.20. Elimination of all populations in Saguache County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the southern border of Saguache County; County Roads 43, E, and 42, and Longitude 106°13'53"W on the west; State Highway 114, US Highway 285, and County Road GG on the north; County Roads 65, DD, 64, and V.5, and Longitude 105°48'47"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 300 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.

4.7.16.21. Elimination of all populations in San Miguel County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the northern border of San Miguel County, State Highway 141 on the west, Latitude 38°6'59.2"N on the south, and State Highway 145 and County Road 47Z on the east, and (Area 2) the eastern and southern borders of San Miguel County, Bilk Creek, and the San Miguel River on the west, and State Highway 62 on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.

4.7.16.22. Elimination of all populations in Sedgwick County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by beyond a mile from the center of the South Platte River between the western and northern borders of Sedgwick County. Except as specified in Part 4.7.16.25 and Part 4.7.16.26, for all land within the area described above, suppression is the specified State management objective.

4.7.16.23. Elimination of all populations in Weld County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the western and southern borders of Weld County, US Highway 85, County Roads 42, Latitude 40°17'21.7"N on the south, and County Road 97 and Longitude 104°8'51.9"W on the east, and State Highway 14 on the

north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.16.25, for all land within the area described above, suppression is the specified State management objective.

4.7.16.24. Except as specified in Part 4.7.16.25 and in Part 4.7.16.26, suppression is the specified State management objective for all populations in Custer, Delta, Denver, Eagle, Garfield, Huerfano, Jefferson, La Plata, Mesa, Moffat, Ouray, Pitkin, Pueblo, and Routt counties.

4.7.16.25. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.16.26. All populations in this state that are within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2019, and each year thereafter. For the mainstem of the Rio Grande where it forms the boundary between Conejos and Costilla counties, and the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2019, and each year thereafter.

4.7.16.27. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling seedlings, or other mechanical techniques approved by the Commissioner.

4.7.16.28. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.16.29. Seed longevity is estimated to be at least three years. Infested sites must be monitored for at least three years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.17. Russian knapweed (*Centaurea repens*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for Russian knapweed:

4.7.17.1. Elimination of all populations is required prior to seed development in 2019 and each year thereafter in all Colorado counties except for Adams, Arapahoe, Archuleta, Boulder, Broomfield, Chaffee, Cheyenne, Conejos, Denver, Dolores, El Paso, Elbert, Fremont, Gunnison, Huerfano, Jefferson, La Plata, Larimer, Las Animas, Lincoln, Mineral, Morgan, Ouray, Rio Blanco, Rio Grande, Saguache, and Weld counties and those counties specified in Part 4.7.17.14.

4.7.17.2. Except as specified in Part 4.7.17.15 and Part 4.7.17.16, elimination of all populations in Arapahoe, Archuleta, Boulder, Broomfield, Cheyenne, Denver, Dolores, El Paso, Gunnison, Huerfano, Jefferson, Lincoln, Mineral, Morgan, Rio

Blanco, and Saguache counties is required prior to seed development in 2021 and each year thereafter.

- 4.7.17.3. Elimination of all populations in Adams County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the southern border of Adams County and US Highway 36 on the south, Imboden Road on the east, East 152nd Avenue on the north, and Interstate 76, State Highway 2, US Highway 6, and Interstate 270 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.17.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.4. Elimination of all populations in Chaffee County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by State Highway 291 on the east, US Highway 285 on the west, Latitude 38°30'7.5"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.17.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.5. Elimination of all populations in Conejos County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Conejos County, and Longitude 106°12'45.3"W, Romero Canyon, County Road 232A, and Longitude 106°15'45.5"W on the west. Except as specified in Part 4.7.17.15 and in Part 4.7.17.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.6. Elimination of all populations in Elbert County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Elbert County, and Elbert Road, State Highway 86, and Kiowa-Bennett Road on the east. Except as specified in Part 4.7.17.15 and in Part 4.7.17.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.7. Elimination of all populations in Fremont County is required prior to seed development in 2021 and each year thereafter for all land beyond (Area 1) two miles from the center of US Highway 50 between Spike Buck Gulch and the eastern border of Fremont County, and (Area 2) two miles from the center of State Highway 115 between the western border of Fort Carson and US Highway 50. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.17.15, for all land within the area described above, suppression is the specified State management objective.

- 4.7.17.8. Elimination of all populations in La Plata County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern, western, and southern borders of La Plata County, and the southern border of the San Juan National Forest. Except as specified in Part 4.7.17.15 and in Part 4.7.17.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.9. Elimination of all populations in Larimer County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Larimer County, US Highway 287 on the west, County Roads 80 and 82 (Buckeye Road) on the north. Except as specified in Part 4.7.17.15 and in Part 4.7.17.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.10. Elimination of all populations in Las Animas County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) Longitude 104°34'43.5"W on the west, Latitude 37°7'24.1"N on the south, County Roads 85.5, 22, 81.5, US Highway 350, 81.6, and 81 on the east, and County Roads 36 and 75.1, Leitensdorfer Arroyo, and Latitude 37°15'10.5"N on the north; and (Area 2) County Road 64 and Latitude 37°27'11.2"N on the north, Longitude 104°3'59.7"W on the east, County Roads 38, 107, 40, 40.9, and 75.1 on the south, and County Roads 83.3, 42, 42.5, 87, 52, 52.9, and 91 on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.17.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.11. Elimination of all populations in Ouray County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Ouray County, US Highway 550 on the east, State Highway 62 on the south, and Longitude 107° 52'31"W on the west. Except as specified in Part 4.7.17.15 and in Part 4.7.17.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.12. Elimination of all populations in Rio Grande County is required prior to seed development in 2019 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Rio Grande County, Longitude 106°16'28.7"W and Latitude 37°38'59"N on the south, the western border of Rio Grande County on the west, and Latitude 37°44'49.3"N and the northern border of Rio Grande County on the north. Except as specified in Part 4.7.17.15 and in Part 4.7.17.16, for all land within the area described above, suppression is the specified State management objective.
- 4.7.17.13. Elimination of all populations in Weld County is required prior to seed development in 2021 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Weld County, Interstate 25 on the west, and County Road 52 and Latitude 37°38'59"N on the north. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment

requirement for the area immediately downstream. Except as specified in Part 4.7.17.15, for all land within the area described above, suppression is the specified State management objective.

4.7.17.14. Except as specified in Part 4.7.17.15 and in Part 4.7.17.16, suppression is the specified State management objective for all populations in Alamosa, Costilla, Crowley, Custer, Delta, Eagle, Garfield, Kiowa, Mesa, Moffat, Montezuma, Montrose, Otero, and Pueblo Counties.

4.7.17.15. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.17.16. All populations in this state that are within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2019, and each year thereafter.

4.7.17.17. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling or digging seedlings, mowing, or other mechanical techniques approved by the Commissioner.

4.7.17.18. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.17.19. Seed longevity is estimated to be at least three years. Infested sites must be monitored for at least three years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.18. Sulfur cinquefoil (*Potentilla recta*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for sulfur cinquefoil:

4.7.18.1. Elimination of all populations is required prior to seed development in 2012 and each year thereafter in all Colorado counties except for Larimer, Montrose, Pitkin, and Teller counties and those counties specified in Part 4.7.18.6.

4.7.18.2. Elimination of all populations in Larimer County is required prior to seed development in 2012 and each year thereafter for all land outside the boundaries of an area demarcated by the North Fork Cache La Poudre River on the north, Longitude 105° 33'44"W, Forest Service Road 517 on the south, and Forest Service Road 173 on the west and of an area demarcated by the North Fork of the Big Thompson River on the north, County Road 43 on the east, Longitude 105° 29'58"W, Latitude 40° 18'45"N, and Longitude 105° 33'45"W. Except as specified in Part 4.7.18.7, for all land within the area described above, suppression is the specified State management objective.

4.7.18.3. Elimination of all populations in Montrose County is required prior to seed development in 2012 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 38° 30'0"N, Longitude 108° 7'28"W, Latitude 38° 26'14"N, and Roubideau Creek on the west. Except as

specified in Part 4.7.18.7, for all land within the area described above, suppression is the specified State management objective.

4.7.18.4. Elimination of all populations in Pitkin County is required prior to seed development in 2012 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Pitkin County, Longitude 106° 56'17"W, Longitude 39° 14'59"N, and Latitude 107° 3'48"W. Except as specified in Part 4.7.18.7, for all land within the area described above, suppression is the specified State management objective.

4.7.18.5. Elimination of all populations in Teller County is required prior to seed development in 2012 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 38° 48'48"N, the eastern border of Teller County, Longitude 105° 3'43"W, County Roads 8 and 82 on the south, State Highway 67 and Carr Avenue on the south, and Longitude 105° 11'17"W. Except as specified in Part 4.7.18.7, for all land within the area described above, suppression is the specified State management objective (see Rule 4.8, Figure 15.04).

4.7.18.6. Except as specified in Part 4.7.18.7, suppression is the specified State management objective for all populations in Boulder and Jefferson counties.

4.7.18.7. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.18.8. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

4.7.18.9. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.18.10. Seed longevity is estimated to be at least three years. Infested sites must be monitored for at least three years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.19. Bull thistle (*Cirsium vulgare*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for bull thistle:

4.7.19.1. Elimination of all populations is required prior to seed development in 2020 and each year thereafter in all Colorado counties except for Adams, Boulder, La Plata, Moffat, Montezuma, Pueblo, Rio Blanco, Summit, and Washington counties and those counties specified in Part 4.7.19.12.

4.7.19.2. Except as specified in Part 4.7.19.13 and in Part 4.7.19.14, elimination of all populations in Chaffee, Custer, Delta, El Paso, Fremont, Hinsdale, Jefferson, Mineral, and Montrose counties is required prior to seed development in 2022 and each year thereafter.

4.7.19.3. Elimination of all populations in Adams County is required prior to seed development in 2020 and each year thereafter for all lands outside the boundaries of an area demarcated on the east by the eastern edge of T1S R63W, T2S R63W, and T3S R63W, and to the north, west and south by the

adams county border. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.

- 4.7.19.4. Elimination of all populations in Boulder County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 287 on the east, the southern border of Boulder County, Bull Mountain Road and US Highway 36 on the west. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.19.5. Elimination of all populations in La Plata County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the La Plata County boundary, to the west by the western edge of T39N R9W, T38N R9W, T37N R8W, T36N R9W, T35N R9W, to the south by the southern edge of T35N R92, T35N R8W, T35N R7W, and to the east by the eastern edge of T39N R8W, T38N R8W, the La Plata County boundary, and T35N R7W. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.19.6. Elimination of all populations in Moffat County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of the following areas demarcated by (Area 1) the eastern and southern borders of Moffat county, to the north by the northern edge of T10N R90W, T10N R89W, T7N R91W, T7N R90W, T5N R92W, T3N R95W, T3N R94W, T3N R93W, to the west by the western edge of T10N R90W, T9N R90W, T8N R90W, T7N R91W, T6N R91W, T5N R92W, T4N R92W, T3N R95W; and (Area 2) to the north by the northern edge of T7N R96W, T7N R95W, T7N R94W, T7N R93W, to the west by the western edge of T7N R96W SEC 4, 9, 16, 21, 28, 33, T6N R95W, T5N R95W, and to the south by the southern edge of T5N R95W, T5N R94W, and to the east by the eastern edge of T7N R93W SEC 3, 10, 15, 22, 27, and 34. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.19.7. Elimination of all populations in Montezuma County is required prior to seed development in 2020 and each year thereafter for all lands outside the boundaries of an area demarcated to the north by the northern edge of T37N R14W, T37N R13W, T37N R12W, to the west by the western edge of T37N R14W, T36N R14W, to the south by State Highway 160 and the Montezuma County boundary, and to the east by the eastern edge of T37N R12W and T36N R12W. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.19.8. Elimination of all populations in Pueblo County is required prior to seed development in 2020 and each year thereafter for all lands outside the boundaries of an area demarcated to the north by the northern edge of T22S R68 W SEC 19-24, to the west and south by the Pueblo County Boundary, and the east by the eastern edge of T22S R68W, T23S R68W, T24S R68W and T25S R68W. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.
- 4.7.19.9. Elimination of all populations in San Juan County is required prior to seed development in 2020 and each year thereafter for all lands outside the boundaries of an area demarcated to the north by the northern edge of T39N

R9W, T41N R8W, T41N R7W, to the west and south by the San Juan County boundary, and to the east by the eastern edge of T41N R7W and T40N R7W. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.

4.7.19.10. Elimination of all populations in Summit County is required prior to seed development in 2022 and each year thereafter for all lands outside the boundaries of an area demarcated entirely by T5S R78W AND T5S R77W. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.

4.7.19.11. Elimination of all populations in Washington County is required prior to seed development in 2020 and each year thereafter for all lands outside the boundaries of an area demarcated to the north by the northern portion of T1N R52W, T1N R51W, T1N R50W, to the west by County Road DD, to the south by County Road 20, and to the east by County Road RR., Except as specified in Part 4.7.19.13 and Part 4.7.19.14, for all land within the area described above, suppression is the specified State management objective.

4.7.19.12. Except as specified in Part 4.7.19.13 and Part 4.7.19.14, suppression is the specified State management objective for all populations in Broomfield, Eagle, Garfield, Grand, Kit Carson, Larimer, Mesa, Ouray, Rio Blanco and Routt counties.

4.7.19.13. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.19.14. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2020, and each year thereafter.

4.7.19.15. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

4.7.19.16. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.19.17. Seed longevity is estimated to be up to at least three years. Infested sites must be monitored for at least three years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.20. Eurasian watermilfoil (*Myriophyllum spicatum*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for Eurasian watermilfoil:

4.7.20.1. Elimination of all populations is required prior to seed, rhizomes or rooted fragment development in 2020 and each year thereafter in all Colorado counties except for Adams, Boulder, Denver, Fremont and Pueblo counties and those counties specified in Part 4.7.20.10.

- 4.7.20.2. Except as specified in Part 4.7.20.9, elimination of all populations Alamosa, El Paso, Huerfano, and Larimer counties is required prior to seed development in 2022 and each year thereafter.
- 4.7.20.3. Elimination of all populations in Adams County is required prior to seed or rooted fragment development in 2020 and each year thereafter for all water outside the boundaries of an area demarcated to the north and west by the Adams County boundary, to the south by the southern edge of T2S R68W, T2S R67W, and to the east by US Highway 6 and US Highway 85. Except as specified in Part 4.7.20.9, all water within the perimeter of the Ashwood Reservoir, Big Dry Creek, Brantner Ditch and Gulch, Bull Canal, Croke Lake, Equity Ditch, Farmers Highline Canal, German Ditch, German Reservoir No 1, Island Enclave, Jackson Lake, Lee Lateral, McKay Lake, Niver Canal, Nott Lake, Ohio Lake Signal Ditch, Todd Creek, Truck Lateral, Ashwood Reservoir, Croke Reservoir, Eastlake Reservoir No 3, German Reservoir No 1, Hartley Reservoir, Jackson Lake, Lake Erie, McKay Lake, Signal Reservoir No 1 and 2, Smith Reservoir, South Platte River, Stouffer Reservoirs No 1, 2 and 3, Thorton Lakes, Wadley Reservoirs No 1, 2 and 3, and Webster Lake suppression is the specified State management objective.
- 4.7.20.4. Elimination of all populations in Boulder County is required prior to seed or rooted fragment development in 2020 and each year thereafter for all water outside the boundaries of an area demarcated to the north by the northern edge of T2N R69W SEC 21-24, to the west by 95th Street, the western edge of T1N R69W SEC 4, 9, 16, 21, 28, 33, to the south by Highway 56, and to the east by the Boulder County boundary. Except as specified in Part 4.7.20.9, all water within the perimeter of the Boulder and Weld County Ditch, Boulder Creek, Bullhead Gulch, Coal Creek, Dry Creek, Goodhue Ditch, Highline Lateral, Leggett Ditch, Leyner Cottonwood No 1 Ditch, Lower Boulder Ditch, McGinn Ditch, South Boulder Canyon Ditch and Whiterock Ditch, suppression is the specified State management objective.
- 4.7.20.5. Elimination of all populations in Denver County is required prior to seed or rooted plant fragment development in 2020 and each year thereafter for all water outside the area demarcated (Area 1) to the north and west by the Denver County boundary, to south by US Highway 40/Colfax Avenue, and to the east by State Highway 2/Colorado Boulevard; and (area 2) to the north by Mississippi Avenue, to the west and south by the Denver County boundary, and to the east by US Highway 85. Except as specified in Part 4.7.20.9, all water within the perimeter of Marston Lake, Berkeley, Rocky Mountain, Sloan's, Wolcott, and Boyles Lake, Ward Reservoir, Interlaken Reservoir No 1, Grant C Reservoir, Grant B Reservoir, Garfield Lake, Rocky Mountain and Johnson Lateral Ditch, South Platte River, Sanderson Gulch, Bear Creek and Cherry Creek suppression is the specified State management objective.
- 4.7.20.6. Elimination of all populations in Fremont County is required prior to seed or rooted fragment development in 2020 and each year thereafter for all water outside the boundaries of an area demarcated to the north by the northern edge of T19S R70W SEC 1 and 2, T19S R69W, T19S R68W, and to the west by the western edge of T19S R70W SEC 2, 11, 14, 23, T19S R68W SEC 28, 33, T20S R68W SEC 4, 9, and to the south by the southern edge of T19S R70W SEC 23, 24, T19S R69W SEC 19-24, T19S R68W SEC 19, 20, T20S R68W SEC 9-12, and to the east by the Fremont County boundary. Except as specified in Part 4.7.20.9, all water within the perimeter of the Arkansas River, Bear Creek, Beaver Creek, Brush Hollow Creek, Chandler Creek, Coal Creek, Cockebur Creek, Eightmile Creek, Fourmile Creek, Green Gulch, Hardscrabble Creek, Minnequa Canal, Oak Creek, Richie Gulch, Sand Creek, Sixmile Creek, Willow

Creek and Willow Spring Hollow, suppression is the specified State management objective.

4.7.20.7. Elimination of all populations in Pueblo County is required prior to seed or rooted fragment development in 2020 and each year thereafter for all water outside the boundaries of an area demarcated by all water within 1.0 miles of Bessemer Ditch, Minnequa Ditch, Saint Charles River, Salt Creek, St. Charles Flood Ditch, and St Charles Reservoirs Nos 1, 2 and 3, bounded to the north by the northern edge of T21S R65W and T21S R64W, to the west by State Highway 45, and the eastern edge of T21S R65W, Little Burnt Mill Road, and the eastern edge of T22S R66W, to the south by T22S R66W and T22S R65W, and to the east by the Boise Northern Santa Fe Railroad. Except as specified in Part 4.7.20.9, all water within the perimeter of Bessemer Ditch, Minnequa Ditch, Saint Charles River, Salt Creek, St. Charles Flood Ditch, and St Charles Reservoirs Nos 1, 2 and 3, suppression is the specified State management objective.

4.7.20.8. Suppression is the specified State management objective for all populations in Jefferson county.

4.7.20.9. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2020, and each year thereafter.

7.20.10. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner, physical (water and light level) manipulation, physical barriers), and a few other mechanical techniques approved by the Commissioner.

7.20.11. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

7.20.12. Seed longevity is not an important factor for this species; vegetative reproduction is a major factor. Infested sites and adjoining lentic systems must be monitored continuously after the populations have been eliminated and treatments must be repeated when necessary to prevent reestablishment from plant fragmentation.

4.7.21. Musk thistle (*Carduus nutans*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for musk thistle:

4.7.21.1. Elimination of all populations is required prior to seed development in 2020 and each year thereafter in all Colorado counties except for Boulder, Custer, El Paso, Logan, Moffat, Otero, Phillips, Rio Blanco, Routt, San Juan, Sedgwick, Weld and Yuma counties and those counties specified in Part 4.7.21.16.

4.7.21.2. Elimination of all populations in Adams, Delta, Hinsdale, Lincoln, Mineral, Park, Pitkin, Saguache, Teller, and Washington counties is required prior to seed development in 2022 and each year thereafter.

4.7.21.3. Elimination of all populations in Boulder County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 287 on the east, the southern border of Boulder County, Bull Mountain Road and US Highway 36 on the west. Except as

specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.

- 4.7.21.4. Elimination of all populations in Custer County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated (Area 1) to the north by the Custer County boundary, to the west by the western edge of T21S R73W, T22S R73W, to the south by the southern edge of T22S R73 W SEC 19-24, T22S R72W SEC 19-21, to the east by the eastern edge of T21S R72W SEC 4, 9, 16, 21, 28, 33, T22S R72W SEC 4, 9, 16 and 21; and (Area 2) to the north by the northern edge of T22S R69 W SEC 20-24, T23S R69W SEC 7, T23S R70W SEC 11-12, to the west by the western edge of T22S R69W SEC 20, 29, and 32, T23S R69W SEC 5, T23S R70W SEC 11, 14, 23, 26, to the south by the southern boundary of T23S R69W SEC 31-36 and the Custer County boundary, and to the east by the Custer County boundary. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.5. Elimination of all populations in El Paso County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the south by the southern edge of T13S R68W, Interstate 25, State Highway 24/94, to the east by Black Squirrel Creek and South Peyton Highway, and the northern and western El Paso County boundary. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.6. Elimination of all populations in Logan County is required prior to seed development in 2022 and each year thereafter for all land outside the boundaries of an area demarcated to the west by County road 79, 81, and 83, to the south, east and north by the Logan County boundary. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.7. Elimination of all populations in Moffat County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern and southern borders of Moffat county and to the north by US Highway 40 and to the west by the western edge of T6N R97W SEC 26, 35, T5N R97W SEC 2, 11, 14, 23, 28, 35, T4N R97W SEC 10, 15, 22, 27, 34 and T3N R97W SEC 3, 10, 15, and to the south and east by the Moffat County boundary. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.8. Elimination of all populations in Otero County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the entirety of T23S R54W; and (Area 2) to the north by County Road Y, to the west by Otero Canal and Anderson Arroyo, to the south by the southern edge T25S R56W, to the east by the eastern edge of T25S R55W and East Fork King Arroyo. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.9. Elimination of all populations in Phillips County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated (Area 1) to the north by County road 30, to the west by the Phillips County boundary, to the south by County Road 14, and to the east by County Road 25; and (area 2) to the north by County Road 10, to the east by

County Roads 31, 8, 6.75 and 35, to the south by the Phillips County boundary, and to the west by County Road 23. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.21.17 and Part 4.7.21.18 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective

- 4.7.21.10. Elimination of all populations in Rio Blanco County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the west by Scenery Gulch and Piceance Creek, to the north, south and east by the Rio Blanco County boundary, County Road 8/North Fork Road and County Road 19/East Williams Fork Road. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.21.17 and Part 4.7.21.18 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.11. Elimination of all populations in Routt County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 40 on the north, and the eastern, southern, and western borders of Routt County. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.12. Elimination of all populations in San Juan County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the northern edge of T39N R10 W, T39N R9W, and T39N R8W to the west and south by the San Juan County boundary, and to the east by the eastern edge of T39N R8W. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.13. Elimination of all populations in Sedgwick County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north and west by the Sedgwick County boundary, and to the south by Interstate 76. Except as specified in Part 4.7.21.17 and Part 4.7.21.18 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.14. Elimination of all populations in Weld County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by County Road 14 to the west and south by the Weld County boundary, and to the east by US Highway 85. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective.
- 4.7.21.15. Elimination of all populations in Yuma County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated (Area 1) to the north by County Road 51, to the north and west by the Yuma County boundary, to the south by the southern edge of T3N

R48W, T3N R47W and T4N R46W, to the east by the eastern edge of T3N R47W, County Road S and County Road M; and (Area 2) to the north by US Highway 36/State Highway 9, to the west by County Road X and Y, and to the south and east by the Yuma County boundary . Except as specified in Part 4.7.21.17 and Part 4.7.21.18, for all land within the area described above, suppression is the specified State management objective

- 4.7.21.16. Except as specified in Part 4.7.21.17 and Part 4.7.21.18, suppression is the specified State management objective for all populations in , Arapahoe, Archuleta, Bent, Broomfield, Denver, Dolores, Douglas, Elbert, Fremont, Garfield, Gilpin, Grand, Gunnison, Huerfano, Jefferson, La Plata, Larimer, Mesa, Montezuma, Montrose, Morgan, Ouray, Pitkin, Prowers, Pueblo, San Miguel, and Summit.
- 4.7.21.17. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.21.18. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2020 and each year thereafter.
- 4.7.21.19. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner, and mechanical (hand-pulling and digging), or other techniques approved by the Commissioner.
- 4.7.21.20. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 4.7.21.21. Seed longevity is estimated to be at least fourteen years. Infested sites must be monitored for at least fifteen years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.22. Scentless chamomile (*Tripleurospermum perforatum*), Corn chamomile (*Anthemis arvensis*), and Mayweed chamomile (*Anthemis cotula*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for scentless, corn, and mayweed chamomile:
- 4.7.22.1. Except as specified in Part 4.7.22.9, elimination of all populations is required prior to seed development in 2016 and each year thereafter in all Colorado counties except for Delta, Gilpin, Gunnison, Mesa and Park counties and those counties specified in Part 4.7.22.7.
- 4.7.22.2. Except as specified in Part 4.7.22.9, elimination of all populations in Delta County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by the northern and eastern borders of Delta County, State Highway 133 and State Highway 92 on the south, and State Highway 65 on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area

immediately downstream. Except as specified in Part 4.7.22.8 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

- 4.7.22.3. Except as specified in Part 4.7.22.9, elimination of all populations in Gilpin County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 39°48'45"N, and the eastern and southern borders of Gilpin County. Except as specified in Part 4.7.22.8 and Part 4.7.22.9, for all land within the area described above, suppression is the specified State management objective.
- 4.7.22.4. Except as specified in Part 4.7.22.9, elimination of all populations in Gunnison County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by the northern and eastern border of Gunnison County, US Highway 50 on the south until it transects with the southern border of Gunnison County, the southern border of Gunnison county, US Highway 50 on the south, and the western border of Gunnison County. Except as specified in Part 4.7.22.8 and Part 4.7.22.9, for all land within the area described above, suppression is the specified State management objective.
- 4.7.22.5. Except as specified in Part 4.7.22.9, elimination of all populations in Mesa County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Mesa County, and by Longitude 108°11'14"W. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.22.8 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.22.6. Except as specified in Part 4.7.22.9, elimination of all populations in Park County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by the northern and eastern borders of Park County, Latitude 39°11'3"N, and the western border of Park County. Except as specified in Part 4.7.22.8 and Part 4.7.22.9, for all land within the area described above, suppression is the specified State management objective.
- 4.7.22.7. Except as specified in Part 4.7.22.8 and Part 4.7.22.9, suppression is the specified State management objective for all populations in Clear Creek, Eagle, Grand, Gunnison, Jefferson, Lake, La Plata, Pitkin, Routt, and Summit counties.
- 4.7.22.8. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.22.9. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2016 and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem

river to 15 feet beyond the ordinary high water mark by 2016 and each year thereafter.

4.7.22.10. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.

4.7.22.11. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.

4.7.22.12. Seed longevity is estimated to be up to ten years. Infested sites must be monitored for at least ten years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.23 Scotch thistle (*Onopordum acanthium* and *Onopordum tauricum*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for Scotch thistle:

4.7.23.1. Elimination of all populations is required prior to seed development in 2020 and each year thereafter in all Colorado counties except for Adams, Boulder, Garfield, Gunnison, Larimer, Las Animas, Moffat, Montezuma, Morgan, Pueblo, Rio Blanco, and Weld counties and those counties specified in Part 4.7.23.15.

4.7.23.2. Except as specified in Part 4.7.23.16 and in Part 4.7.23.17, elimination of all populations in Routt and Yuma counties is required prior to seed development in 2022 and each year thereafter.

4.7.23.3.. Elimination of all populations in Adams County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the east by the eastern edge of T1S R64W, T2S R64W, and T3S R64W, and by the northern, western and southern boundary of Adams County. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.23.4. Elimination of all populations in Boulder County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated US Highway 287 on the east, the southern border of Boulder County, Bull Mountain Road and US Highway 36 on the west. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.23.5. Elimination of all populations in Garfield County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Garfield County, and Longitude 108°9'6"W. Except as specified in Part 4.7.23.16 and Part 4.7.23.17, for all land within the area described above, suppression is the specified State management objective.

4.7.23.6. Elimination of all populations in Gunnison County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the western border of Gunnison County,

and the entirety of T13S R90W. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

- 4.7.23.7. Elimination of all populations in Larimer County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the west by the western edge of T12N R70W, T11N, T10N R70W, T9N R70W, T8N R70W, T7N R70W, T6N R70W, T5N R70W, T4N R70W, and the southern, eastern and northern Larimer County boundary. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.23.8. Elimination of all populations in Las Animas County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the Las Animas County boundary, to the southwest and south by the Purgatorie River and its North Fork, and Interstate 25 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.23.9. Elimination of all populations in Moffat County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Moffat County, and Longitude 108°11'5"W. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.23.10. Elimination of all populations in Montezuma County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the entirety of T36N R13W and to the south by the southern edge of T35N R13W SEC 1-6. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.23.11. Elimination of all populations in Morgan County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries

of an area demarcated to the north by the Morgan County boundary, to the west by the western edge of T6N R59W, T5N R59W, to the south by the southern edge of T5N R59W, T5N R58W, and to the east by the eastern edge of T6N R58W, T5N R58W. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

- 4.7.23.12. Elimination of all populations in Pueblo County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by latitude 38°10'5"N, to the west and south by the Pueblo County boundary, and to the east by the Boise Northern Santa Fe Railroad. Except as specified in Part 4.7.23.16 and Part 4.7.23.17, for all land within the area described above, suppression is the specified State management objective.
- 4.7.23.13. Elimination of all populations in Rio Blanco County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the northern edge of T2N R93W Sec 19-24 and the Rio Blanco County boundary, to the west by Scenery Gulch, Blacks Gulch, and Piceance Creek, to the south by the Rio Blanco County boundary and the southern edge of T1S R92W, and to the east by the eastern edge of T3N R94W, T2N R94W, T2N R93W SEC 24, 25, 36, T1N R92W, T1S R92W and T2S R93W. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.23.14. Elimination of all populations in Weld County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by County Road 14, to the west and south by the Weld County boundary, and to the east by US Highway 85. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.23.16 and Part 4.7.23.17 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.23.15. Except as specified in Part 4.7.23.16 and Part 4.7.23.17, suppression is the specified State management objective for all populations in Arapahoe, Broomfield, Denver, Douglas, Eagle, Fremont, Huerfano, Jefferson, La Plata, Mesa, Otero and Prowers counties.
- 4.7.23.16. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.23.17. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2020 and each year thereafter.

- 4.7.23.18. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of biocontrol agents and herbicides approved by the Commissioner, some cultural and carefully timed mechanical techniques approved by the Commissioner.
- 4.7.23.19. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques or mechanical techniques other than those approved by the Commissioner.
- 4.7.23.20. Seed longevity is estimated to be up to thirty years. Infested sites must be monitored for at least thirty-one years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.24. Common teasel (*Dipsacus fullonum*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for common teasel:
- 4.7.24.1. Elimination of all populations is required prior to seed development in 2020 and each year thereafter in all Colorado counties except for Adams, Arapahoe, Boulder, El Paso, Jefferson, Larimer, Logan, Morgan, Pueblo, Sedgwick and Weld and those counties specified in Part 4.7.24.11.
- 4.7.24.2. Elimination of all populations in Adams County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated east to T1S R65W SEC 5, 8, 17, 20, 29 and 32, and the northern, western and southern border of Adams County. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24.14 and Part 4.7.24.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.24.3. Elimination of all populations in Arapahoe County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Arapahoe County, State Highway 470 on the east, and the southern and western borders of Arapahoe County. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24.14 and Part 4.7.24.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.24.4. Elimination of all populations in Boulder County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern border of Boulder County, Bull Mountain Road, and State Highway 93 and US Highway 36 on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part

4.7.24.14 and Part 4.7.24.15, for all land within the area described above, suppression is the specified State management objective.

4.7.24.5. Elimination of all populations in El Paso County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north and south by the El Paso County boundary, all lands within five miles of Interstate 25, and all lands within one mile of State Highway 115 to the western El Paso County boundary. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24.14 and Part 4.7.24.15 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.24.6. Elimination of all populations in Jefferson County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north and west by the Jefferson County boundary, and to the southwest by southern edge of T3S R71W, the western edge of T4S R70W, the southern edge of T5S R70W SEC 13-18, the western edge of T5S R69W and T6S R69W. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24M.14 and Part 4.7.24.15 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.24.7. Elimination of all populations in Larimer County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by Latitude 40°41'17.811"N, the eastern and southern borders of Larimer County, and to the west by T8N R70W SEC 6, 7, 18, 19, 30, 31, T7N R70W SEC 6, 7, 18, 19, 30, 31, T6N R70W SEC 6, 7, 18, 19, 30, 31, T6N R70W SEC 6, 7, 18, 19, 30, 31, T5N R70W SEC 6, 7, 18, 19, 30, 31, T4N R70W SEC 6, 7, 18, 19, 30, and 31. Within, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24.14 and Part 4.7.24.15 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.24.8. Elimination of all populations in Logan County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) to the west by T10N R53W SEC 29, 32, T9N R53W SEC 5, 8, 17, and the northern, southern and eastern boundary of north Sterling Reservoir State Park; and (Area 2) Townships along the South Platte River T11N R48W, T10N R50W, T10N R49W, T10N R48W, T9N R52W, T9N R51W, T9N R50W, T8N R52W, T8N R51W, T7N R53W, T7N R52W, T6S R54W, and T6N R53W. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified

in Part 4.7.24.14 and Part 4.7.24.15, for all land within the area described above, suppression is the specified State management objective.

- 4.7.24.9. Elimination of all populations in Morgan County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by Riverside Canal to Wildcat Creek to Tremont Canal to Synder Canal, to the west and east by the Morgan County boundary, and to the south by State Highway 34. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24.14 and Part 4.7.24.15, for all land within the area described above, suppression is the specified State management objective.
- 4.7.24.10. Elimination of all populations in Pueblo County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated (Area 1) to the north by the northern edge of T22S R68W SEC 19-24, to the west by the Pueblo County boundary, to the south by T23S R68W and to the east by T22S R68W SEC 24, 25, 36, and T23S R68W; and (Area 2) to the north by the Pueblo County boundary and all lands within 2.5 miles of Fountain Creek, to the west by the Pueblo Reservoir outlet marked by the Pueblo Reservoir Road, to the east by the Pueblo County boundary and all lands within 2.5 miles of the Arkansas River, Bessemer Ditch, Booth Canal, Chico Creek, Colorado Canal, Excelsoir Ditch, Kramer Creek, Oxford Farmers Ditch, rock Ford Highline Canal and Salt Creek. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24.14 and Part 4.7.24.15 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.24.11. Elimination of all populations in Sedgwick County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north and west by the Sedgwick County boundary, and to the south by Interstate 76. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24.14 and Part 4.7.24.15 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.24.12. Elimination of all populations in Weld County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by all lands within one mile of the Cache La Poudre, Big Thompson, Little Thompson and South Platte Rivers to the Weld County borders. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.24.14 and Part 4.7.24.15 and as otherwise specified in this Section, for all

land within the area described above, suppression is the specified State management objective.

- 4.7.24.13. Except as specified in Part 4.7.24.14 and Part 4.7.24.15, suppression is the specified State management objective for all populations in Bent, Broomfield, Denver, Prowers and Rio Blanco counties.
- 4.7.24.14. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.24.15. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement by 2020, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2020, and each year thereafter.
- 4.7.24.16. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.24.17. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural, or mechanical techniques other than those approved by the Commissioner.
- 4.7.24.18. Seed longevity is estimated to be up to fourteen years. Infested sites must be monitored for at least fifteen years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.25. Cutleaf teasel (*Dipsacus laciniatus*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for cutleaf teasel:
 - 4.7.25.1. Elimination of all populations is required prior to seed development in 2020 and each year thereafter in all Colorado counties except for Adams, Arapahoe, Boulder, Jefferson, Larimer, Morgan, Sedgwick and Weld and those counties specified in Part 4.7.25.10.
 - 4.7.25.2. Elimination of all populations in Adams County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated east to the eastern edge of T1S R65W SEC 5, 8, 17, 20, 29 and 32, and the northern, western and southern border of Adams County. Except as specified in Part 4.7.25.11 and Part 4.7.25.12, for all land within the area described above, suppression is the specified State management objective.
 - 4.7.25.3. Elimination of all populations in Arapahoe County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Arapahoe County, State Highway 470 on the east, and the southern and western borders of Arapahoe County. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within

¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.25.11 and Part 4.7.25.12, for all land within the area described above, suppression is the specified State management objective.

4.7.25.4. Elimination of all populations in Boulder County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern border of Boulder County, and State Highway 93 and US Highway 36 on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.25.11 and Part 4.7.25.12, for all land within the area described above, suppression is the specified State management objective.

4.7.25.5. Elimination of all populations in Jefferson County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated in the southwest by the southern edge of T3S R71W, the western edge of T4S R70W and T5S R70W, the southern edge of T5S R70W, the western edge of T5S R69W and of T6S R69W and by the northern and eastern borders of Jefferson County. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2020, and each year thereafter. Except as specified in Part 4.7.25.11 and 4.7.25.12, for all land within the area described above, suppression is the specified State management objective.

4.7.25.6. Elimination of all populations in Larimer County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by Latitude 40°41'17.811"N, the eastern and southern borders of Larimer County, and to the west by the western edge of T8N R70W, T7N R70W, T6N R70W, T6N R70W, T5N R70W, and T4N R70W. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.25.11 and Part 4.7.25.12, for all land within the area described above, suppression is the specified State management objective.

4.7.25.7. Elimination of all populations in Morgan County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by Riverside Canal to Wildcat Creek to Tremont Canal to Synder Canal, to the west and east by the Morgan County boundary, and to the south by State Highway 34. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.25.11 and Part 4.7.25.12, for all land

within the area described above, suppression is the specified State management objective.

- 4.7.25.8. Elimination of all populations in Sedgwick County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by to the north and west by the Sedgwick County boundary, and to the south by Interstate 76. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.25.11 and Part 4.7.25.12, for all land within the area described above, suppression is the specified State management objective.
- 4.7.25.9. Elimination of all populations in Weld County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated all lands within one mile of the Cache La Poudre, Big Thompson, Little Thompson and South Platte Rivers to the Weld County borders. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.25.11 and Part 4.7.25.12 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.25.10. Except as specified in Part 4.7.25.11 and Part 4.7.25.12, suppression is the specified State management objective for all populations in Broomfield, Denver, and Rio Blanco counties.
- 4.7.25.11. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.25.12. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2020, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2020, and each year thereafter.
- 4.7.25.13. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.25.14. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural, or mechanical techniques other than those approved by the Commissioner.
- 4.7.25.15. Seed longevity is estimated to be at least fourteen years. Infested sites must be monitored for at least fifteen years after the populations have been

eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.26. Dame's rocket (*Hesperis matronalis*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for dame's rocket:

- 4.7.26.1. Elimination of all populations is required prior to seed development in 2014 and each year thereafter in all Colorado counties except for Adams, Boulder, Denver, Larimer, Logan, Mesa, Moffat, Pueblo, and Summit and those counties specified in Part 4.7.26.11.
- 4.7.26.2. Except as specified in Parts 4.7.26.12 and Part 4.7.26.13, elimination of all populations in Logan County is required prior to seed development in 2015 and each year thereafter.
- 4.7.26.3. Except as specified in Parts 4.7.26.12 and Part 4.7.26.13, elimination of all populations in Moffat County is required prior to seed development in 2016 and each year thereafter.
- 4.7.26.4. Elimination of all populations in Adams County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by the northern border of Adams County, Longitude 104°48'32.078"W, and the southern and western border of Adams County. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.26.12 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.26.5. Elimination of all populations in Boulder County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by northern, eastern, and southern borders of Boulder County and State Highway 72 and State Highway 7 north of the junction with State Highway 72 north to the county line, on the west. Except as specified in Part 4.7.26.12 and Part 4.7.26.13, for all land within the area described above, suppression is the specified State management objective.
- 4.7.26.6. Elimination of all populations in Denver County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by northern border of Denver County, Chambers Road on the east, and the southern and western borders of Denver County. Except as specified in Part 4.7.26.12 and Part 4.7.26.13, for all land within the area described above, suppression is the specified State management objective.
- 4.7.26.7. Elimination of all populations in Larimer County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 40°45'8.026"N, and the eastern, southern and western border of Larimer County. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.26.12 and as otherwise specified in this Section, for all land

within the area described above, suppression is the specified State management objective.

- 4.7.26.8. Elimination of all populations in Mesa County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by the western and northern borders of Mesa County, Longitude 108°18'37.128"W until it intersects with the southern border of Mesa County, the southern border until it intersects with the Gunnison River, the Gunnison River, and Latitude 39°3'33.868"N. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.26.12 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.26.9. Elimination of all populations in Pueblo County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 38°7'33.068"N, Longitude 104°52'32.32"W, and the southern and western border of Pueblo County. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.26.12 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.26.10. Elimination of all populations in Summit County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 39°41'5.354"N, Longitude 106°0'1.095"W, the southern border of Summit county, State Highway 91 and Interstate 70, and Longitude 106°7'32.266"W. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.26.12 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.26.11. Except as specified in Parts 4.7.26.12 and Part 4.7.26.13, suppression is the specified State management objective for all populations in Broomfield and Jefferson counties.
- 4.7.26.12. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.26.13. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2014, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem

river to 15 feet beyond the ordinary high water mark by 2014, and each year thereafter.

- 4.7.26.14. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.26.15. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.
- 4.7.26.16. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.27. Jointed goatgrass (*Aegilops cylindrica*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for jointed goatgrass:
 - 4.7.27.1. Elimination of all populations is required prior to seed development in 2020 and each year thereafter in all Colorado counties except for Adams, Delta, Denver, Dolores, Logan, Moffat, Montezuma, Montrose, Ouray, Phillips, Pueblo, and San Miguel and those counties specified in Part 4.7.27.16.
 - 4.7.27.2. Except as specified in Part 4.7.27.16 and in Part 4.7.27.17, elimination of all populations in Archuleta, Boulder, Broomfield, Douglas, Fremont, Rio Blanco, Rio Grande, Routt and Yuma counties is required prior to seed development in 2022 and each year thereafter.
 - 4.7.27.3. Elimination of all populations in Adams County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated on the west by the western edge of T1S R66W, TTS R66W, and T3S R66W SEC 6 and 7, the northern, western and southern boundary of Adams County. Except as specified in Part 4.7.27.16 and in Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.
 - 4.7.27.4. Elimination of all populations in Delta County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the northern edge of T12S R94W SEC 19-22, to the west by the western edge of T12S R94W, T13S R94W, to the south by the southern edge of T13S R94 W SEC 31-34, and to the east by the eastern edge of T12S R94W SEC 22, 27, and 34, T13S R94W SEC 3, 10, 15, 22, 27 and 34 . Except as specified in Part 4.7.27.16 and Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.
 - 4.7.27.5. Elimination of all populations in Denver County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries demarcated (Area 1) to the east by the Platte River, and the northern western and southern border of Denver County and (Area 2) to the north, west, south and east by the Denver County boundary, and to the southwest by First Creek. Except as specified in Part 4.7.27.16 and Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.

- 4.7.27.6. Elimination of all populations in Dolores County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the east by the National Forest System land boundary located just east of the Dolores River, and the northern, southern and western border of Dolores County. Except as specified in Part 4.7.27.16 and Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.
- 4.7.27.7. Elimination of all populations in Logan County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the northern edge of T8N R50W, T8N R49W, T8N R48W, to the west by the western edge of T8N R50W, T7N R50W, T6N R50W, and to the south and east by the Logan County boundary. Except as specified in Part 4.7.27.16 and in Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.
- 4.7.27.8. Elimination of all populations in Moffat County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) the entirety of T10N R91W and T9N R91W; and (Area 2) to the east and south by the Moffat County border, to the north and west by the northern and western edges of T8N R89W and T7N R89W; and (Area 3) to the north by State Highway 40, to the west by the western edge of T6N R93W, to the south by the Yampa River and the southern edge of T5N R91W and T6N R90W . Except as specified in Part 4.7.27.16 and Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.
- 4.7.27.9. Elimination of all populations in Montezuma County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the Montezuma County boundary, to the east by the Dolores River, the eastern edge of T37N R16W and T36N R15W, to the south by Kernan Canyon and McElmo Creek, and to the west by the Bureau of Land Management Public Lands boundary. Except as specified in Part 4.7.27.16 and Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.
- 4.7.27.10. Elimination of all populations in Montrose County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by (Area 1) to the north by the northern edge of T47N R15W, T47N R14W, to the east by T47N R15W, T46N R15W , T45N R15W, to the south by the Montrose County boundary, and to the east by the eastern edge of T47N R14W, T46N R14W, and T45N R14W ; and (Area 2) to the north by the Montrose County boundary, the northern edge of T50N R9W, T47N R8W, to the west by the western edge of T51N R10W, T50N R10W, T49N R10W, T48N R10W, T47N R10W, to the south by the Montrose County boundary, and to the east by the eastern edge of T51N R10W, T50N, R9W, T49N R9W, T48N R9W, AND T47N R8W. . Except as specified in Part 4.7.27.16 and in Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.
- 4.7.27.11. Elimination of all populations in Ouray County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the Ouray County boundary, to the west by Dolores Creek and the Ouray County Boundary, to the south by Spruce Mountain ridge, the Uncompaghre River Dam inlet, and Cow Creek, and to the east by Burro Creek and the Ouray County boundary. Except as specified in Part

4.7.27.16 and in Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.

4.7.27.12. Elimination of all populations in Phillips County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the east and north by the Phillips County boundary, to the west by County Road 19, to the South by County Road 36. Except as specified in Part 4.7.27.16 and in Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.

4.7.27.13. Elimination of all populations in Pueblo County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated by Latitude 38°11'16.617"N, Longitude 104°41'20"W, and the southern and western border of Pueblo County. Except as specified in Part 4.7.27.16 and Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.

4.7.27.14. Elimination of all populations in San Miguel County is required prior to seed development in 2020 and each year thereafter for all land outside the boundaries of an area demarcated to the north by the Bureau of Land Management Public Lands Boundary, to the west and south by the San Miguel County boundary, and to the east by County Roads K8 and F11. Except as specified in Part 4.7.27.16 and in Part 4.7.27.17, for all land within the area described above, suppression is the specified State management objective.

4.7.27.15. Except as specified in Part 4.7.27.16 and Part 4.7.27.17, suppression is the specified State management objective for all populations in Baca, Crowley, Garfield, Jefferson, Kiowa, Kit Carson, La Plata, Lincoln, Mesa, Morgan, Otero, Prowers, Sedgwick and Washington counties.

4.7.27.16. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.

4.7.27.17. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2020, and each year thereafter.

4.7.28.18. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and carefully timed cultural, mowing, tilling, or other mechanical techniques approved by the Commissioner.

4.7.28.19. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.

4.7.28.20. Seed longevity is estimated to be at least nine years. Infested sites must be monitored for at least ten years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.28. Moth mullein (*Verbascum blattaria*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for moth mullein:

- 4.7.28.1. Elimination of all populations is required prior to seed development in 2014 and each year thereafter in all Colorado counties except for Boulder, Larimer, and Pueblo and those counties specified in Part 4.7.28.5.
- 4.7.28.2. Elimination of all populations in Boulder County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern border of Boulder County and Longitude 105°18'49.647"W. Except as specified in Part 4.7.28.6, for all land within the area described above, suppression is the specified State management objective.
- 4.7.28.3. Elimination of all populations in Larimer County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by State Highway 34 on the north, State Highway 287 on the east, the southern border of Larimer County, and State Highway 36 on the west. Except as specified in Part 4.7.28.6, for all land within the area described above, suppression is the specified State management objective.
- 4.7.28.4. Elimination of all populations in Pueblo County is required prior to seed development in 2014 and each year thereafter for all land outside the boundaries of an area demarcated by State Highway 165 on the north, Interstate 25 on the east, and the southern and western border of Pueblo County. Except as specified in Part 4.7.28.6, for all land within the area described above, suppression is the specified State management objective.
- 4.7.28.5. Except as specified in Part 4.7.28.6, suppression is the specified State management objective for all populations in Broomfield, Chaffee, and Lake counties.
- 4.7.28.6. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.28.7. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, tilling, or other mechanical techniques approved by the Commissioner.
- 4.7.28.8. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.
- 4.7.28.9. Seed longevity is estimated to be over 100 years. Infested sites must be monitored for at least twenty years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.29. Bouncingbet (*Saponaria officinalis*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for bouncingbet:
 - 4.7.29.1. Elimination of all populations is required prior to seed development in 2016 and each year thereafter in all Colorado counties except for Denver, Larimer and Pueblo counties, and those counties specified in Part 4.7.29.5.
 - 4.7.29.2. Elimination of all populations in Denver County is required prior to seed development in 2016 and each year thereafter for all lands in the county located

east of Havana Street and south of Hampden Avenue. Except as specified in Parts 4.7.29.6 and Part 4.7.29.7, for all lands in the county located west of Havana Street and north of Hampden Avenue, suppression is the specified State management objective.

- 4.7.29.3. Elimination of all populations in Larimer County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by, the eastern, southern, and western borders of Larimer County and Latitude 40° 45' 8" N. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.29.6 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.29.4. Elimination of all populations in Pueblo County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by, the southern and western borders of Pueblo County, CO Highway 96/Frontier Pathways Scenic & Historic Byway to the north, and Interstate 25 to the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.29.6 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.29.5. Except as specified in Part 4.7.29.6 and Part 4.7.9.7, suppression is the specified State management objective for all populations in Jefferson County.
- 4.7.29.6. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.29.7. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2014, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2016, and each year thereafter.
- 4.7.29.8. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and other mechanical techniques approved by the Commissioner.
- 4.7.29.9. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.
- 4.7.29.10. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.

4.7.30. Common tansy (*Tanacetum vulgare*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for common tansy:

- 4.7.30.1. Elimination of all populations is required prior to seed development in 2016 and each year thereafter in all Colorado counties except for Boulder, Garfield, and Jackson counties.
- 4.7.30.2. Elimination of all populations in Boulder County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by Lefthand Canyon Dr. on the north, Longitude 105° 21' 59", Fourmile Canyon Dr. on the south, and Longitude 105° 25' 46". Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.30.5 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.30.3. Elimination of all populations in Garfield County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by Interstate 70 on the north, the eastern and southern borders of Garfield County, and Longitude 105° 21' 59" until it intersects Alkali Creek, then Alkali Creek on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.30.5 and as otherwise specified in this Section for all land within the area described above, suppression is the specified State management objective.
- 4.7.30.4. Elimination of all populations in Jackson County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by the borders of the incorporated town of Walden as of 2012. Except as specified in Part 4.7.30.5 and Part 4.7.30.6, for all land within the area described above, suppression is the specified State management objective.
- 4.7.30.5. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.30.6. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2016, and each year thereafter.
- 4.7.30.7. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, mowing, or other mechanical techniques approved by the Commissioner.

- 4.7.30.8. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.
- 4.7.30.9. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.31. Wild caraway (*Carum carvi*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for wild caraway:
- 4.7.31.1. Elimination of all populations is required prior to seed development in 2016 and each year thereafter in all Colorado counties except for Larimer and Summit counties and those counties specified in Part 4.7.31.4.
- 4.7.31.2. Elimination of all populations in Larimer County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by the western and northern borders of Larimer County, Longitude 105° 41' 19" on the east, and State Highway 14 on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.31.5 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.31.3. Elimination of all populations in Summit County is required prior to seed development in 2016 and each year thereafter for all land outside the boundaries of an area demarcated by Interstate 70 on the south, and the western, northern, and eastern borders of Summit County. Except as specified in Part 4.7.31.5 and Part 4.7.31.6, for all land within the area described above, suppression is the specified State management objective.
- 4.7.31.4. Except as specified in Part 4.7.31.5 and Part 4.7.31.6, suppression is the specified State management objective for all populations in Jefferson, Rio Grande and Routt counties.
- 4.7.31.5. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking must be eliminated prior to seed development on an annual basis.
- 4.7.31.6. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2016, and each year thereafter. For the mainstem of the South Platte River where it forms the boundary between Douglas and Jefferson counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2014, and each year thereafter.
- 4.7.31.7. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, tilling or other mechanical techniques approved by the Commissioner.

- 4.7.31.8. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.
- 4.7.31.9. Seed longevity is unknown. Infested sites must be monitored for at least 10 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.32. Yellow nutsedge (*Cyperus esculentus*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for yellow nutsedge:
- 4.7.32.1. Elimination of all populations is required prior to seed development in 2017 and each year thereafter in all Colorado counties except for Boulder, Delta, Mesa, Weld, and Yuma counties, and those counties specified in Part 4.7.32.7.
- 4.7.32.2. Elimination of all populations in Boulder County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Boulder County, and Longitude 105°18'18.0"W on the west. Except as specified in Part 4.7.32.8 and Part 4.7.32.9, for all land within the area described above, suppression is the specified State management objective.
- 4.7.32.3. Elimination of all populations in Delta County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Delta County, and US Highway 50 on the east. Except as specified in Part 4.7.32.8 and in Part 4.7.32.9, for all land within the area described above, suppression is the specified State management objective.
- 4.7.32.4. Elimination of all populations in Mesa County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern, northern, and western borders of Mesa County, and Latitude 38°59'1.0"N on the south. Except as specified in Part 4.7.32.8 and in Part 4.7.32.9, for all land within the area described above, suppression is the specified State management objective.
- 4.7.32.5. Elimination of all populations in Weld County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by State Highway 14 on the north, US Highway 85 on the east, County Road 74 on the south, and County Road 55 and Longitude 108°32'46.0"W on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.32.8 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.32.6. Elimination of all populations in Yuma County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by US Highway 36 on the north, County Road V on the west, and the southern and eastern borders of Yuma County. Except as specified in Part 4.7.32.8 and Part 4.7.32.9, for all land within the area described above, suppression is the specified State management objective.

- 4.7.32.7. Except as specified in Part 4.7.32.8 and Part 4.7.32.9, suppression is the specified State management objective for all populations in Bent, Costilla, Denver, Douglas, Eagle, Jefferson, Lincoln, and San Juan counties.
- 4.7.32.8. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking, must be eliminated prior to seed development on an annual basis.
- 4.7.32.9. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2017, and each year thereafter. For the mainstem of the Rio Grande where it forms the boundary between Conejos and Costilla counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2017, and each year thereafter.
- 4.7.32.10. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner and hand-pulling, digging, or other mechanical techniques approved by the Commissioner.
- 4.7.32.11. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.
- 4.7.32.12. Seed longevity is unknown. Infested sites must be monitored for at least ten years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.33. Quackgrass (*Elymus repens*). Moved to List C in 2014.
- 4.7.34. Canada thistle (*Cirsium arvense*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for Canada thistle:
- 4.7.34.1. Elimination of all populations is required prior to seed development in 2017 and each year thereafter in all Colorado counties except for Alamosa, Conejos, Las Animas, Mesa, Prowers, and Weld counties, and those counties specified in Part 4.7.34.8.
- 4.7.34.2. Elimination of all populations in Alamosa County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by the western, southern, and eastern borders of Alamosa County, and US Highway 160, State Highway 17, County Road 0.0 (Stanley Road) on the north. Except as specified in Part 4.7.34.9 and Part 4.7.34.10, for all land within the area described above, suppression is the specified State management objective.
- 4.7.34.3. Elimination of all populations in Conejos County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by the southern and eastern borders of Conejos County, Latitude 37°18'1.0"N on the north, and Longitude 106°22'51.0"W on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the

downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. For the mainstem of the Rio Grande where it forms the boundary between Conejos and Costilla counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2017, and each year thereafter. Except as specified in Part 4.7.34.9 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

- 4.7.34.4. Elimination of all populations in Las Animas County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by County Road 40.0 on the north, County Road 85.0 (Hoehne Road) on the west, US Highway 160 on the south, and Longitude 104°18'56.0"W on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.34.9 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.34.5. Elimination of all populations in Mesa County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by the eastern, northern, and western borders of Mesa County, and Latitude 38°59'1.0"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.34.9 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.34.6. Elimination of all populations in Prowers County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Prowers County, and County Roads 21.00, N.00, and 19.00, Highway 196, and US Highway 385 on the west. Except as specified in Part 4.7.34.9 and Part 4.7.34.10, for all land within the area described above, suppression is the specified State management objective.
- 4.7.34.7. Elimination of all populations in Weld County is required prior to seed development in 2017 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Weld County, and the lower eastern border of Weld County, County Road 74, State Highway 392, County Road 77, County Road 136, and County Road 79 on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet the treatment requirement for the area immediately downstream. Except as specified in Part 4.7.34.9 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.
- 4.7.34.8. Except as specified in Part 4.7.34.9 and Part 4.7.34.10, suppression is the specified State management objective for all populations in Adams,

Arapahoe, Archuleta, Bent, Boulder, Broomfield, Chaffee, Cheyenne, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, El Paso, Elbert, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kit Carson, La Plata, Lake, Larimer, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller and Yuma counties.

- 4.7.34.9. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking, must be eliminated prior to seed development on an annual basis.
- 4.7.34.10. All populations that are located within the area from the center of any river or perennial or intermittent stream to 15 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2017, and each year thereafter. For the mainstem of the Rio Grande where it forms the boundary between Conejos and Costilla counties, all populations need to be eliminated on both banks from the center of the mainstem river to 15 feet beyond the ordinary high water mark by 2017, and each year thereafter.
- 4.7.34.11. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the Commissioner, and mowing or other mechanical techniques approved by the Commissioner.
- 4.7.34.12. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.
- 4.7.34.13. Seed longevity is estimated to be up to 20 years. Infested sites must be monitored for at least 20 years after the populations have been eliminated and treatments must be repeated when necessary to prevent flowering and development of seed.
- 4.7.35. Russian-olive (*Elaeagnus angustifolia*). In addition to the requirements set forth in this Part 4 for the management of all List B species, the following conditions also apply for any Russian-olive populations in public open space areas, and any populations within 100 feet of any intermittent or perennial streams, rivers, water conveyance ditches, ponds, lakes and reservoirs, whether natural or man-made. These conditions also apply to any Russian-olive populations that are directly contiguous to any Russian-olive populations within this 100-foot treatment area.
- 4.7.35.1. Elimination is required prior to seed development in 2022 and each year thereafter in all Colorado counties except for Arapahoe, Boulder, Chaffee, Conejos, Crowley, Delta, Dolores, El Paso, Larimer, Las Animas, Moffat, Montrose, Morgan, Prowers, Rio Blanco, and San Miguel Counties and those counties specified in Part 4.7.35.19.
- 4.7.35.2. Elimination in Archuleta County is required prior to seed development in 2017 and each year thereafter.
- 4.7.35.3. Elimination in Arapahoe County is required prior to seed development in 2022 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Arapahoe County, and Interstate Highway 70 on the east. Within these boundaries, all populations

that are located within the area from the center of any river or perennial or intermittent stream to 100 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet or exceed the treatment requirement for the area immediately downstream by 2018, and each year thereafter. Except as specified in Part 4.7.35.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

- 4.7.35.4. Elimination in Boulder County is required prior to seed development in 2022 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Boulder County, and Longitude 105°18'18.0"W on the west. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the area described above, suppression is the specified State management objective.
- 4.7.35.5. Elimination in Chaffee County is required prior to seed development in 2022 and each year thereafter for: (Area 1) all land beyond a ½-mile from the center of the Arkansas River between the Town of Americus and the western border of Chaffee County; and (Area 2) all land beyond ½-mile from the center of the South Arkansas River between County Road 210 and its confluence with the Arkansas River; and (Area 3) all land beyond a mile from the center of Harrington Gulch from the headwater to its confluence with the Arkansas River. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.35.6. Elimination in Conejos County is required prior to seed development in 2022 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Conejos County, and Longitude 106°8'58.0"W and State Highway 15 on the west. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the area described above, suppression is the specified State management objective.
- 4.7.35.7. Elimination in Crowley County is required prior to seed development in 2022 and each year thereafter for all land beyond a ½-mile from the center of the following stream segments: (Area1) the Colorado Canal between the western border of Crowley County and Lake Henry; (Area 2) Bob Creek from the headwaters to Lake Meredith Reservoir; and (Area 3) Horse Creek between the northern and southern borders of Crowley County. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.35.8. Elimination in Delta County is required prior to seed development in 2022 and each year thereafter for: (Area1) all land beyond a mile from the center of the North Fork of the Gunnison River between the Town of Paonia and its confluence with the Gunnison River; and (Area 2) all land beyond a mile from the center of the Gunnison River between its confluence with the North Fork of the Gunnison River and its confluence with Cummings Gulch; and (Area 3) all land beyond ½ mile from the center of the Uncompahgre River between the southern border of Delta County and its confluence with the Gunnison River. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.35.9. Elimination in Dolores County is required prior to seed development in 2022 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, western, and southern borders of Dolores County, and the Dolores River on the east. Except as specified in Part 4.7.35.20 and Part

4.7.35.21, for all land within the area described above, suppression is the specified State management objective.

4.7.35.10. Elimination in El Paso County is required prior to seed development in 2022 and each year thereafter for all land outside the boundaries of an area demarcated by the southern, western, and northern borders of El Paso County, and County Road 405, Falcon Highway, County Road 463, and Peyton Highway on the east. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 100 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet or exceed the treatment requirement for the area immediately downstream by 2018, and each year thereafter. Except as specified in Part 4.7.35.20 and as otherwise specified in this Section, for all land within the area described above, suppression is the specified State management objective.

4.7.35.11. Elimination in Larimer County is required prior to seed development in 2022 and each year thereafter for all land outside the boundaries of an area demarcated by the northern, eastern, and southern borders of Larimer County, and Longitude 105°20'20.0"W on the west. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the area described above, suppression is the specified State management objective.

4.7.35.12. Elimination in Las Animas County is required prior to seed development in 2022 and each year thereafter for all land beyond a ½-mile from the center of the Purgatoire River between Trinidad Lake and County Road 32.0. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the area described above, suppression is the specified State management objective.

4.7.35.13. Elimination in Moffat County is required prior to seed development in 2022 and each year thereafter for all lands within a ½ mile from the center of the following stream segments: (Area 1) the Little Snake River between the northern border of Moffat County and County Road 10; (Area 2) the Yampa River between the eastern border of Moffat County and County Road 25; and (Area 3) the Yampa River between the eastern boundary of T6N R99W Section 26 and the western border of Moffat County. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land outside the areas described above, suppression is the specified State management objective.

4.7.35.14. Elimination in Montrose County is required prior to seed development in 2022 and each year thereafter for all lands beyond a ½-mile from the center of the following stream segments: (Area 1) the Dolores River between the northern and southern borders of Montrose County; (Area 2), West Paradox Creek between the western boundary of the Manti-La Sal National Forest and its confluence with the Dolores River; (Area 3), the San Miguel River between the southern border of Montrose County and its confluence with the Dolores River; and (Area 4) Naturita Creek between the southern border of Montrose County and its confluence with the San Miguel River; and outside an area demarcated by the northern, eastern, and southern borders of Montrose County, and Longitude 108°7'25.0"W on the west. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 100 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet or exceed the treatment requirement for the area immediately downstream by 2018, and each year thereafter. Except as specified in Part 4.7.35.20 and as otherwise specified in this Section, for all land within the areas described above, suppression is the specified State management objective.

- 4.7.35.15. Elimination in Morgan County is required prior to seed development in 2022 and each year thereafter for all land beyond a mile from the center of the South Platte River between the western and eastern borders of Morgan County. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the area described above, suppression is the specified State management objective.
- 4.7.35.16. Elimination in Prowers County is required prior to seed development in 2022 and each year thereafter for all land beyond a mile from the center of the Arkansas River between the western and eastern borders of Prowers County. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the area described above, suppression is the specified State management objective.
- 4.7.35.17. Elimination in Rio Blanco County is required prior to seed development in 2022 and each year thereafter for all lands beyond a ½-mile from the center of the following stream segments: (Area 1) the White River between the western border of Rio Blanco County and its confluence with Curtis Creek to the east of the Town of Meeker; (Area 2) and Douglas Creek between the southern border of Rio Blanco County and its confluence with the White River. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.35.18. Elimination in San Miguel County is required prior to seed development in 2022 and each year thereafter for all land beyond a ½-mile from the center of the following stream segments: (Area 1) the Dolores River between its confluence with Summit Canyon Creek and its confluence with Blue Canyon Creek; (Area 2) Bishop Canyon Creek between the northern boundary of T43N R19W Section 32 and County Road 6H; and (Area 3) Chico Creek between State Highway 141 and the southern border of San Miguel County; and outside an area demarcated by County Road U29 on the west, the northern border of Montrose County and State Highway 145 on the north, County Road 44Z on the east, and Latitude 38°3'58.0"N on the south. Within these boundaries, all populations that are located within the area from the center of any river or perennial or intermittent stream to 100 feet beyond the ordinary high water mark on both banks, and that are within ¼-mile of the downstream boundary of this area, must be treated to meet or exceed the treatment requirement for the area immediately downstream by 2018, and each year thereafter. Except as specified in Part 4.7.35.20 and as otherwise specified in this Section, for all land within the areas described above, suppression is the specified State management objective.
- 4.7.35.19. Except as specified in Part 4.7.35.20 and Part 4.7.35.21, suppression is the specified State management objective in Alamosa, Baca, Bent, Costilla, Douglas, Garfield, Huerfano, Jefferson, Lincoln, Logan, Mesa, Montezuma, and Pueblo Counties.
- 4.7.35.20. All populations on public land in this state that are within 15 feet from the edge of any public road and any immediately adjacent area used for parking, must be eliminated prior to seed development on an annual basis.
- 4.7.35.21. All populations that are located within the area from the center of any river or perennial or intermittent stream to 100 feet beyond the ordinary high water mark on both banks, and are within ¼-mile of the downstream boundary of the county, must be treated to meet the higher treatment requirement of the two counties by 2018, and each year thereafter.
- 4.7.35.22. The prescribed integrated management techniques for the elimination of designated populations are limited to the use of herbicides approved by the

Commissioner and hand-pulling, digging, sawing, or other mechanical techniques approved by the Commissioner.

4.7.35.23. Prescribed integrated management techniques do not include the use of any biocontrol agents, herbicides, cultural techniques, or mechanical techniques other than those approved by the Commissioner.

4.7.35.24. Seed longevity is estimated to be at least three years. Infested sites must be monitored for at least four years after the populations have been eliminated and treatments must be repeated when necessary to prevent stump and root re-sprouting.

4.8. Containment maps can be located at: www.colorado.gov/ag/weeds

Part 5 List C Noxious Weed Species

- 5.1. List C of the Colorado noxious weed list comprises the following noxious weed species:

Bulbous bluegrass (*Poa bulbosa*)

Chicory (*Cichorium intybus*)

Common burdock (*Arctium minus*)

Common mullein (*Verbascum thapsus*)

Common St. Johnswort (*Hypericum perforatum*)

Downy brome (*Bromus tectorum*)

Field bindweed (*Convolvulus arvensis*)

Halogeton (*Halogeton glomeratus*)

Johnsongrass (*Sorghum halepense*)

Perennial sowthistle (*Sonchus arvensis*)

Poison hemlock (*Conium maculatum*)

Puncturevine (*Tribulus terrestris*)

Quackgrass (*Elymus repens*)

Redstem filaree (*Erodium cicutarium*)

Velvetleaf (*Abutilon theophrasti*)

Wild proso millet (*Panicum miliaceum*)

- 5.2. List C noxious weed species are species for which the Commissioner, in consultation with the state noxious weed advisory committee, local governments, and other interested parties, will develop and implement state noxious weed management plans designed to support the efforts of local governing bodies to facilitate more effective integrated weed management on private and public lands. The goal of such plans will not be to stop the continued spread of these species but to provide additional education, research, and biological control resources to jurisdictions that choose to require management of List C species.

Part 6 Watch List Species

- 6.1. The Watch List is comprised of the following species:

Asian mustard (*Brassica tournefortii*)

Baby's breath (*Gypsophila paniculata*)

Bathurst burr, Spiny cocklebur (*Xanthium spinosum*)

Brazilian egeria, Brazilian elodea (*Egeria densa*)

Common bugloss (*Anchusa officinalis*)

Common reed (*Phragmites australis*)

Garden Loosestrife (*Lysimachia vulgaris*)

Garlic mustard (*Alliaria petiolata*)

Himalayan blackberry (*Rubus armeniacus*)

Hoary alyssum (*Berteroa incana*)

Japanese blood grass/cogongrass (*Imperata cylindrica*)

Meadow hawkweed (*Hieracium caespitosum*)

Onionweed (*Asphodelus fistulosus*)

Purple pampas grass (*Cortaderia jubata*)

Scotch broom (*Cytisus scoparius*)

Sericea lespedeza (*Lepedeza cuneata*)

Swainsonpea (*Sphaerophysa salsula*)

Syrian beancaper (*Zygophyllum fabago*)

Water hyacinth (*Eichhornia crassipes*)

Water lettuce (*Pistia stratiotes*)

White bryony (*Bryonia alba*)

Woolly distaff thistle (*Carthamus lanatus*)

Yellow flag iris (*Iris pseudacorus*)

Yellow floatingheart (*Nymphoides peltata*)

- 6.2. Watch List weed species are species for which the Commissioner, in consultation with the state noxious weed advisory committee, local governments, and other interested parties, has determined to pose a potential threat to the agricultural productivity and environmental values of the lands of the state. The Watch List is intended to serve advisory and educational purposes only. Its purpose is to encourage the identification and reporting of these species to the Commissioner in order to facilitate the collection of information to assist the Commissioner in determining which species should be designated as noxious weeds. The Commissioner may place a plant species on the Watch List if any of the following are present:

- 6.2.1. The plant species is not known to occur in the state, but its noxious characteristics are recognized by another state or states in the region.

- 6.2.2. The plant species is not known to occur in the state, but has been found to exhibit noxious characteristics in agricultural lands and/or native plant communities similar to those found in Colorado.
- 6.2.3. The plant species with suspected noxious qualities as determined by the use of a plant assessment process is present in the state but its distribution and effect on agricultural and natural lands is undetermined at this time.
- 6.3. Once the noxious characteristics and distribution of plant species on the Watch List are better known, the Commissioner, in consultation with the state noxious weed advisory committee, local governments, and other interested parties, may act to place a species on List A or List B, or may remove it from the Watch List.

Part 7 Compliance Waiver

- 7.1. Local governing bodies and landowners with any population of any List A species or population of any List B species may apply for a compliance waiver granted by the Commissioner.
- 7.2. To apply for a compliance waiver, local governing bodies or landowners must submit a written petition to the State Weed Coordinator via mail (Colorado Department of Agriculture, 305 Interlocken Parkway, Broomfield, CO 80021), fax (303) 466-2860, or email (weeds@state.co.us with "Attention: noxious weed petition" in the subject line). The Department will only consider a petition for waiver during the growing season of the target weed when the extent of the problem can be properly evaluated at the site for which the petition is submitted. The petition should provide specific information pertinent to the reevaluation of the specified management objective for the target weed in a specified geographic region.
- 7.3. The Commissioner will evaluate petitions using the following criteria:
 - A. The known distribution of the target weed species in the specified geographic region;
 - B. The feasibility of current control technologies to achieve the management objective for the target population;
 - C. The cost of carrying out the management objective specified in the target weed management plan; and
 - D. Any other site-specific information that establishes that the specified management objective is not feasible for a specific population in a specified geographic region.

Petitioners must address these criteria and explain specifically what conditions exist that establish that the specified management objective is not viable.

- 7.4. The Commissioner will grant or deny a petition within fifteen business days of receiving it.
- 7.5. The Commissioner may revoke a compliance waiver at any time if the information provided in the petition was incomplete or inaccurate, or if conditions change such that the specified management objective becomes viable.

Part 8 Statements of Basis, Specific Statutory Authority and Purpose

8.1. February 11, 2004 – Effective May 3, 2004

Statutory Authority

These permanent rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S. (2003).

Purpose

The purpose of these permanent rules is to: (1) repeal all of the existing permanent rules for the administration and enforcement of the Colorado Noxious Weed Act, §§ 35-5.5-101 through 119, C.R.S. (2003), currently published at 8 C.C.R. 1203-15 (including the Statement of Basis, Purpose and Statutory Authority as well as Rules 1 through 3) and; (2) replace the current permanent rules with new permanent rules which implement the Colorado Noxious Weed Act as amended by the General Assembly in its 2003 regular session. Specifically, the purposes of these new permanent rules are to designate state noxious weeds, classify state noxious weeds into three categories (List A, B, and C), develop and implement state noxious weed management plans for List A noxious weed species, prescribe integrated management techniques to achieve eradication of List A species, and provide a process for granting compliance waivers to local governing bodies and landowners in order to develop and implement a coordinated, statewide effort to stop the spread of noxious weeds and mitigate their impacts to agriculture and the environment.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these permanent rules are as follows:

1. Several million acres of Colorado are infested with invasive non-indigenous plants that are continuing to spread to uninfested lands and increase in abundance.
2. A number of these species, designated as state noxious weeds, aggressively invade or are detrimental to economic crops or native plant communities, are poisonous to livestock, are carriers of detrimental insects, diseases, or parasites, or are detrimental, directly or indirectly, to the environmentally sound management of natural or agricultural systems.
3. Noxious weeds are a present threat to the economic and environmental value of the lands of the state of Colorado and it is a matter of statewide importance that the governing bodies of counties and municipalities manage such weeds in a coordinated manner across the state. Lack of such coordination makes weed management efforts unnecessarily costly and limits the effectiveness of public and private efforts to control such noxious weeds.
4. A broad array of public and private organizations support efforts to develop and implement a coordinated, statewide effort to stop the spread of noxious weeds.
5. Classifying designated noxious weeds into specific management categories will provide a means to focus public and private resources strategically and in a cost-effective manner.
6. By eradicating rare noxious weed species quickly (List A), these species can be prevented from establishing permanent populations in Colorado from which they will spread to harm the agricultural and environmental values of the lands of Colorado.
7. It is important that local governing bodies and affected landowners apply integrated management techniques that will achieve the specified management objectives, particularly for eradication. Some techniques are more effective than others (prescribed) and some techniques are likely to be ineffective or contribute to the spread of the weed species (not prescribed). Prescribing integrated management techniques to achieve specified management objectives will help landowners achieve management objectives

such as eradication in a timely manner while limiting environmental damage, effort, and cost.

8. By stopping the spread of well-established species (List B), the values of uninfested lands for agriculture or the environment can be protected and the costs of land management to private and public landowners can be limited or reduced.
9. By educating the public about improved management for widespread species (List C), the harm associated with these species can be reduced and such efforts can be made more cost-effective for many citizens.
10. To accomplish the goals associated with List A (statewide eradication) and List B (halted spread) it is necessary to develop and implement statewide plans to coordinate appropriate actions at the private, local, state, and federal levels. Without such plans, it will be difficult to focus public and private resources strategically and in a cost-effective manner to achieve these goals.
11. In order to provide flexibility to respond to changing circumstances with respect to the distribution of weed populations, it is important to provide the state, local governing bodies, and landowners with a process to amend the requirement to eradicate a particular noxious weed. Without such a compliance waiver process, these rules may become unnecessarily burdensome.
12. The absence of rules to implement a coordinated statewide effort to manage noxious weeds results in increased management costs to public and private interests, a reduction in the effectiveness of individual efforts, and the continued loss of agricultural and environmental values to the invasion of noxious weeds.

8.2. March 4, 2005 – Effective May 2, 2005

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S. (2004).

Purpose

The purposes of these amendments to the rules are to: (1) designate additional species of noxious weeds for inclusion in the current categories (Lists A, B, C) listed in Parts 3, 4 and 5 of the existing Rules; (2) reclassify some of the currently listed noxious weeds to different categories; (3) develop and implement new state noxious weed management plans for additional species listed for statewide eradication (List A); (4) develop and implement state noxious weed management plans for selected List B species and; (5) identify priority List B species, among other possible List B species, for which the Commissioner intends to develop and implement state noxious weed management plans.

Factual Basis

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. It is necessary to periodically adjust the state noxious weed list to address emerging plant pest threats as they become known to the state.

2. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List B species.
3. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List B species.
4. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties.

8.3. March 9, 2006 – Effective May 30, 2006

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S. (2005).

Purpose

The purposes of these amendments to the rules are to: (1) develop and implement state noxious weed management plans for selected List B species and (2) identify priority List B species, among other possible List B species, for which the Commissioner intends to develop and implement state noxious weed management plans. The rule will also be moved to the Conservation Services Division section of the CCR and renumbered to 8 CCR 1206-2 to reflect a reorganization in the Colorado Department of Agriculture moving the noxious weed program to this division.

Factual Basis

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List B species.
2. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List B species.
3. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties.

8.4. May 3, 2007 – Effective July 1, 2007

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S. (2005).

Purpose

The purposes of these amendments to the rules are to: (1) develop and implement state noxious weed management plans for selected List B species, (2) revise existing state noxious weed management plans

for selected List B species, and (3) identify priority List B species, among other possible List B species, for which the Commissioner intends to develop and implement state noxious weed management plans.

Factual Basis

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List B species.
2. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List B species.
3. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties.
4. To maintain the effectiveness of implemented plans, it will be necessary to modify periodically containment boundaries and dates identified for elimination of populations designated for eradication.

8.5. August 12, 2008 – Effective September 30, 2008

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S. (2007).

Purpose

The purposes of these amendments to the rules are to: (1) develop and implement state noxious weed management plans for selected List B species; (2) revise existing state noxious weed management plans for selected List B species; (3) reclassify two of the currently listed noxious weeds to different categories; and (4) identify priority List B species, among other possible List B species, for which the Commissioner intends to develop and implement state noxious weed management plans.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List B species.
2. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List B species.
3. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties.

8.6. July 16, 2009 – Effective August 30, 2009

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S. (2008).

Purpose

The purposes of these amendments to the rules are to: (1) develop and implement state noxious weed management plans for selected List B species; (2) revise existing state noxious weed management plans for selected List B species; (3) reclassify one of the currently listed noxious weeds to a different category; (4) eliminate one of the currently listed noxious weeds from one of two categories; and (5) identify priority List B species, among other possible List B species, for which the Commissioner intends to develop and implement state noxious weed management plans.

The proposed amendments to the rules are as follows:

1. Deletion from Rule 4.3 of the existing language stating that noxious weed management plans will be developed for Eurasian watermilfoil, Hoary cress, Russian knapweed, and sulfur cinquefoil for 2008 – 2009.
2. Addition to Rule 4.3 of new language to establish noxious weed management plans for Eurasian watermilfoil, scentless chamomile, musk thistle, bull thistle, and Scotch thistle for 2009-2010.
3. Addition of Mesa County to the list of Colorado counties in Rule 4.7.11A where elimination of Perennial pepperweed is required.
4. Addition of a new paragraph B to Rule 4.7.11 to require elimination of all populations of Perennial pepperweed in Mesa County prior to seed development in 2012.
5. Addition of new Rule 4.7.16 to establish noxious weed management plans for Hoary cress (*Cardaria draba*).
6. Addition of new Rule 4.7.17 to establish noxious weed management plans for Russian knapweed (*Centaurea repens*).
7. Addition of new Rule 4.7.18 to establish noxious weed management plans for Sulfur cinquefoil (*Potentilla recta*).
8. Addition of figures 149 to 185 in Rule 4.8 map numbers to reflect the new noxious weed management plans for Hoary cress, Russian knapweed, and Sulfur cinquefoil.
9. Deletion of Jointed goatgrass (*Aegilops cylindrical*) from List C in Rule 5.1.
10. Addition of Redstem filaree (*Erodium cicutarium*) to List C in Rule 5.1.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List B species.

2. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List B species.
3. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties. The proposed plans include weed management plans for Hoary cress (*Cardaria draba*), Russian knapweed (*Centaurea repens*), and sulfur cinquefoil (*Potentilla recta*).
4. To maintain the effectiveness of implemented plans, it will be necessary to modify periodically containment boundaries and dates identified for elimination of populations designated for eradication. Dates specified for elimination that expire by 2009 will be reviewed and modified accordingly.
5. As per the recommendation of the Colorado Noxious Weed Advisory Committee, the removal of Jointed goatgrass (*Aegilops cylindrical*) from List C as it has previously been added to List B.
6. As per the recommendation of the Colorado Noxious Weed Advisory Committee, the addition of Redstem filaree (*Erodium cicutarium*) to List C as populations are too numerous in the state to feasibly require elimination.

8.7. June 10, 2010 – Effective July 30, 2010

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S. (2009).

Purpose

The purpose of these amendments to the rules are to: (1) develop and implement state noxious weed management plans for selected List B species; (2) revise existing state noxious weed management plans for selected List B species; (3) add “ordinary high water mark” to the definitions; (4) revise existing rules to incorporate definition of ordinary high water mark; (5) identify priority List B species, among other possible List species, for which the Commissioner intends to develop and implement state noxious weed management plans; (6) make non-substantive edits to clarify where the exceptions requiring elimination along roads and streams apply; and (7) correct non-substantive typographical errors and update internal citations to reflect new rules.

The specific amendments to the rules are as follows:

1. Delete from Rule 4.3 the existing language stating that noxious weed management plans will be developed for Eurasian watermilfoil, scentless chamomile, musk thistle, bull thistle, and Scotch thistle for 2009 - 2010.
2. Add to Rule 4.3 new language to initiate the development and implementation noxious weed management plans for Dame’s rocket, Russian-olive, Common teasel, Cutleaf teasel, Canada thistle, and Quackgrass in 2010 – 2011.
3. Add “ordinary high water mark” to Part 1 Definitions, 1.7.
4. Replace current language referring to high water line with new language using the definition of “ordinary high water mark” in the Rules for the following species: Chinese clematis, leafy spurge, hoary cress, and Russian knapweed.

5. Add new Rule 4.7.19 to establish a noxious weed management plan for Bull thistle (*Cirsium vulgare*).
6. Add new Rule 4.7.20 to establish a noxious weed management plan for Eurasian watermilfoil (*Myriophyllum spicatum*).
7. Add new Rule 4.7.21 to establish a noxious weed management plan for Musk thistle (*Carduus nutans*).
8. Add of new Rule 4.7.22 to establish a noxious weed management plan for Scentless chamomile (*Matricaria perforata*).
9. Add new Rule 4.7.23 to establish a noxious weed management plan for Scotch thistle (*Onopordum acanthium* and *Onopordum tauricum*).
10. Add new figures 186 to 222 in Rule 4.8 to reflect the new noxious weed management plans for Bull thistle, Eurasian watermilfoil, Musk thistle, Scentless chamomile, and Scotch thistle.
11. Add Routt County to the list of Colorado counties in Rule 4.7.16U where suppression of Hoary cress is the specified state management objective.
12. Make non-substantive edits to language in Rules 4.7.1, Absinth wormwood; 4.7.2, Chinese clematis; 4.7.3, Plumeless thistle; 4.7.4, Spotted knapweed; 4.7.6, Black henbane; 4.7.7, Diffuse knapweed; 4.7.8, Oxeye daisy; 4.7.9, Yellow toadflax; 4.7.10, Houndstongue; 4.7.11, Perennial pepperweed; 4.7.12, Dalmatian toadflax; 4.7.13, Leafy spurge; 4.7.16, Hoary cress; 4.7.17, Russian knapweed; and 4.7.18 Sulfur cinquefoil to clarify where the exceptions requiring elimination along roads and streams apply.
13. Revise existing language on figures 1-185 to reflect non-substantive edits to clarify that exceptions requiring elimination along roads and streams apply.
14. Correct non-substantive typos in the following rules: 4.4; 4.5; 4.7.4C; and 4.7.7T.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act require the Commissioner to develop and implement state noxious weed management plans for selected List B species.
2. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List B species.
3. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties. The proposed plans include weed management plans for Bull thistle (*Cirsium vulgare*), Eurasian watermilfoil (*Myriophyllum spicatum*), Musk thistle (*Carduus nutans*), Scentless chamomile (*Matricaria perforata*), and Scotch thistle (*Onopordum acanthium* and *Onopordum tauricum*).

4. To maintain the effectiveness of implemented plans, it is necessary to modify periodically containment boundaries and dates specified for elimination of populations designated for eradication. Routt County is being added to the list of counties where suppression is the state management objective for hoary cress in 4.7.16U based on new data the department received in 2010.
5. The new definition of "Ordinary High water mark" is intended to clarify the areas adjacent to streams and rivers in which certain species must be eliminated.

8.8. November 8, 2011 – Effective December 30, 2011

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S.

Purpose

The purpose of these amendments to the rules are to: (1) designate additional species of noxious weeds for inclusion in the current categories (Lists A and C) listed in Parts 3 and 5 of the existing Rules; (2) move one noxious weed species from List A to the Watch List, and delete its management plan from Part 3; (3) develop and implement new state noxious weed management plans for additional species listed for statewide eradication (List A); (4) develop and implement state noxious weed management plans for selected List B species; (5) correct a management plan in Part 4; (6) add a new list (Watch List) at Part 6 and (7) correct non-substantive typographical errors and update internal citations to reflect new rules.

The specific amendments to the rules are as follows:

1. Add to Rule 3.1 the following species: Elongated mustard (*Brassica elongata*), Giant reed (*Arundo donax*), Japanese knotweed (*Polygonum cuspidatum*), Giant knotweed (*Polygonum sachalinense*) and Bohemian knotweed (*Polygonum x bohemicum*).
2. Move *Sericea lespedeza* (*Lespedeza cuneata*) from List A to the Watch List.
3. Delete 3.6.15, the management plan for *Sericea lespedeza* (*Lespedeza cuneata*).
4. Add new Rule 3.6.18 to establish a noxious weed management plan for Elongated mustard (*Brassica elongata*).
5. Add new Rule 3.6.19 to establish a noxious weed management plan for Giant reed (*Arundo donax*).
6. Add new Rule 3.6.20 to establish a noxious weed management plan for Japanese knotweed (*Polygonum cuspidatum*).
7. Add new Rule 3.6.21 to establish a noxious weed management plan for Giant knotweed (*Polygonum sachalinense*).
8. Add new Rule 3.6.22 to establish a noxious weed management plan for Bohemian knotweed (*Polygonum x bohemicum*).
9. Revise Rule 4.7.17.S to correct management techniques for Russian knapweed (*Centaurea repens*); and to remove Jefferson from list of counties in 4.7.17.A.
10. Revise Rule 4.7.22.G. to add Jefferson to the list of counties in 4.7.22.A.

11. Add new Rule 4.7.24 to establish a noxious weed management plan for Common teasel (*Dipsacus fullonum*).
12. Add new Rule 4.7.25 to establish a noxious weed management plan for Cutleaf teasel (*Dipsacus laciniatus*).
13. Add new Rule 4.7.26 to establish a noxious weed management plan for Dame's rocket (*Hesperis matronalis*).
14. Add new Rule 4.7.27 to establish a noxious weed management plan for Jointed goatgrass (*Aegilops cylindrica*).
15. Add new Rule 4.7.28 to establish a noxious weed management plan for Moth mullein (*Verbascum blattaria*).
16. Add new figures 223 through 257 to Rule 4.8 to reflect the new noxious weed management plans for common teasel, cutleaf teasel, dame's rocket, jointed goatgrass and moth mullein,
17. Add to Rule 5.1 Bulbous bluegrass (*Poa bulbosa*).
18. Add a new Part 6 Watch List Species.
19. Make non-substantive corrections of typographical errors in the rule in sections 4.7.4.E, 4.7.5.D, and 5.1.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The Colorado Noxious Weed Act authorizes the Commissioner to designate by rule those species placed in List A and subject to eradication wherever detected statewide in order to protect neighboring lands and the state as a whole. The following new species have been determined to present a threat to the economic and environmental value of the state of Colorado are placed on List A: Elongated mustard (*Brassica elongata*), Giant reed (*Arundo donax*), Japanese knotweed (*Polygonum cuspidatum*), Giant knotweed (*Polygonum sachalinense*), and Bohemian knotweed (*Polygonum x bohemicum*).
2. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List A and List B species.
3. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List A and List B species.
4. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties. The proposed plans include weed management plans for List A species Elongated mustard (*Brassica elongata*), Giant reed (*Arundo donax*), Japanese knotweed (*Polygonum cuspidatum*), Giant knotweed (*Polygonum sachalinense*), and Bohemian knotweed (*Polygonum x bohemicum*), and List B species Common teasel (*Dipsacus fullonum*), Cutleaf teasel (*Dipsacus laciniatus*), Dame's rocket (*Hesperis matronalis*), Jointed goatgrass (*Aegilops cylindrica*), and Moth mullein (*Verbascum blattaria*).

5. The change to Rule 3.1 and 3.6.16 is due in order to move *Sericea lespedeza* (*Lespedeza cuneata*) from List A to the Watch List based on information gathered about the species that makes it less likely to appear in the state, but still worthy of continuing observation.
6. The change to Rule 4.7.17.A is due in order to implement Jefferson County's request that it be removed from the list of counties excepted from the requirement of eliminating Russian knapweed (*Centaurea repens*) from within its borders.
7. The change to Rule 4.7.17.S is due in order to correct the management techniques for Russian knapweed (*Centaurea repens*) which include hand pulling and digging. Due to the extensive root systems of this species, hand pulling and digging are not considered to be effective in most instances, while mowing in combination with herbicide application is considered more effective.
8. The change to Rule 5.1 adds Bulbous bluegrass (*Poa bulbosa*) to List C, reflecting its invasive qualities as determined by a plant assessment process, and also recognizing its widespread distribution.
9. The change to Part 6 of the rule is due in order to create a new, non-regulatory invasive species list, called the Watch List. The purpose of the list is to encourage the identification and reporting of these species so that, in consultation with the state noxious weed advisory committee, local governments and other interested parties, the Commissioner may determine which of these species should be designated as noxious weeds.

8.9. August 6, 2012 - Effective September 30, 2012

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S.

Purpose

The purpose of these amendments to the rules are to: (1) designate additional plant species for inclusion on the Watch List; (2) develop and implement state noxious weed management plans for selected List B species; (3) correct scientific names of six noxious weed species to remain consistent with authoritative sources; (4) add management plan maps to accompany new management plans; and (5) correct non-substantive typographical errors and update internal citations to reflect new rules.

The specific amendments to the rules are as follows:

1. Correct in Rule 3.1, 3.6.2, and 3.6.8 the scientific names for camelthorn and meadow knapweed.
2. Correct in Rule 4.1, 4.7.4, 4.7.8, and 4.7.22 the scientific names for oxeye daisy, quackgrass, scentless chamomile and spotted knapweed.
3. Revise Rule 4.7.13 A and F to require Custer County to eradicate leafy spurge in its jurisdiction.
4. Revise Rule 4.7.22 to combine management plans for corn chamomile (*Anthemis arvensis*) and mayweed chamomile (*Anthemis cotula*), with the existing management plan for scentless chamomile (*Tripleurospermum perforatum*).

5. Add new Rule 4.7.29 to establish a noxious weed management plan for bouncingbet (*Saponaria officinalis*).
6. Add new Rule 4.7.30 to establish a noxious weed management plan for common tansy (*Tanacetum vulgare*).
7. Add new Rule 4.7.31 to establish a noxious weed management plan for wild caraway (*Carum carvi*).
8. Add to Rule 6.1 garlic mustard (*Alliaria petiolata*) and yellow flag iris (*Iris pseadocorus*).
9. Add new figures 258 through 264, revise figures 204 through 208, and remove figure 123 to Rule 4.8 to reflect the new noxious weed management plans for corn chamomile, mayweed chamomile, bouncingbet, common tansy and wild caraway.
10. Revise rule 4.3 to update species of special interest for future management plans.
11. Make non-substantive corrections of typographical errors in the rule in section 6.1.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List A and List B species.
3. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List A and List B species.
4. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties. The proposed plans include weed management plans for List B species corn chamomile (*Anthemis arvensis*), mayweed chamomile (*Anthemis cotula*), bouncingbet (*Saponaria officinalis*), common tansy (*Tanacetum vulgare*) and wild caraway (*Carum carvi*). The management plans for the chamomiles are combined due to the similarity of the species, distribution, and management measures.
5. The change to Rule 4.7.13 A and F is due in order to implement Custer County's request that it be removed from the list of counties exempted from the requirement of eliminating leafy spurge (*Euphorbia esula*) from within its borders.
6. The change to Rule 6.1 is to add garlic mustard (*Alliaria petiolata*) and yellow flag iris (*Iris pseadocorus*) to the Watch List, given their current unknown noxious qualities and the need for closer statewide observation.

8.10. February 12, 2014 – Effective March 30, 2014

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S.

Purpose

The purpose of these amendments to the rules are to: (1) designate additional plant species for inclusion on the Watch List; (2) develop and implement state noxious weed management plans for selected List B species; (3) revise parts of the rule pertaining to roadway and water vectors; (4) add management plan maps to accompany new management plans; and (5) correct non-substantive typographical errors and update internal citations to reflect new rules.

The specific amendments to the rules are as follows:

1. In Part 1, Definitions, delete the definition of “Division” and add the definition of “Public open space”.
2. Revise timeframes of List B management plans to replace the current specific year requirement with an ongoing goal requirement.
3. Revise Rule 4.3 to update the species of special interest for future management plan revisions.
4. Revise public road ROW language for Rules 4.7.1.E, 4.7.2.H, 4.7.3.H, 4.7.4.D, 4.7.6.H, 4.7.7.V, 4.7.8.T, 4.7.9.X, 4.7.10.P, 4.7.11.V, 4.7.12.T, 4.7.13.AD, 4.7.16.V, 4.7.17.Q, 4.7.18.G, 4.7.19.H, 4.7.21.M, 4.7.22.H, 4.7.23.Q, 4.7.24.M, 4.7.25.F, 4.7.26.L, 4.7.27.L, 4.7.28.F, 4.7.29.F, 4.7.30.E, and 4.7.31.E.
5. Revise Rule 4.7.13 to correct typographical errors.
6. Revise requirements for stream corridor management for Rules 4.7.21.C,D,F,G,H,J,N; 4.7.22.B,E,I; 4.7.23.B,C,F,G,H,I,J,K,L,N,O,R; 4.7.24.F,G,H,J,K,N; 4.7.25.C,D,G; 4.7.26.D,G,H,I,J,M; 4.7.29.C,D,G; 4.7.30.B,C,F; and 4.7.31.B,F.
7. Revise Rules 4.7.24, 4.7.25, 4.7.26, 4.7.27, 4.7.28, 4.7.29, 4.7.30 and 4.7.31, to add standard language for management techniques and seed longevity that were previously inadvertently omitted.
8. Add new Rule 4.7.32 to establish noxious weed management plans for yellow nutsedge (*Cyperus esculentus*).
9. Add new Rule 4.7.33 to establish noxious weed management plans for quackgrass (*Elymus repens*).
10. Add new Rule 4.7.34 to establish noxious weed management plans for Canada thistle (*Cirsium arvense*).
11. Add new Rule 4.7.35 to establish noxious weed management plans for Russian-olive (*Elaeagnus angustifolia*).
12. Add to Rule 6.1 Brazilian egeria, Brazilian elodea (*Egeria densa*), parrotfeather (*Myriophyllum aquaticum*), yellow floatingheart (*Nymphoides peltata*) and yellowtuft (*Alyssum murale*, *Alyssum corsicum*).
13. Make non-substantive changes in Rules 3.6, 4.7 and 6.1 to correct typographical errors.
14. Add new figures 266-294 to reflect new noxious weed management plans for yellow nutsedge, quackgrass, Canada thistle and Russian-olive.

15. Revise figures 195, 196, 198, 199, 200, 202, 204, 207, 209, 210, 213, 214, 215, 216, 217, 218, 219, 221, 222, 227, 228, 229, 231, 232, 234, 235, 236, 239, 240, 241, 242, 259, 260, 261, 262, 264 to correct references to the rule narrative.
16. Remove figure 23 in order to update a previous change to the management objective for diffuse knapweed in Gilpin County.
17. Revise rule 7 to clarify compliance waiver procedures due to the establishment of Rule 4.7.35 (Russian-olive).

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List A and List B species.
3. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List A and List B species.
4. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties. The proposed plans include weed management plans for List B species yellow nutsedge (*Cyperus esculentus*) (4.7.32), quackgrass (*Elymus repens*) (4.7.33), Canada thistle (*Cirsium arvense*) (4.7.34), and Russian-olive (*Elaeagnus angustifolia*) (4.7.35).
5. The plan developed to control Russian-olive (4.7.35) requires removal in public open spaces and along intermittent and perennial streams and rivers, lakes and reservoirs. While planted originally for windbreaks and landscaping, Russian-olive has spread along waterways and has degraded wildlife habitat, replaced native trees such as cottonwoods and willows in many areas, and has disrupted agricultural operations by invading pastures and blocking irrigation facilities.
6. The changes to Rules 4.7.1, 4.7.2, 4.7.3, 4.7.4, 4.7.6, 4.7.7, 4.7.8, 4.7.9, 4.7.10, 4.7.11, 4.7.12, 4.7.13, 4.7.16, 4.7.17, 4.7.18, 4.7.19, 4.7.21, 4.7.22, 4.7.23, 4.7.24, 4.7.25, 4.7.26, 4.7.27, 4.7.28, 4.7.29, 4.7.30, and 4.7.31 regarding road ROWs are due in order to clarify the extent of treatment required along public roads and parking areas, and that such treatments are to occur annually.
7. The changes to Rules 4.7.21, 4.7.22, 4.7.23, 4.7.24, 4.7.25, 4.7.26, 4.7.29, 4.7.30 and 4.7.31 regarding stream corridor management are due in order to clarify the extent of treatment required along the state's waterways, and to synchronize the treatment of such waterways across county boundaries and when a waterway forms the boundary between counties.
8. The change to Rule 6.1 adds Brazilian egeria, Brazilian elodea (*Egeria densa*), parrotfeather (*Myriophyllum aquaticum*), yellow floatingheart (*Nymphoides peltata*) and yellotuft (*Alyssum murale*, *Alyssum corsicum*) to the Watch List, given their current unknown noxious qualities and the need for closer statewide observation.

8.11. November 12, 2014 – Effective December 30, 2014

Statutory Authority

These amendments to the rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S.

Purpose

The purpose of these amendments to the rules are to: (1) designate an additional plant species for inclusion on List A, and an additional plant species to inclusion to the Watch List; (2) revise figure numbering to add clarity to the rule; (3) Update management plans for seven species; (4) remove two plant species from List B, and move one plant species from List B to List C; and (5) correct non-substantive typographical errors and update internal citations to reflect new rules.

The specific amendments to the rules are as follows:

1. In Parts 3.1 and 3.6.23, add hairy willow-herb (*Epilobium hirsutum*) to List A.
2. In Parts 4.1, 4.7 and 4.8, revise figure numbers for all List B species.
3. In Part 4.1, remove quackgrass (*Elymus repens*), spurred anoda (*Anoda cristata*) and Venice mallow (*Hibiscus trionum*) from List B.
4. Revise Rule 4.3 to update the species of special interest for future management plan revisions.
5. Revise Rules 4.7.1, 4.7.4, 4.7.5, 4.7.8, and 4.7.10 to update the monitoring period for these List B species: absinth wormwood (*Artemisia absinthium*), spotted knapweed (*Centaurea stoebe*), salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*), oxeye daisy (*Leucanthemum vulgare*), and houndstongue (*Cynoglossum officinale*).
6. Revise Rule 4.7.1 to update the management plans for absinth wormwood (*Artemisia absinthium*).
7. Revise Rule 4.7.2 to update the management plans for Chinese clematis (*Clematis orientalis*).
8. Revise Rule 4.7.3 to update the management plans for plumeless thistle (*Carduus acanthoides*).
9. Revise Rule 4.7.4. to update the management plans for spotted knapweed (*Centaurea stoebe*).
10. Revise Rule 4.7.6 to update the management plans for black henbane (*Hyoscyamus niger*).
11. Revise Rule 4.7.8 to update the management plans for oxeye daisy (*Leucanthemum vulgare*).
12. Revise Rule 4.7.10 to update the management plans for houndstongue (*Cynoglossum officinale*).
13. Remove management plans for spurred anoda (*Anoda cristata*) (4.7.14), Venice mallow (*Hibiscus trionum*) (4.7.15) and quackgrass (*Elymus repens*) (4.7.33).
14. In Part 5.1, add quackgrass (*Elymus repens*) to List C.

15. In Part 6.1, add garden loosestrife (*Lysimachia vulgaris*) to the Watch List, and remove hairy willow-herb (*Epilobium hirsutum*) from the Watch List.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the rules are as follows:

1. The current rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List A and List B species.
2. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List A and List B species.
3. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties. The proposed plans include weed management plans for List B species absinth wormwood (*Artemisia absinthium*), Chinese clematis (*Clematis orientalis*), plumeless thistle (*Carduus acanthoides*), spotted knapweed (*Centaurea stoebe*), black henbane (*Hyoscyamus niger*), for oxeye daisy (*Leucanthemum vulgare*), and houndstongue (*Cynoglossum officinale*).
4. After consulting with noxious weed experts, weed managers, agricultural producers and the state noxious weed advisory committee, it was determined that quackgrass (*Elymus repens*), spurred anoda (*Anoda cristata*) and Venice mallow (*Hibiscus trionum*) no longer met the criteria for List B. Quackgrass was moved to List C and spurred anoda and Venice mallow will no longer be included in the noxious weed list.
5. The numerical revisions to existing figures for List B species were done in order to bring additional clarity to these rules, and to establish a more coherent approach to mapping figures, especially given that these maps will continue to be revised and updated in future years.
6. The changes to the Watch List reflect the determination that hairy willow-herb may pose in the near future a significant threat to agricultural productivity and native plant communities of the state, and should be eradicated while still possible, thus warranting its placement on List A. Garden loosestrife has been found in limited areas of the state and has exhibited invasive qualities, and thus merits closer statewide observation prior to any listing decision.

8.12. November 10, 2015 – Effective December 30, 2015

Statutory Authority

These amendments to the Rules are adopted by the Commissioner of Agriculture pursuant to his authority under the Colorado Noxious Weed Act, §§ 35-5.5-108 and 115, C.R.S.

Purpose

The purposes of these amendments to the Rules are to: (1) designate two species for inclusion on List A, and two hybrid species for inclusion on List B; (2) Update management plans for nine species; (3) revise figure numbering to add clarity to the Rule; and (4) correct non-substantive typographical errors and update internal citations to reflect new Rules.

The specific amendments to the Rules are as follows:

1. Move flowering rush (*Butomus umbellatus*) from the Watch List to List A [Rule 3.6.24].
2. Move parrotfeather (*Myriophyllum aquaticum*) from the Watch List to List A [Rule 3.6.25].
3. In Parts 4.1 and 4.7.4., add spotted x diffuse knapweed hybrid (*Centaurea x psammogena* = *C. stoebe* x *C. diffusa*) to List B.
4. In Parts 4.1 and 4.7.12., add yellow x Dalmatian toadflax hybrid (*Linaria vulgaris* x *L. dalmatica*) to List B.
5. Revise Rule 4.3 to update the species of special interest for future management plan revisions.
6. Revise Rule 4.7.5 to update the management plan for salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*).
7. Revise Rule 4.7.7 to update the management plan for diffuse knapweed (*Centaurea diffusa*).
8. Revise Rule 4.7.9., to update the management plan for yellow toadflax (*Linaria vulgaris*).
9. Revise Rule 4.7.11., to update the management plan for perennial pepperweed (*Lepidium latifolium*).
10. Revise Rule 4.7.12. to update the management plan for Dalmatian toadflax (*Linaria dalmatica* and *Linaria genistifolia*) and yellow x Dalmatian toadflax hybrid (*Linaria vulgaris* x *L. dalmatica*), including the addition of the hybrid species.
11. Revise Rule 4.7.13., to update the management plan for leafy spurge (*Euphorbia esula*).
12. Revise Rule 4.7.16 to update the management plan for hoary cress (*Cardaria draba*).
13. Revise Rule 4.7.17., to update the management plan for Russian knapweed (*Centaurea repens*).
14. Revise Rule 4.7.35., to update the management plan for Russian-olive (*Elaeagnus angustifolia*).
15. Delete Figures 3.01-3.04, 4.01, 4.02, 6.04-6.07, 6.09, 6.11, 6.12, 6.14, 8.01, 8.03, 8.06, 8.09, 8.12, 8.14, 8.15, 8.18-8.20, 10.02, 10.04, 10.06-10.08, 10.11, 10.14, 10.16, 11.01, 11.06, 11.10-11.13, 11.16, 12.05, 12.06, 12.09, 12.10, 12.13, 12.14, 12.18, 12.19, 12.23, 12.24, 13.02, 13.08-13.10, 13.13-13.16, 13.18, 14.01, 14.02, 14.05, 14.08, 14.09, and 14.11-14.13 to update the management plan for spotted x diffuse knapweed hybrid (*Centaurea x psammogena* = *C. stoebe* x *C. diffusa*), salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*), diffuse knapweed (*Centaurea diffusa*), yellow toadflax (*Linaria vulgaris*), perennial pepperweed (*Lepidium latifolium*), Dalmatian toadflax (*Linaria dalmatica* and *Linaria genistifolia*) and yellow x Dalmatian toadflax hybrid (*Linaria vulgaris* x *L. dalmatica*), leafy spurge (*Euphorbia esula*), hoary cress (*Cardaria draba*), and Russian knapweed (*Centaurea repens*).
16. Delete and replace Figures 4.03-4.05, 6.01-6.03, 6.08, 6.10, 6.13, 6.15, 8.02, 8.04, 8.05, 8.07, 8.08, 8.10, 8.11, 8.13, 8.16, 8.17, 10.01, 10.03, 10.05, 10.09, 10.10, 10.12, 10.13, 10.15, 10.17, 10.18, 11.02-11.05, 11.07-11.09, 11.14, 11.15, 11.17, 12.01-12.04, 12.07,

12.08, 12.11, 12.12, 12.15-12.17, 12.20-12.22, 12.25-12.27, 13.01, 13.03-13.07, 13.11, 13.12, 13.17, 13.19, 14.03, 14.04, 14.06, 14.07, 14.10, and 14.14 to update the management plan for salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*), diffuse knapweed (*Centaurea diffusa*), yellow toadflax (*Linaria vulgaris*), perennial pepperweed (*Lepidium latifolium*), Dalmatian toadflax (*Linaria dalmatica* and *Linaria genistifolia*) and yellow x Dalmatian toadflax hybrid (*Linaria vulgaris* x *L. dalmatica*), leafy spurge (*Euphorbia esula*), hoary cress (*Cardaria draba*), and Russian knapweed (*Centaurea repens*).

17. Add Figures 3.01-3.04, 4.01-4.13, 6.01-6.11, 8.01-8.14, 10.01-10.14, 11.01-11.10, 12.01-12.19, 13.01-13.21, and 14.01-14.11 to update the management plan for spotted x diffuse knapweed hybrid (*Centaurea x psammogena* = *C. stoebe* x *C. diffusa*), salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*), diffuse knapweed (*Centaurea diffusa*), yellow toadflax (*Linaria vulgaris*), perennial pepperweed (*Lepidium latifolium*), Dalmatian toadflax (*Linaria dalmatica* and *Linaria genistifolia*) and yellow x Dalmatian toadflax hybrid (*Linaria vulgaris* x *L. dalmatica*), leafy spurge (*Euphorbia esula*), hoary cress (*Cardaria draba*), and Russian knapweed (*Centaurea repens*).
18. These revisions incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the Rules are as follows:

1. The current Rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List A and List B species.
2. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List A and List B species.
3. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties. The proposed plans include weed management plans for the following List B species: spotted x diffuse knapweed hybrid (*Centaurea x psammogena* = *C. stoebe* x *C. diffusa*), salt cedar (*Tamarix chinensis*, *T. parviflora*, and *T. ramosissima*), diffuse knapweed (*Centaurea diffusa*), yellow toadflax (*Linaria vulgaris*), perennial pepperweed (*Lepidium latifolium*), Dalmatian toadflax (*Linaria dalmatica* and *Linaria genistifolia*) and yellow x Dalmatian toadflax hybrid (*Linaria vulgaris* x *L. dalmatica*), leafy spurge (*Euphorbia esula*), hoary cress (*Cardaria draba*), Russian knapweed (*Centaurea repens*) and Russian-olive (*Elaeagnus angustifolia*).
4. The changes to List A reflect the determination that flowering rush (*Butomus umbellatus*) and parrotfeather (*Myriophyllum aquaticum*) may pose in the near future a significant threat to agricultural productivity and native plant communities of the state, and should be eradicated while still possible, thus warranting their placement on List A.

8.13. Adopted February 8, 2017 – Effective March 30, 2017

Statutory Authority

These amendments to the Rules are adopted by the Commissioner pursuant to his authority under the Colorado Noxious Weed Act §§ 35-5.5-108 and 115, C.R.S.

Purpose

The purpose of these amendments are to: remove one species from the Watch List; add one species to the Watch List; update management plans for seven List B species; remove figures from the Rule; correct non-substantive typographical errors; update the numbering system to be consistent with other Department Rules; and update internal citations to reflect new Rules.

The specific amendments to the Rules are as follows:

1. Update the species of special interest for future management plan revisions.
2. Update the management plans for: bull thistle (*Cirsium vulgare*); Eurasian watermilfoil (*Myriophyllum spicatum*); musk thistle (*Carduus nutans*); scotch thistle (*Onopordum acanthium*, *O. tauricum*); common teasel (*Dipsacus fullonum*); cutleaf teasel (*Dipsacus laciniatus*); and jointed goatgrass (*Aegilops cylindrica*).
3. Remove yellowtuft (*Alyssum murale*) from the Watch List, and add hoary alyssum (*Berteroa incana*) to the Watch List.
4. Remove figures from the Rule and provide them separately via the Departments website.
5. The revisions incorporate changes as a result of the Department's Regulatory Efficiency Review Process.

Factual and Policy Issues

The factual and policy issues encountered in the proposal of these amendments to the Rules are as follows:

1. The current Rules pertaining to the administration and enforcement of the Colorado Noxious Weed Act state that the Commissioner will develop and implement state noxious weed management plans for selected List A and List B species.
2. State noxious weed management plans are necessary in order to coordinate appropriate actions at the private, local, state, and federal levels that will halt the continued spread of these List A and List B species.
3. The proposed plans have been developed in consultation with the state noxious weed advisory committee, local governments, and other interested parties. The proposed plans include weed management plans for the following List B species: bull thistle (*Cirsium vulgare*), musk thistle (*Carduus nutans*), scotch thistle (*Onopordum acanthium*, *O. tauricum*), common teasel (*Dipsacus fullonum*), cutleaf teasel (*Dipsacus laciniatus*), jointed goatgrass (*Aegilops cylindrica*) and Eurasian watermilfoil (*Myriophyllum spicatum*).
4. The changes to the Watch List reflect the determination that yellowtuft (*Alyssum murale*) is no longer considered a significant threat to agricultural productivity and native plant communities of the state, and should be removed from this list; and that hoary alyssum (*Berteroa incana*) may become a significant threat and requires additional monitoring and investigation by adding it to the Watch List.

5. The figures currently included in the Rule are intended to serve as a visual aid in understanding the text of the Rule, they are being removed. To avoid any confusion in the case of an inconsistency between a figure and the Rule text, the figures will be provided separately on the Department's website. If a figure contains information that is inconsistent with the text of a Rule the text will prevail as it alone constitutes the legally binding Rule.

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: 2016-00654

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 02/08/2017

8 CCR 1206-2

**RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE COLORADO
NOXIOUS WEED ACT**

The above-referenced rules were submitted to this office on 02/09/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 17, 2017 09:22:26

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-10

Rule title

10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE,
AND RULE HISTORY 1 - eff 03/30/2017

Effective date

03/30/2017

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule Concerning Federally Qualified Health Center Reimbursement, Section 8.700.6

Rule Number: MSB 16-09-21-A

Division / Contact / Phone: Payment Reform / Kevin Martin / 303-866-2842

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Health Care Policy and Financing / Medical Services
Name: Board
2. Title of Rule: MSB 16-09-21-A, Revision to the Medical Assistance Rule Concerning Federally Qualified Health Center Reimbursement, Section 8.700.6
3. This action is an adoption an amendment
of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) Section 8.700.6, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of Yes hearing).

PUBLICATION INSTRUCTIONS*

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule Concerning Federally Qualified Health Center Reimbursement, Section 8.700.6

Rule Number: MSB 16-09-21-A

Division / Contact / Phone: Payment Reform / Kevin Martin / 303-866-2842

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

This rule will specify a methodology for calculating an updated Prospective Payment system rate following a change in the scope-of-service for a federally qualified health center. Section 1902(bb) of the Social Security Act specifies that States must adjust the PPS to take into account a change in the scope-of-services. The Colorado State Plan states what qualified a change in the scope-of-services and a general methodology for updating the PPS. It is important to include the specific methodology that the Department plans to use in the State rules so that federally qualified health centers know and understand how their rates are being changed.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

BIPA Sec. 702(b) 42 U.S.C. § 1396a (bb)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
Section 25.5-4-401 (1)(a), C.R.S.

Initial Review
Proposed Effective Date

01/10/17
03/30/17

Final Adoption
Emergency Adoption

02/10/17

DOCUMENT #02

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule Concerning Federally Qualified Health Center Reimbursement, Section 8.700.6

Rule Number: MSB 16-09-21-A

Division / Contact / Phone: Payment Reform / Kevin Martin / 303-866-2842

REGULATORY ANALYSIS

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

This rule will affect the 417,922 Medicaid members that receive medical services at Federally Qualified Health Centers.

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

Total expenditures for services received at FQHCs during the last fiscal year was \$169,420,600.13 or approximately \$405.39 per member. This rule change could potentially increase the rates paid to FQHCs if the recalculated PPS is greater than the APM since our policy is to choose the greater of the PPS and APM rate. However, Federal regulations stipulate that a change in the scope of services must be taken into account the PPS should be adjusted based on the change in costs and visits seen at an FQHC.

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

If the adjusted PPS rate is greater than the APM rate, the rate paid to the FQHC will be higher than it was before the PPS was adjusted.

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

The probable costs are that an FQHCs rate could be higher than it previously was due to a PPS rate that is higher than the APM rate. The benefits to the proposed rule are that it will better align the Department with Federal Law and will set a Prospective Payment System rate that is better aligned with the Federally Qualified Health Center's current costs and visits.

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

DO NOT PUBLISH THIS PAGE

There are no less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The Department seriously considered a State Plan Amendment to achieve the purpose of this rule. However, it was determined that the State Plan already details the definition and methodology for calculating a rate adjustment due to a change in the scope-of-service so a State Plan Amendment is not necessary. The proposed rule was written to define the exact methodology being used to calculate a rate adjustment due to a change in the scope-of-service.

8.700.6 REIMBURSEMENT

8.700.6.A FQHCs shall be reimbursed a per visit encounter rate based on 100% of reasonable cost. An FQHC may be reimbursed for up to three separate encounters with the same client occurring in one day and at the same location, so long as the encounters submitted for reimbursement are any combination of the following: medical encounter, dental encounter, or mental health encounter. Duplicate encounters of the same service category occurring on the same day and at the same location are prohibited unless it is a distinct mental health encounter, which is allowable only when rendered services are covered and paid by a contracted BHO.

8.700.6.B A medical encounter, a dental encounter, and a mental health encounter on the same day and at the same location shall count as three separate visits.

1. Encounters with more than one health professional, and multiple encounters with the same health professional that take place on the same day and at a single location constitute a single visit, except when the client, after the first encounter, suffers illness or injury requiring additional diagnosis or treatment.
2. Distinct mental health encounters are allowable only when rendered services are covered and paid by a contracted BHO.

8.700.6.C Encounter rate calculation

a) Effective July 1, 2014, the encounter rate shall be the higher of the Prospective Payment System (PPS) rate or the alternative payment rate.

1. The PPS rate is defined by Section 702 of the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) included in the Consolidated Appropriations Act of 2000, Public Law 106-554, Dec. 21, 2000. BIPA is incorporated herein by reference. No amendments or later editions are incorporated.

Copies are available for a reasonable charge and for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.

2. a) The alternative payment rate shall be the lower of the annual rate or the base rate. The annual rate and the base rate shall be calculated as follows:
 1. Annual rates shall be the FQHCs current year's calculated inflated rate, after audit.
 2. The new base rate shall be the calculated, inflated weighted average encounter rate, after audit, for the past three years. Beginning July 1, 2004 the base encounter rate shall be inflated annually using the Medicare Economic Index to coincide with the federal reimbursement methodology for FQHCs. Base rates shall be recalculated (rebased) every three years.
3. a) New FQHCs shall file a preliminary FQHC Cost Report with the Department. Data from the preliminary report shall be used to set a reimbursement base rate for the first year. The base rate shall be calculated using the audited cost report showing actual data from the first fiscal year of operations as a FQHC. This shall be the FQHCs base rate until the next rebasing period.

b) New base rates may be calculated using the most recent audited Medicaid FQHC cost report for those FQHCs that have received their first federal Public Health Service grant with the three years prior to rebasing, rather than using the inflated weighted average of the most recent three years audited encounter rates.

4.
 - a) The Department shall audit the FQHC cost report and calculate the new annual and base reimbursement rates. If the cost report does not contain adequate supporting documentation, the FQHC shall provide requested documentation within ten (10) business days of request. Unsupported costs shall be unallowable for the calculation of the FQHCs new encounter rate.
 - b) Freestanding FQHCs shall file the Medicaid cost reports with the Department on or before the 90th day after the end of the FQHCs' fiscal year. Freestanding FQHCs shall use the Medicaid FQHC Cost Report developed by the Department to report annual costs and encounters. Failure to submit a cost report within 180 days after the end of a freestanding FQHCs' fiscal year shall result in suspension of payments.
 - c) The new reimbursement rate for freestanding FQHCs shall be effective 120 days after the FQHCs fiscal year end. The old reimbursement rate (if less than the new audited rate) shall remain in effect for an additional day above the 120 day limit for each day the required information is late; if the old reimbursement rate is more than the new rate, the new rate shall be effective the 120th day after the freestanding FQHCs fiscal year end.
 - d) The new reimbursement rate for hospital-based FQHCs shall be effective January 1 of each year.
 - e) If a hospital-based FQHC fails to provide the requested documentation, the costs associated with those activities shall be presumed to be non-primary care services and shall be settled using the Outpatient Hospital reimbursement rate.
 - f) All hospital-based FQHCs shall submit separate cost centers and settlement worksheets for primary care services and non-primary care services on the Medicare Cost Report for their facilities. Non-primary care services shall be reimbursed according to Section 8.300.6.
5.
 - a) If a FQHC changes its scope of service after the year in which its base PPS rate was determined, the Department will adjust the FQHC's PPS rate in accordance with section 1902(bb) of the Social Security Act.
 - b) A FQHC must apply to the Department for an adjustment to its PPS rate whenever there is a documented change in the scope of service of the FQHC. The documented change in the scope of service of the FQHC must meet all of the following conditions:
 1. The increase or decrease in cost is attributable to an increase or decrease in the scope of service that is a covered benefit, as described in Section 1905(a)(2)(C) of the Social Security Act, and is furnished by the FQHC.
 2. The cost is allowable under Medicare reasonable cost principles set forth in 42 CFR Part 413.5.
 3. The change in scope of service is a change in the type, intensity, duration, or amount of services, or any combination thereof.
 4. The net change in the FQHC's per-visit encounter rate equals or exceeds 3% for the affected FQHC site. For FQHCs that file consolidated cost reports for

multiple sites in order to establish the initial PPS rate, the 3% threshold will be applied to the average per-visit encounter rate of all sites for the purposes of calculating the cost associated with a scope-of-service change.

5. The change in scope of service must have existed for at least a full six (6) months.

c) A change in the cost of a service is not considered in and of itself a change in scope of service. The change in cost must meet the conditions set forth in Section 8.700.6.C.5.b and the change in scope of service must include at least one of the following to prompt a scope-of-service rate adjustment. If the change in scope of service does not include at least one of the following, the change in the cost of services will not prompt a scope-of-service rate adjustment.

1. The addition of a new service not incorporated in the baseline PPS rate, or deletion of a service incorporated in the baseline PPS rate;

2. The addition or deletion of a covered Medicaid service under the State Plan;

3. Changes necessary to maintain compliance with amended state or federal regulations or regulatory requirements;

4. Changes in service due to a change in applicable technology and/or medical practices utilized by the FQHC;

5. Changes resulting from the changes in types of patients served, including, but not limited to, populations with HIV/AIDS, populations with other chronic diseases, or homeless, elderly, migrant, or other special populations that require more intensive and frequent care;

6. Changes resulting from a change in the provider mix, including, but not limited to:

i. A transition from mid-level providers (e.g. nurse practitioners) to physicians with a corresponding change in the services provided by the FQHC;

ii. The addition or removal of specialty providers (e.g. pediatric, geriatric, or obstetric specialists) with a corresponding change in the services provided by the FQHC (e.g. delivery services);

iii. Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and/or residents; or,

iv. Changes in operating costs attributable to capital expenditures (including new, expanded, or renovated service facilities), regulatory compliance measures, or changes in technology or medical practices at the FQHC, provided that those expenditures result in a change in the services provided by the FQHC.

d) The following items do not prompt a scope-of-service rate adjustment:

1. An increase or decrease in the cost of supplies or existing services;

2. An increase or decrease in the number of encounters;

3. Changes in office hours or location not directly related to a change in scope of service;
4. Changes in equipment or supplies not directly related to a change in scope of service;
5. Expansion or remodel not directly related to a change in scope of service;
6. The addition of a new site, or removal of an existing site, that offers the same Medicaid-covered services;
7. The addition or removal of administrative staff;
8. The addition or removal of staff members to or from an existing service;
9. Changes in salaries and benefits not directly related to a change in scope of service;
10. Change in patient type and volume without changes in type, duration, or intensity of services;
11. Capital expenditures for losses covered by insurance; or,
12. A change in ownership.

e) A FQHC must apply to the Department by written notice within ninety (90) days of the end of the FQHCs fiscal year in which the change in scope of service occurred, in conjunction with the submission of the FQHC's annual cost report. Only one scope-of-service rate adjustment will be calculated per year. However, more than one type of change in scope of service may be included in a single application.

f) Should the scope-of-service rate application for one year fail to reach the threshold described in Section 8.700.6.C.5.b.4, the FQHC may combine that year's change in scope of service with a valid change in scope of service from the next year or the year after. For example, if a valid change in scope of service that occurred in FY 2016 fails to reach the threshold needed for a rate adjustment, and the FQHC implements another valid change in scope of service during FY2018, the FQHC may submit a scope-of-service rate adjustment application that captures both of those changes. A FQHC may only combine changes in scope of service that occur within a three-year time frame, and must submit an application for a scope-of-service rate adjustment as soon as possible after each change has been implemented. Once a change in scope of service has resulted in a successful scope-of-service rate adjustment, either individually or in combination with another change in scope of service, that change may no longer be used in an application for another scope-of-service rate adjustment.

g) The documentation for the scope-of-service rate adjustment is the responsibility of the FQHC. Any FQHC requesting a scope-of-service rate adjustment must submit the following to the Department:

1. The Department's application form for a scope-of-service rate adjustment, which includes:
 - i. The provider number(s) that is/are affected by the change(s) in scope of service;
 - ii. A date on which the change(s) in scope of service was/were implemented;

iii. A brief narrative description of each change in scope of service, including how services were provided both before and after the change;

iv. Detailed documentation such as cost reports that substantiate the change in total costs, total health care costs, and total visits associated with the change(s) in scope; and

v. An attestation statement that certifies the accuracy, truth, and completeness of the information in the application signed by an officer or administrator of the FQHC;

2. Any additional documentation requested by the Department. If the Department requests additional documentation to calculate the rate for the change(s) in scope of service, the FQHC must provide the additional documentation within thirty (30) days. If the FQHC does not submit the additional documentation within the specified timeframe, the Department, at its discretion, may postpone the implementation of the scope-of-service rate adjustment.

h) The reimbursement rate for a scope-of-service change applied for January 30, 2017 or afterwards will be calculated as follows:

1. The Department will first verify the total costs, the total covered health care costs, and the total number of visits before and after the change in scope of service. The Department will also calculate the Adjustment Factor ($AF = \text{covered health care costs} / \text{total cost of FQHC services}$) associated with the change in scope of service of the FQHC. If the AF is 80% or greater, the Department will accept the total costs as filed by the FQHC. If the AF is less than 80%, the Department will reduce the costs other than covered health care costs (thus reducing the total costs filed by the FQHC) until the AF calculation reaches 80%. These revised total costs will then be the costs used in the scope-of-service rate adjustment calculation.

2. The Department will then use the appropriate costs and visits data to calculate the adjusted PPS rate. The adjusted PPS rate will be the average of the costs/visits rate before and after the change in scope of service, weighted by visits.

3. The Department will calculate the difference between the current PPS rate and the adjusted PPS rate. The "current PPS rate" means the PPS rate in effect on the last day of the reporting period during which the most recent scope-of-service change occurred.

4. The Department will check that the adjusted PPS rate meets the 3% threshold described above. If it does not meet the 3% threshold, no scope-of-service rate adjustment will be implemented.

5. Once the Department has determined that the adjusted PPS rate has met the 3% threshold, the adjusted PPS rate will then be increased by the Medicare Economic Index (MEI) to become the new PPS rate.

i) The Department will review the submitted documentation and will notify the FQHC in writing within one hundred twenty (120) days from the date the Department received the application as to whether a PPS rate change will be implemented. Included with the notification letter will be a rate-setting statement sheet, if applicable. The new PPS rate will take effect one hundred twenty (120) days after the FQHC's fiscal year end.

j) Changes in scope of service, and subsequent scope-of-service rate adjustments, may also be identified by the Department through an audit or review process.

1. If the Department identifies a change in scope of services, the Department may request the documentation as described in Section 8.700.6.C.5.g from the FQHC. The FQHC must submit the documentation within ninety (90) days from the date of the request.

2. The rate adjustment methodology will be the same as described in Section 8.700.6.C.5.h.

3. The Department will review the submitted documentation and will notify the FQHC by written notice within one hundred twenty (120) days from the date the Department received the application as to whether a PPS rate change will be implemented. Included with the notification letter will be a rate-setting statement sheet, if applicable.

4. The effective date of the scope-of-service rate adjustment will be one hundred twenty (120) days after the end of the fiscal year in which the change in scope of service occurred.

k) A FQHC may request a written informal reconsideration of the Department's decision of the PPS rate change regarding a scope-of-service rate adjustment within thirty (30) days of the date of the Department's notification letter. The informal reconsideration must be mailed to the Department of Health Care Policy and Financing, 1570 Grant St, Denver, CO 80203. To request an informal reconsideration of the decision, a FQHC must file a written request that identifies specific items of disagreement with the Department, reasons for the disagreement, and a new rate calculation. The FQHC should also include any documentation that supports its position. A provider dissatisfied with the Department's decision after the informal reconsideration may appeal that decision through the Office of Administrative Courts according to the procedures set forth in 10 CCR 2505-10 Section 8.050.3, PROVIDER APPEALS.

6. The performance of physician and mid-level medical staff shall be evaluated through application of productivity standards established by the Centers for Medicare and Medicaid Services (CMS) in CMS Publication 27, Section 503; "Medicare Rural Health Clinic and FQHC Manual". If a FQHC does not meet the minimum productivity standards, the productivity standards established by CMS shall be used in the FQHCs' rate calculation.

8.700.6.D The Department shall notify the FQHC of its rate.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Program Pharmacy Benefit Rules
Concerning Pharmaceuticals, Section 8.800

Rule Number: MSB 16-10-24-A

Division / Contact / Phone: Client and Clinical Care Office / January Montano / (303)866-6977

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Health Care Policy and Financing / Medical Services
Name: Board
2. Title of Rule: MSB 16-10-24-A, Revision to the Medical Assistance
Program Pharmacy Benefit Rules Concerning
Pharmaceuticals, Section 8.800
3. This action is an adoption new rules
of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations
number and page numbers affected):
Sections(s) 8.800, Colorado Department of Health Care Policy and Financing, Staff
Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of Yes
hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.800 with the proposed text starting at 8.800.1 through the
end of 8.800.18.E. This rule is effective March 30, 2017.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Program Pharmacy Benefit Rules Concerning Pharmaceuticals, Section 8.800

Rule Number: MSB 16-10-24-A

Division / Contact / Phone: Client and Clinical Care Office / January Montano / (303)866-6977

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

A Regulatory Efficiency Review was performed at 10 CCR 2505-10, Section 8.800, pursuant to Executive Order D2012-002 in 2015. Several revisions requiring technical clean-up of the rules at 8.800 were identified. The revisions to Section 8.800 represent a technical clean-up only and do not include any substantive changes. Therefore, the rules at 10 C.C.R. 2505-10, Sections 8.800, are being revised.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

42 U.S.C. Section 1396r-8(d)

42 U.S.C. Section 256b

42 U.S.C. Section 1395w-102(e)

42 C.F.R. Sections 447.512-447.516

42 C.F.R. Section 456.716(d)

42 C.F.R. Section 423.100

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);

Initial Review

01/13/17 Final Adoption

02/10/17

Proposed Effective Date

03/30/17 Emergency Adoption

DOCUMENT #05

DO NOT PUBLISH THIS PAGE

C.R.S. Sections 25.5-5-501, 25.5-5-502, 25.5-505 (2016)

Initial Review

Proposed Effective Date

01/13/17 Final Adoption

03/30/17 Emergency Adoption

02/10/17

DOCUMENT #05

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Program Pharmacy Benefit Rules
Concerning Pharmaceuticals, Section 8.800

Rule Number: MSB 16-10-24-A

Division / Contact / Phone: Client and Clinical Care Office / January Montano / (303)866-6977

REGULATORY ANALYSIS

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

There are no costs associated with the proposed rule. There are no impacts to members, providers or local governments.

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

None.

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

None.

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

The rule revisions at 10 CCR 2505-10, Section 8.800, are technical only and as such create no potential costs.

The benefits of the proposed revisions are up-to-date and efficacious pharmaceutical rules.

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

None.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

None.

8.800 PHARMACEUTICALS

8.800.1 DEFINITIONS

- A. 340B Pharmacy means any pharmacy that participates in the Federal Public Health Service's 340B Drug Pricing Program as described in Title 42 of the United States Code, Section 256b (2014). Title 42 of the United States Code, Section 256b (2014) is hereby incorporated by reference into this rule. Such incorporation, however, excludes later amendments to or editions of the referenced material. This statute is available for public inspection at the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Pursuant to C.R.S. §24-4-103(12.5)(V)(b), the agency shall provide certified copies of the material 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 of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.
- B. Average Acquisition Cost (AAC) means the average acquisition cost for like drugs grouped by Generic Code Number (GCN). For GCNs with both generic and brand drugs, the Department shall determine two separate AAC rates for the GCN. One AAC rate shall be based on the average acquisition cost for all generic drugs while the other shall be based on the average acquisition cost for all brand drugs.
- C. Conflict of Interest means having competing professional or personal obligations or personal or financial interests that would make it difficult to fulfill duties in an objective manner.
- D. Department means the Colorado Department of Health Care Policy and Financing.
- E. Dispensing Fee means the reimbursement amount for costs associated with filling a prescription. Costs include salary costs, pharmacy department costs, facility costs, and other costs.
- F. Dispensing Prescriber means a health care professional who, as licensed by Colorado state law, prepares, dispenses and instructs members to self-administer medication.
- G. Drug Class means a group composed of drugs that all treat a particular disease, symptom or indication.
- H. Emergency Situation means any condition that is life threatening or requires immediate medical intervention as determined in good faith by the pharmacist.
- I. E-prescription means the transmission of a prescription through an electronic application.
- J. Fiscal agent means a contractor that supports and operates the pharmacy benefit management system on behalf of the Medical Assistance Program.
- K. Federal Upper Limit (FUL) means the upper limit for multiple source drugs as set by the Centers for Medicare and Medicaid Services pursuant to Title 42 of the Code of Federal Regulations, Part 447.512-447.516 (2016). Title 42 of the Code of Federal Regulations, Part 447.512-447.516 (2016) is hereby incorporated by reference into this rule. Such incorporation, however, excludes later amendments to or editions of the referenced material. This statute is available for public inspection at the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Pursuant to C.R.S. §24-4-103(12.5)(V)(b), the agency shall provide certified copies of the material 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 of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.

- L. Generic Code Number (GCN) means a standard number to group together drugs that have the same ingredients, route of administration, drug strength, and dosage form.
- M. Good Cause means failing to disclose a Conflict of Interest; participating in wrongdoing or misconduct in the case of serving as a member of a committee or other advisory body for the Department; failing to perform required duties; or missing two scheduled meetings per calendar year.
- N. Government Pharmacy means any pharmacy whose primary function is to provide drugs and services to members of a facility whose operating funds are appropriated directly from the State of Colorado or the federal government excluding pharmacies funded through Indian Health Services.
- O. Institutional Pharmacy means any pharmacy whose primary function is to provide drugs and services to hospitalized patients and others receiving health care provided by the facility with which the pharmacy is associated.
- P. Mail Order Pharmacy means any pharmacy that delivers drugs primarily by mail.
- Q. Maintenance Medication means any drug, as determined by the Department, which is used to treat a chronic illness or symptoms of a chronic illness.
- R. Medical Assistance Program shall have the meaning defined in Section 25.5-1-103(5), C.R.S. (2016).
- S. Medical Assistance Program Allowable Charge means the allowed ingredient cost plus a dispensing fee or the provider's Usual and Customary Charge, whichever is less, minus the member's copayment as determined according to 10 C.C.R. 2505-10, Section 8.754.
- T. Medical Director means the physician or physicians who advise the Department.
- U. Medicare Part D means the prescription drug benefit provided to Part D eligible individuals pursuant to the Medicare Prescription Drug, Improvement and Modernization Act of 2003.
- V. Medicare Part D Drugs means drugs defined at Title 42 of the United States Code, Section 1395w-102(e) (2014) and Title 42 of the Code of Federal Regulations, Section 423.100 (2015). Title 42 of the United States Code, Section 1395w-102(e) (2014) and Title 42 of the Code of Federal Regulations, Section 423.100 (2015) are hereby incorporated by reference into this rule. Such incorporation, however, excludes later amendments to or editions of the referenced material. This statute is available for public inspection at the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Pursuant to C.R.S. §24-4-103(12.5)(V)(b), the agency shall provide certified copies of the material 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 of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.

- W. Non-preferred Drug means a drug that is designated as non-preferred by the Medical Director pursuant to 10 CCR 2505-10, Section 8.800.16, and requires prior-authorization before being payable by the Medical Assistance Program.
- X. Old Age Pension Health Care Program and Old Age Pension Health Care Supplemental Program (OAP State Only) means the program established to provide necessary medical care for clients that qualify for Old Age Pension but do not qualify for the Medical Assistance Program under Title XIX of the Social Security Act and Colorado statutes.
- Y. Over-the-Counter (OTC) means a drug that is appropriate for use without the supervision of a health care professional such as a physician, and which can be purchased by a consumer without a prescription.
- Z. Part D eligible individual has the same meaning as defined in 10 C.C.R. 2505-10, Section 8.1000.1.
- AA. Pharmacy and Therapeutics Committee (P&T Committee) means an advisory board that shall perform reviews and make recommendations which facilitate the development and maintenance of the Preferred Drug List as described in 10 C.C.R. 2505-10, Section 8.800.17.
- BB. Preferred Drug means a drug that is designated preferred by the Medical Director pursuant to 10 CCR 2505-10, Section 8.800.16.B, that is payable by the Medical Assistance Program without first obtaining a prior authorization unless otherwise required to protect the health and safety of specific members.
- CC. Preferred Drug List (PDL) means a list, applicable only to fee-for-service and primary care physician Medical Assistance Program members, which identifies the Preferred Drugs and Non-preferred Drugs within a drug class.
- DD. Provider Bulletin means a document published and distributed by program and policy staff to communicate information to providers related to the Department.
- EE. Retail Pharmacy means any pharmacy that is not a 340B Pharmacy, Government Pharmacy, Institutional Pharmacy, Mail Order Pharmacy, or Rural Pharmacy.
- FF. Rural Pharmacy means any pharmacy that is the only pharmacy within a twenty-mile radius.
- GG. Submitted Ingredient Cost means a pharmacy's calculated ingredient cost. For drugs purchased through the Federal Public Health Service's 340B Drug Pricing Program, the Submitted Ingredient Cost means the 340B purchase price.
- HH. Total Prescription Volume means all new and refill prescriptions dispensed for all payer types. Payer types include but are not limited to Medicaid, Medicare, commercial, third-party, and uninsured.
- II. Usual and Customary Charge means the reimbursement amount the provider charges the general public to pay for a drug.
- JJ. Wholesale Acquisition Cost (WAC) means with respect to a drug or biological, the manufacturer's list price for the drug or biological to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates or reductions in

price, for the most recent month for which the information is available, as reported in wholesale price guides or other publications of drug or biological pricing data.

8.800.2 CONDITIONS OF PARTICIPATION

8.800.2.A. A pharmacy must be licensed or certified by the appropriate regulatory body in the state in which it is located. Pharmacies located outside of Colorado must also be registered in Colorado if required by the Colorado Board of Pharmacy.

8.800.2.B. Any pharmacy or Dispensing Prescriber, whether in-state or out-of-state, that submits claims for reimbursement must be enrolled in the Medical Assistance program in accordance with 8.040.1 and 8.013.1. The Department may deny a provider application, and the Department may terminate or not renew a provider agreement in accordance with 10 C.C.R. 2505-10, Sections 8.076, 8.125, and 8.130.

8.800.2.C. An out-of-state pharmacy may enroll as a Medical Assistance Program provider subject to the same conditions of participation as an in-state pharmacy.

8.800.3 MAIL ORDER

8.800.3.A. Only Maintenance Medications may be delivered through the mail.

8.800.4 DRUG BENEFITS

8.800.4.A. Only those drugs designated by companies participating in the federally approved Medical Assistance Program drug rebate program and not otherwise excluded according to these rules are regular drug benefits. Notwithstanding the foregoing, drugs not covered by rebate agreements may be reimbursed if the Department has made a determination that the availability of the drug is essential, such drug has been given an "A" rating by the U. S. Food and Drug Administration (FDA), and a prior authorization has been approved. Reimbursement of any drugs that are regular drug benefits may be restricted as set forth in these rules.

8.800.4.B. The following drug categories may be excluded from being a drug benefit or may be subject to restrictions:

1. Agents when used for anorexia, weight loss or weight gain;
2. Agents when used to promote fertility;
3. Agents when used for cosmetic purposes or hair growth;
4. Agents when used for symptomatic relief of cough and colds;
5. Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations;
6. Non-prescription Drugs;
7. Covered outpatient drugs that the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee; and
8. Agents used for the treatment of sexual or erectile dysfunction unless such agents are used to treat a condition, other than a sexual or erectile dysfunction, for which the agents have been approved by the FDA.

8.800.4.C. The following are not pharmacy benefits of the Medical Assistance Program:

1. Spirituous liquors of any kind;
2. Dietary needs or food supplements;
3. Personal care items such as mouth wash, deodorants, talcum powder, bath powder, soap of any kind, dentifrices, etc.;
4. Medical supplies;
5. Drugs classified by the FDA as "investigational" or "experimental"; except for the following:
 - a. Stiripentol and clobazam (prior to availability of Onfi in the US) may qualify for coverage (generic coverage, if available, brand coverage if no generic is available) for clients up through age 20, if the coverage has been ordered by the child's physician, has been determined medically necessary by the Colorado Medical Assistance Program Medical Director (or clinical appointee of the Executive Director), and has been authorized for the specific child's use by the U.S. Food & Drug Administration.
6. Less-than-effective drugs identified by the Drug Efficacy Study Implementation (DESI) program; and
7. Medicare Part D Drugs for Part D eligible individuals.

8.800.4.D. Aspirin, OTC insulin and medications that are available OTC and that have been designated as Preferred Drugs on the PDL are the only OTC drugs that are regular benefits without restrictions.

8.800.4.E. Restrictions may be placed on drugs in accordance with Title 42 of the United States Code, Section 1396r-8(d)(2014). Title 42 of the United States Code, Section 1396r-8(d)(2014) is hereby incorporated by reference into this rule. Such incorporation, however, excludes later amendments to or editions of the referenced material. This statute is available for public inspection at the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Pursuant to C.R.S. §24-4-103(12.5)(V)(b), the agency shall provide certified copies of the material 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 of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.

1. Without limiting the foregoing, restrictions may be placed on drugs for which it has been deemed necessary to address instances of fraud or abuse, potential for, and history of, drug diversion and other illegal utilization, overutilization, other inappropriate utilization or the availability of more cost-effective comparable alternatives.

8.800.4.F. To the extent the drug categories listed in Section 8.800.4.B are not Medicare Part D Drugs, they shall be covered for Part D eligible individuals in the same manner as they are covered for all other eligible Medical Assistance Program members.

8.800.4.G. Generic drugs shall be dispensed to members in fee-for-service programs unless:

1. Only a brand name drug is manufactured.
2. A generic drug is not therapeutically equivalent to the brand name drug.
3. The final cost of the brand name drug is less expensive to the Department.
4. The drug is in one of the following exempted classes for the treatment of:
 - a. Mental Illness;
 - b. Cancer;
 - c. Epilepsy; or
 - d. Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome.
5. The Department shall grant an exception to this requirement if:
 - a. The member has been stabilized on a medication and the treating physician, or a pharmacist with the concurrence of the treating physician, is of the opinion that a transition to the generic equivalent of the brand name drug would be unacceptably disruptive; or
 - b. The member is started on a generic drug but is unable to continue treatment on the generic drug.

Such exceptions shall be granted in accordance with procedures established by the Department.

8.800.5 DRUGS ADMINISTERED OR PROVIDED IN PHYSICIAN OFFICES OR CLINICS

- 8.800.5.A. Any drugs administered in a physician's office or clinic are considered part of the physician's services and not a pharmacy benefit. Such drugs shall be billed on the physician claim form. Pharmacies shall not bill for any products that are administered in a physician's office or clinic.
- 8.800.5.B. Dispensing Prescribers whose offices or sites of practice are located within 25 miles from the nearest participating pharmacy shall not be reimbursed for drugs or services that are dispensed from their offices.

8.800.6 COMPOUNDED PRESCRIPTIONS

- 8.800.6.A. Compounded prescriptions shall be billed by submitting all ingredients in the prescription as one multiple-line claim. The provider will be reimbursed for each ingredient of the prescription according to Section 8.800.13.A-F, and will also be reimbursed for the dispensing fee according to Section 8.800.13.H. A compounding fee, over and above the stated dispensing fee, will not be paid.

8.800.7 PRIOR AUTHORIZATION REQUIREMENTS

- 8.800.7.A. Prior authorization shall be obtained before drugs that are subject to prior authorization restrictions may be provided as a benefit. Prior authorization requests may be made by the member's physician, any other health care provider who has authority under Colorado law to prescribe the medication being requested or any long-term-care pharmacy or infusion pharmacy that fills prescriptions on behalf of the member and is acting as the agent of the prescriber. The

prior authorization request shall be made to the Fiscal Agent. The prescriber shall provide any information requested by the Fiscal Agent including, but not limited to, the following:

1. Member name, Medical Assistance Program state identification number, and birth date;
2. Name of the drug(s) requested;
3. Strength and quantity of drug(s) requested; and
4. Prescriber's name and medical license number, Drug Enforcement Administration number, or National Provider Identifier.

8.800.7.B. When the prior authorization request is received, it shall be reviewed to determine if the request is complete. If it is complete, the requesting provider shall be notified of the approval or denial of the prior authorization request via telephone and/or facsimile at the time the request is made, if possible, but in no case later than 24 hours after the request is made. Any verbal decision shall be confirmed in writing. If the prior authorization request is incomplete or additional information is needed, an inquiry to the party requesting the prior authorization shall be initiated within one working day from the day the request was received. If no response is received from that party within 24 hours of the Department's inquiry, the prior authorization shall be denied.

8.800.7.C. In an emergency situation, the pharmacy may dispense up to a 72-hour supply of a covered drug that requires a prior authorization if it is not reasonably possible to request a prior authorization for the drug before it must be dispensed to the member for proper treatment. The pharmacist may call the prior authorization help desk to receive override approval. Prescriptions dispensed under the override approval are eligible for reimbursement.

8.800.7.D. The Department shall solicit and maintain a list of any interested parties who wish to comment on any proposed additions to the drugs that are subject to prior authorization. The list of interested parties shall be notified of any proposal and shall be given reasonable time, not to exceed 30 days, to comment or recommend changes before any drugs become subject to prior authorization. Notwithstanding the foregoing, if a new drug is approved by the FDA and that drug is in a class of drugs already subject to prior authorization, the new drug shall also be subject to prior authorization without any comment period.

8.800.7.E. Any changes to the drugs that are subject to prior authorization or any documentation required to obtain a prior authorization shall be published in the Provider Bulletin. Notification in the Provider Bulletin shall satisfy any notification requirements of any such changes.

8.800.8 LIMIT REQUIREMENTS

8.800.8.A. Limits shall include a limit on the number of units of a drug that a member may receive in a 30-day or 100-day period, as applicable. Limits placed on the coverage of any drugs under the Medical Assistance Program shall result in pharmaceutical services still being sufficient in the amount, duration and scope to meet all applicable federal laws and regulations.

8.800.8.B. The Department shall solicit and maintain a list of any interested parties who wish to comment on any proposed limits on drugs. The list of interested parties shall be notified of any proposal and shall be given reasonable time, not to exceed 30 days, to comment or recommend changes before any such drugs are limited. Notwithstanding the foregoing, if a new drug is approved by the FDA and that drug is in a class of drugs already subject to limits, the new drug shall also be subject to limits without any comment period.

- 8.800.8.C. Any limits on drugs or changes to the drugs that are subject to limits shall be published in the Provider Bulletin. Notification in the Provider Bulletin shall satisfy any notification requirements of any such limits or changes to the limits.

8.800.9 DRUG UTILIZATION REVIEW

8.800.9.A. Prospective Drug Utilization Review

1. A pharmacist shall review the available member record information with each drug order presented for dispensing for purposes of promoting therapeutic appropriateness by considering the following:
 - a. Over-utilization or under-utilization;
 - b. Therapeutic duplication;
 - c. Drug-disease contraindications;
 - d. Drug-drug interactions;
 - e. Incorrect drug dosage or duration of drug treatment;
 - f. Drug-allergy interactions; and
 - g. Clinical abuse/misuse.
2. When in the pharmacist's professional judgment a potential problem is identified, the pharmacist shall take appropriate steps to avoid or resolve the problem, which may, if necessary, include consultation with the prescriber.

8.800.9.B. Member Counseling

1. A pharmacist or pharmacist designee shall offer drug therapy counseling to each Medical Assistance Program member or the caregiver of such member with a new prescription or with a refill prescription if the pharmacist or pharmacist designee believes that it is in the best interest of the member. The offer to counsel shall be face-to-face communication whenever practicable or by telephone.
2. If the offer to counsel is accepted, a pharmacist or pharmacist designee shall review the member's record and then discuss with the member or the member's caregiver those matters that, in the exercise of his or her professional judgment, the pharmacist or pharmacist designee considers significant including the following:
 - a. The name and description of the drug;
 - b. The dosage form, dose, route of administration, and duration of drug therapy;
 - c. Intended use of the drug and expected action;
 - d. Special directions and precautions for preparation, administration, and use by the member;
 - e. Common severe side or adverse effects or interactions and therapeutic contraindications that may be encountered, including their avoidance, and the action required if they occur;

- f. Techniques for self-monitoring drug therapy;
 - g. Proper storage;
 - h. Prescription refill information; and
 - i. Action to be taken in the event of a missed dose.
 - 3. Alternative forms of member information shall not be used in lieu of the personal discussion requirement for member counseling but may be used to supplement this discussion when appropriate. Examples of such alternative forms of member information include written information leaflets, auxiliary or pictogram labels, and video programs.
 - 4. Member counseling by a pharmacist or pharmacist designee as described in this section shall not be required for members of a hospital or institution where other licensed health care professionals administer the prescribed drugs pursuant to a chart order.
 - 5. A pharmacist or pharmacist designee shall not be required to counsel a member or caregiver when the member or caregiver refuses such consultation. The pharmacist or pharmacist designee shall keep records indicating when counseling was not or could not be provided.
- 8.800.9.C. Retrospective Drug Utilization Review
- 1. The Department shall periodically review claims data in order to identify patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care among physicians, pharmacists and members receiving drug benefits or associated with specific drugs or categories of drugs.
 - 2. Such reviews shall be based on predetermined criteria that monitor for therapeutic problems including but not limited to therapeutic appropriateness, over-utilization, under-utilization, appropriate use of generic products, therapeutic duplication, drug-disease contraindications, drug-drug interactions, incorrect drug dosage or duration of drug treatment, and clinical abuse/misuse.
- 8.800.9.D. Drug Utilization Review (DUR) Board
- 1. The DUR Board shall serve in an advisory capacity to the Department. The DUR Board's activities shall include but are not limited to the following:
 - a. Approving the application of standards;
 - b. Conducting retrospective DUR;
 - c. Conducting ongoing interventions with pharmacists and physicians concerning therapy problems identified in the course of the DUR program;
 - d. Making recommendations regarding certain Department policy issues as determined by the Department; however, the Department shall consider all such recommendations but shall not be bound by them; and
 - e. Engaging in any other activities as designated by the Department.
 - 2. The DUR Board shall meet no less frequently than quarterly.

3. The DUR Board shall consist of nine members appointed by the Executive Director of the Department based upon recommendations of relevant professional associations. Membership on the Board shall consist of four physicians and four pharmacists, all of whom are licensed and actively practicing in Colorado, and one non-voting representative from the pharmaceutical industry. The physicians and pharmacists shall serve two-year terms and may be reappointed to additional terms at the discretion of the Executive Director. The terms shall be staggered so that in each year, there are two physician members and two pharmacist positions that are reappointed. The pharmaceutical industry representative shall serve a one-year term and shall not be reappointed.
4. The membership of the DUR Board shall include health care professionals who have recognized knowledge and expertise in one or more of the following:
 - a. The clinically appropriate prescribing of covered outpatient drugs;
 - b. The clinically appropriate dispensing and monitoring of outpatient drugs;
 - c. Drug utilization review, evaluation and intervention; or
 - d. Medical quality assurance.
5. The DUR Board shall have those responsibilities as set forth in Title 42 of the Code of Federal Regulations, Section 456.716(d)(2015). Title 42 of the Code of Federal Regulations, Section 456.716(d)(2015) are hereby incorporated by reference into this rule. Such incorporation, however, excludes later amendments to or editions of the referenced material. This statute is available for public inspection at the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Pursuant to C.R.S. §24-4-103(12.5)(V)(b), the agency shall provide certified copies of the material 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 of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule.
6. The DUR Board is also responsible for preparing and submitting a report to the Department on an annual basis which shall include the following information:
 - a. A description of the activities of the DUR Board, including the nature and scope of the prospective and retrospective drug utilization review programs;
 - b. A summary of the interventions used;
 - c. An assessment of the impact of these educational interventions on quality of care; and
 - d. An estimate of the cost savings generated as the result of the program.
7. The DUR Board under the direction of the Department may delegate to a retrospective DUR contractor the responsibility of preparation of continuing education programs, the conduct of interventions and the preparation of any reports.

8.800.10 BILLING PROCEDURES

- 8.800.10.A. Charges for prescribed drugs shall be submitted on an appropriate pharmacy claim form or electronically in a Department approved format. All entries shall be legible.

8.800.10.B. Each claim must identify the member, prescribing physician, date of service, National Drug Code number of the drug actually dispensed, prescription number, quantity dispensed, days' supply, the Usual and Customary Charge and any other information required by the Department.

8.800.11 PRESCRIPTION RECORD REQUIREMENTS

8.800.11.A. The original prescription shall be a hard copy written, faxed or electronically mailed or otherwise transmitted by the prescriber or reduced to writing by pharmacy staff when received by telephone. All information required by the Colorado State Board of Pharmacy shall appear on each prescription including any information required if a substitution for a drug is made. All refill information shall be recorded in accordance with the Colorado State Board of Pharmacy requirements.

8.800.11.B. All records for new prescriptions and refills for which payment from the Medical Assistance Program is requested shall be maintained in accordance with Colorado State Board of Pharmacy requirements except that such records must be retained for the length of time set forth in 10 C.C.R. 2505-10, Section 8.040.2.

8.800.11.C. The pharmacist shall be responsible for assuring that reasonable efforts have been made to obtain, record, and maintain the following member information from the member or his/her apparent agent for each new prescription:

1. Name, address, telephone number, date of birth or age, and gender;
2. Individual history where significant, including disease state or states, known allergies and drug reactions, and a comprehensive, chronological list of medications and prescribed relevant devices; and
3. Additional comments relevant to the member's pharmaceutical care as described in the Prospective Drug Review and Member Counseling sections set forth in 10 C.C.R. 2505-10, Section 8.800.9.

8.800.11.D. TAMPER-RESISTANT PRESCRIPTION DRUG PADS OR PAPER

1. The use of tamper-resistant prescription drug pads or paper is required for all written or electronically printed prescriptions for all Medical Assistance Program members when:
 - a. Prescriptions are issued for outpatient drugs, including controlled and uncontrolled substances, or OTC drugs that are reimbursable through the Medical Assistance Program and dispensed by a pharmacy; and
 - b. The Medical Assistance Program is the primary or secondary payer of the prescription being filled.
2. To be considered tamper-resistant, the pad/paper used for a written or electronically printed prescription shall integrate three distinct characteristics. The three characteristics and the specific features required are as follows:
 - a. Characteristic #1: One or more industry-recognized features designed to prevent unauthorized copying of completed or blank prescription form. A prescription shall contain at least one of the following features:
 - i) Void/Illegal/Copy Pantograph with or with the Reverse Rx feature. The word "Void", "Illegal", or "Copy" appears when the prescription is

photocopied. If the paper has the Reverse Rx feature, the Rx symbol must disappear when photocopied at light setting. The Reverse Rx feature is not allowed as a feature by itself.

- ii) Micro-fine printed security message generated by a computer, electronic medical records system or other electronic means. The message may serve as a signature line or border. This must be printed in 0.5 font or smaller and readable when viewed at 5x magnification or greater and illegible when copied.
 - iii) Coin-reactive ink or security mark. The pad or paper identifies an area on the pad/paper where the ink changes color or reveals wording or a picture when that area is rubbed by a coin. This must be accompanied by a message describing what is necessary to demonstrate authenticity.
 - iv) Security print watermark. Specific wording is printed on the front or back of the prescription paper and can only be seen when viewed at an angle.
 - v) Paper with a watermark. This is paper that contains a watermark that can be seen when backlit.
- b. Characteristic #2: One or more industry recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber. A prescription shall contain at least one of the following features:
- i) An erasure-revealing background. This is a background that consists of a non-white solid color or consistent pattern that has been printed onto the paper. If an erasure or modification is attempted, the background will show marks or the color of the underlying paper where the alterations were made.
 - ii) Toner fusing technology for laser-printed prescriptions. This is a treatment that is added to the surface of the paper to create a strong bond between the laser-printed text and the paper. The computer-printed information cannot be lifted from the surface of the paper without damaging the paper.
 - iii) Chemical-reactive paper. This is paper that contains features that show discoloration or reveals a hidden message if solvents are used to attempt to wash the ink from its surface.
 - iv) Plain bond paper combined with inkjet-printing. The inkjet printing is absorbed into the high grade paper stock. Erasures and modifications cannot be made without damaging the paper.
 - v) Pre-printed quantity check-off boxes indicated in ranges of no more than 25 per range combined with a written quantity. The range box corresponding to the quantity prescribed must be checked by the prescriber for the prescription to be valid.
 - vi) Pre-printed refill indicator where the number of refills allowed is marked or no refills or "NR" is marked when no refills are authorized. Refill information must be completed by the prescriber for the prescription to be valid.

- vii) Characters surrounding the authorized dispensing quantity and the number of refills. Special characters such as a series of asterisks must be repeated on both sides of the numbers indicating the quantity and the number of refills authorized (e.g., Quantity ***50*** Refill ***3***). This is acceptable only for prescriptions that are generated by a computer, electronic medical records system or other electronic means.
 - c. Characteristic #3: One or more industry recognized features designed to prevent the use of counterfeit forms. A prescription must contain at least one of the following features:
 - i) Security features listed visibly in a box, band or border on the prescription. This must be a complete listing of all of the security features incorporated into the prescription pad/paper in order to minimize tampering.
 - ii) Security threads. Metal, fluorescent or plastic security threads are embedded into the prescription pad/paper.
 - iii) Thermochromic ink. All or some of the pad or paper is pre-printed with ink that changes color when exposed to heat and then changes back to its original color when cooled. This must be accompanied by a message describing what is necessary to demonstrate authenticity.
- 3. The use of tamper-resistant prescription pads or paper is not required when:
 - a. Prescriptions are transmitted by telephone, fax or E-prescription directly to the pharmacy by the prescriber or prescriber's staff that is authorized to act on the prescriber's behalf; or
 - b. A prescriber administers or provides the drug directly to the member; or
 - c. A prescriber in an institutional setting writes the order into the medical record and then the order is given by medical staff directly to the pharmacy; or
 - d. A Medical Assistance Program managed care entity pays for or dispenses the prescription; or
 - e. A prescription is written for any medical item, service or equipment that is not considered an outpatient drug; or
 - f. A drug that is provided as part of, or as incident to and in the same setting as, any of the following (and for which payment may be made as part of payment for the following and not as direct reimbursement for the drug):
 - i) Inpatient hospital services;
 - ii) Hospice services;
 - iii) Dental services (except when a State Plan authorizes direct reimbursement to the dispensing dentist);
 - iv) Physician services;
 - v) Outpatient hospital services;

- vi) Nursing facilities and intermediate care facilities for the mentally retarded;
- vii) Other laboratory and x-ray services; or
- viii) Renal dialysis.

- 4. The pharmacy may dispense up to a 72-hour supply of a covered outpatient prescription drug in an emergency situation, provided that the pharmacy obtains a compliant prescription in writing, or by telephone, facsimile, or E-prescription, within 72 hours of filling the prescription.
- 5. When a Medical Assistance Program member is determined retroactively eligible after a pharmacy has filled the recipient's prescription, the prescription shall be deemed to comply with the tamper-resistant pad/paper requirements. This presumption applies only to prescriptions that were filled before the member was determined eligible. Prescriptions that are filled or refilled after the member is determined eligible require a new, tamper-resistant prescription or the pharmacy may obtain verbal confirmation of the prescription from the prescriber or may obtain the prescription from the prescriber by facsimile or E-prescription.

8.800.11.E. Prescription tracking and claim reversals

- 1. The pharmacy shall keep:
 - a. A chronological log that contains the member's name, his or her signature or agent's signature and date of the receipt of the prescription; or
 - b. An electronic prescription tracking system that records the status of prescriptions through the fill process including the date and time that the prescription was transferred to a person whom pharmacy personnel verified was the member or agent of the member.
- 2. Pharmacies using a chronological log shall review all Medical Assistance Program prescriptions in shall-call status (filled but not released to the member or the member's agent) at least weekly and enter a reversal of prescriptions not picked up within 14 days of billing. In no case shall prescriptions be kept in shall-call status for more than 21 days. The pharmacy shall maintain a record of each reversal for audit purposes.
- 3. Pharmacies using an electronic prescription tracking system shall review all Medical Assistance Program prescriptions in shall-call status on a daily basis and enter a reversal of prescriptions not picked up within 10 days of billing. In no case shall prescriptions be kept in shall-call status for more than 14 days. The pharmacy shall maintain a record of each reversal for audit purposes.
- 4. Upon receipt of a written request from the Department or the Medicaid Fraud Unit for a record of Medical Assistance Program claims and reversals, the pharmacy has up to 72 hours or three working days to provide the requested information or to enter into an agreement with the Department or Unit stating the specific time within which the data shall be produced.

8.800.11.F. Any information, documents or records required to be retained under 10 C.C.R. 2505-10, Section 8.800.11 shall be made available for inspection to authorized personnel of the Department, U.S. Department of Health and Human Services or the Medicaid Fraud Control Unit.

8.800.12 BASIS FOR REIMBURSEMENT

8.800.12.A. Reimbursement shall be made for prescribed drugs provided to members when all of the following conditions are met:

1. The item dispensed is a covered benefit under the Medical Assistance Program and meets any and all restriction requirements as set forth in 10 C.C.R. 2505-10, Section 8.800 or any policies thereunder;
2. The person prescribing the item is licensed to do so under applicable law;
3. The item is dispensed pursuant to a valid prescription order;
4. The prescription is dispensed in accordance with applicable federal and state laws, rules, and regulations, including those regulations governing the Medical Assistance Program; and
5. The prescription is written on a tamper-resistant prescription drug pad or paper or is excluded from the tamper-resistant prescription drug pad or paper requirements set forth in 10 C.C.R. 2505-10, Section 8.800.11.D.

8.800.13 REIMBURSEMENT CALCULATION

8.800.13.A. Covered drugs for all members except for OAP State Only clients shall be reimbursed the lesser of:

1. The Usual and Customary Charge minus the member's copayment, as determined according to 10 C.C.R. 2505-10, Section 8.754; or
2. The allowed ingredient cost plus a Dispensing Fee minus the member's copayment, as determined according to 10 C.C.R. 2505-10, Section 8.754.

Covered drugs for the OAP State Only Program shall be reimbursed according to 10 C.C.R. 2505-10, Section 8.941.9.

8.800.13.B. The allowed ingredient cost for Retail Pharmacies, 340B Pharmacies, Institutional Pharmacies, Government Pharmacies and Mail Order Pharmacies shall be the lesser of AAC, or Submitted Ingredient Cost. If AAC is not available, the allowed ingredient cost shall be the lesser of WAC, or Submitted Ingredient Cost.

8.800.13.C. AAC rates shall be rebased monthly using invoices and/or purchase records provided to the Department through a representative group of pharmacies. If the Department cannot establish a process to obtain invoices and/or purchase records on a monthly basis, the Department shall survey one-fourth (1/4) of all Medicaid enrolled pharmacies every quarter to rebase AAC rates.

8.800.13.D. A pharmacy wanting to inquire about a listed AAC rate shall complete the Average Acquisition Cost Inquiry Worksheet posted on the Department's website. The pharmacy shall email the completed worksheet with a copy of the receipt invoice to the Department or designated vendor as indicated on the Average Acquisition Cost Inquiry Worksheet. The Department shall have five (5) days to provide an inquiry response to the pharmacy. If the AAC rate requires revision, the Department shall then have 5 additional days to update the AAC rate.

8.800.13.E. To address weekly fluctuations in drug prices, the Department shall apply a percent adjustment to existing AAC rates for drugs experiencing significant changes in price. The percent adjustment shall be determined using weekly changes in price based on national pricing benchmarks. Every week, the Department shall post an updated AAC price list, with the adjusted AAC rates, on the Department's website (www.colorado.gov/hcpf). A percent adjustment shall

only be applied to an AAC rate until the Department can rebase the rate through the process discussed in 10 C.C.R. 2505-10, 8.800.13.C.

- 8.800.13.F. Any pharmacy, except a Mail Order Pharmacy, that is the only pharmacy within a twenty mile radius may submit a letter to the Department requesting the designation as a Rural Pharmacy. If the designation is approved by the Department, the allowed ingredient cost shall be AAC. If AAC is not available, the allowed ingredient cost shall be WAC.
- 8.800.13.G. Dispensing Fees shall be determined based upon reported dispensing costs provided through a Cost of Dispensing (COD) survey completed every two fiscal years. The Dispensing Fees for Retail Pharmacies, 340B Pharmacies, Institutional Pharmacies and Mail Order Pharmacies shall be tiered based upon annual Total Prescription Volume. The Dispensing Fees shall be tiered at:
1. Less than 60,000 total prescriptions filled per year = \$13.40
 2. Between 60,000 and 90,000 total prescriptions filled per year = \$11.49
 3. Between 90,000 and 110,000 total prescriptions filled per year = \$10.25
 4. Greater than 110,000 total prescriptions filled per year = \$9.31
- 8.800.13.H. The designation of a pharmacy's Dispensing Fee shall be updated annually. Every October, the Department shall contact a pharmacy requesting the completion of an attestation letter stating the pharmacy's Total Prescription Volume for the period September 1 to August 31. A pharmacy shall have until October 31 to provide the completed attestation letter to the Department. Using the attestation letter, the Department shall update a pharmacy's Dispensing Fee effective January 1. A pharmacy failing to provide the Department an attestation letter on or before October 31, regardless of their previous Dispensing Fee, shall be reimbursed the \$9.31 Dispensing Fee.
- 8.800.13.I. The Department shall determine the Dispensing Fee for a pharmacy enrolling as a Medicaid provider based on the pharmacy's Total Prescription Volume. During the enrollment process, a pharmacy shall provide the Department an attestation letter stating their Total Prescription Volume for the previous twelve (12) months. Using the attestation letter, the Department shall determine the pharmacy's Dispensing Fee effective upon approval of enrollment. If a pharmacy has been open for less than 12 months, the Department shall annualize the Total Prescription Volume to determine the pharmacy's Dispensing Fee. A pharmacy failing to provide the Department an attestation letter during the enrollment process shall be reimbursed the \$9.31 Dispensing Fee. The Dispensing Fee shall be used until it can be updated the following year in accordance with 10 C.C.R. 2505-10, 8.800.13.H.
- 8.800.13.J. In November of each year, the Department shall compare a pharmacy's Total Prescription Volume and Medicaid percent provided with the attestation letter to their Medicaid claims data. If the Department identifies any inconsistencies, the Department shall request a pharmacy to provide documentation that substantiates their Total Prescription Volume for the period September 1 to August 31 within thirty (30) days. If the Department determines that the pharmacy incorrectly reported their Total Prescription Volume, the pharmacy shall be reimbursed at the correct tier based on their actual Total Prescription Volume. If a pharmacy does not provide the documentation to the Department within the 30 days, the pharmacy shall be reimbursed the \$9.31 Dispensing Fee.
- 8.800.13.K. The tiered Dispensing Fee shall not apply to Government Pharmacies which shall instead be reimbursed a \$0.00 Dispensing Fee.

8.800.13.L. The tiered Dispensing Fee shall not apply to Rural Pharmacies which shall instead be reimbursed a \$14.14 Dispensing Fee.

8.800.13.M. Dispensing Prescribers who dispense medications that are reimbursed as a pharmacy benefit pursuant to 8.800 shall be reimbursed a \$1.89 Dispensing Fee.

8.800.14 PRESCRIPTION QUANTITIES

8.800.14.A For chronic conditions requiring maintenance drugs, the maximum dispensing quantities for new and refill prescriptions shall be a 100-day supply. For all other drugs, the maximum dispensing quantities for new and refill prescriptions shall be a 30-day supply. The Department may set or change minimum or maximum dispensing quantities of certain drugs.

8.800.15 REIMBURSEMENT FROM PHARMACIES REDISPENSING UNUSED MEDICATION

8.800.15.A. A pharmacy participating in the Medical Assistance Program may accept unused medication from a hospital, hospital unit, hospice, nursing care facility, or assisted living residence that is required to be licensed pursuant to Section 25-3-101, C.R.S. (2016), or a licensed health care provider for the purpose of dispensing the medication to another person.

8.800.15.B. A pharmacy shall reimburse the Department for the Medical Assistance Program Allowable Charge that the Department has paid to the pharmacy if medications are returned to a pharmacy and the medications are available to be dispensed to another person.

8.800.16 PREFERRED DRUG LIST

8.800.16.A. ESTABLISHING THE PREFERRED DRUG LIST

1. To develop and maintain the PDL, the Department shall take the following steps:
 - a. Determine which drugs and Drug Classes shall be reviewed for inclusion on the PDL.
 - b. Refer selected drugs and Drug Classes to the P&T Committee for clinical reviews performed without consideration of drug cost-effectiveness. The P&T Committee shall make recommendations pursuant to 10 C.C.R. 2505-10, Section 8.800.17.C.
 - c. Make recommendations to the Medical Director based on evaluations of relevant criteria, including but not limited to:
 - i) Drug safety;
 - ii) Drug efficacy;
 - iii) The recommendations of the P&T Committee;
 - iv) Public comments received by the Department before a drug or Drug Class is reviewed at the relevant P&T Committee meeting;
 - v) Cost-effectiveness; and
 - vi) Scientific evidence, standards of practice and other relevant drug information for such evaluation.

2. After the P&T Committee meets, the Medical Director shall review the recommendations of the P&T Committee and the Department and determine whether a reviewed drug is designated a Preferred Drug or a Non-preferred Drug.
3. After the Medical Director has designated a reviewed drug as Preferred or Non-preferred and designates prior authorization criteria to protect the health and safety of members, the Department shall refer that drug to the DUR Board for recommendations on prior authorization criteria.
4. After the DUR Board meets, the Medical Director shall review the recommendations of the P&T Committee, the DUR Board and the Department and determine the efficacy, safety and appropriate prior authorization criteria for Preferred and Non-preferred Drugs to ensure the health and safety of members.
5. The Department shall provide public notice of PDL updates at least thirty days before such changes take effect.
6. Drug Classes included on the PDL shall be reviewed annually.

8.800.16.B. NEW DRUGS

1. Notwithstanding any other provision of this section, a new drug entity, including new generic drugs and new drug product dosage forms of existing drug entities, in a Drug Class already included on the PDL:
 - a. Shall be automatically designated a Non-preferred Drug; unless
 - b. A preliminary evaluation by the Department finds that a new drug must be designated a Preferred Drug because it is medically necessary.
2. The Preferred or Non-preferred designation for a new drug shall continue until the relevant Drug Class is reviewed and the designation is changed pursuant to 10 C.C.R. 2505-10, Section 8.800.16.A.

8.800.16.C. EXCLUSION OF DRUGS, DRUG CLASSES OR INDIVIDUALS FROM THE PDL

1. The following exclusions are intended to promote good health outcomes and clinically appropriate drug utilization and to protect the most vulnerable Medical Assistance Program members.
2. After reviewing the recommendations of the P&T Committee and the Department, the Medical Director may, notwithstanding any other provision of this section and to the extent allowed by federal and state law:
 - a. Exclude drugs or Drug Classes from consideration for inclusion on the PDL.
 - b. Determine continuity of care protocols that exempt Medical Assistance Program members stabilized on specified Non-preferred Drugs from prior authorization requirements.
 - c. Exclude specific Medical Assistance Program populations from prior authorization requirements for all Non-preferred Drugs.
3. Individual Medical Assistance Program members shall be exempted, on an annual basis, from prior authorization requirements for all Non-preferred Drugs if:

- a. A member meets clinical criteria recommended by the Department and P&T Committee and approved by the Medical Director; and
- b. A member's physician submits a request for exemption and meets the criteria for approval.

8.800.16.D. AUTHORITY OF THE EXECUTIVE DIRECTOR

- 1. The decisions of the Medical Director, made under the authority of this section, shall be implemented by the Department at the sole discretion of the Executive Director.
- 2. If the Medical Director position is unfilled, the duties and obligations of that position, as described in this section, shall be performed by the Executive Director.

8.800.16.E. SUPPLEMENTAL REBATES The Department may enter into supplemental rebate agreements with drug manufacturers for Preferred Drugs. The Department may contract with a vendor and/or join a purchasing pool to obtain and manage the supplemental rebates.

8.800.17 PHARMACY AND THERAPEUTICS COMMITTEE

8.800.17.A. MEMBERSHIP

- 1. The P&T Committee shall consist of at least nine members, but not more than thirteen members, appointed by the Executive Director.
 - a. The P&T Committee membership shall include:
 - i) Four pharmacists;
 - ii) Two member representatives;
 - iii) One physician who specializes in the practice of psychiatry;
 - iv) One physician who specializes in the practice of pediatrics;
 - v) One physician who specializes in the treatment of members with disabilities; and
 - vi) Four physicians from any other medical specialty.
 - b. Physicians and pharmacists must be licensed and actively practicing in the State of Colorado while a member of the P&T Committee.
 - c. The Department shall solicit recommendations for P&T Committee members from professional associations, member advocacy groups and other Medical Assistance Program stakeholders.
 - d. The P&T Committee may meet and conduct business when at least any nine members are appointed to the P&T Committee. A majority of the appointed P&T Committee members constitutes a quorum for the transaction of business at any P&T Committee meeting.
 - e. All P&T Committee members may vote on P&T Committee business when a vote is required. The affirmative vote of the majority of the appointed P&T Committee members is required to take action.

- f. P&T Committee members shall serve two-year terms and may be reappointed to additional terms at the discretion of the Executive Director.
 - g. The terms shall be staggered so that in each year at least two pharmacists, one consumer representative and any three physicians are reappointed.
 - h. The Executive Director may appoint initial P&T Committee members to serve less than two years to provide for staggered terms.
 - i. The Executive Director may terminate the appointment of any P&T Committee member for Good Cause.
 - j. The Executive Director shall fill a vacancy occurring in the membership of the P&T Committee for the remainder of the unexpired term. Such replacement shall meet all applicable requirements as set forth in this section.
- 2. Physicians and pharmacists on the P&T Committee shall have knowledge and expertise in one or more of the following:
 - a. The clinically appropriate prescribing of covered outpatient drugs;
 - b. The clinically appropriate dispensing of outpatient drugs;
 - c. Drug use review, evaluation and intervention;
 - d. Medical quality assurance; or
 - e. The treatment of Medical Assistance Program members.

8.800.17.B. CONFLICT OF INTEREST

- 1. P&T Committee members must complete and sign a conflict of interest disclosure form, prior to their appointment to the P&T Committee, which discloses any financial or other affiliation with organizations that may have a direct or indirect interest in business before the P&T Committee.
- 2. At any meeting, a P&T Committee member must recuse himself or herself from discussion and decision making for an entire Drug Class if he or she has a Conflict of Interest with any drug in that Drug Class.

8.800.17.C. DUTIES

- 1. Among other duties, the P&T Committee shall:
 - a. Review drugs or Drug Classes selected by the Department.
 - b. Utilize scientific evidence, standards of practice and drug information.
 - c. Consider drug safety and efficacy and other review criteria requested by the Department.
 - d. Request information, recommendations or testimony from any health care professional or other person with relevant knowledge concerning a drug or Drug Class subject to P&T Committee review, at their discretion.

- e. Make clinical recommendations on drugs or Drug Classes. Such recommendations shall be considered by the Executive Director, when making final determinations on PDL implementation and maintenance.
- f. Perform any other act requested by the Department necessary for the development and maintenance of the PDL as described in 10 C.C.R. 2505-10, Section 8.800.16.A.
- g. Adopt a Department approved plan of operation that sets forth the policies and procedures that shall be followed by the P&T Committee.
- h. Meet at least quarterly and other times at the discretion of the Department or the P&T Committee.

8.800.17.D. NOTICE/OPEN MEETINGS

- 1. P&T Committee meetings and the proposed agenda shall be posted publicly at least thirty days before the meeting.
- 2. The P&T Committee meetings shall be open to the public. If a P&T Committee meeting is required to be held in executive session pursuant to state or federal law, the executive session shall be convened after conclusion of the open meeting.

8.800.18 PRESCRIPTION DRUG CONSUMER INFORMATION AND TECHNICAL ASSISTANCE PROGRAM

8.800.18.A The Prescription Drug Consumer Information and Technical Assistance Program provides Medical Assistance Program members the opportunity to meet with a pharmacist to review the member's medications, receive information on the prudent use of prescription drugs and, with the approval of the appropriate prescribing health care provider, how to avoid dangerous drug interactions, improve member outcomes, and save the state money for the drugs prescribed.

8.800.18.B. REQUIREMENTS FOR PARTICIPATION IN THE PROGRAM

- 1. The Department shall refer members to pharmacists based on location.
- 2. Pharmacists shall:
 - a. Have and maintain an unrestricted license in good standing to practice pharmacy in Colorado; and
 - b. Maintain liability insurance; and
 - c. Complete an application; and
 - d. Enter into a contract with the Department; and
 - e. Meet one of the following qualifications:
 - i) Provide proof of completion of a pharmacy practice residency accredited by the American Society of Health Systems Pharmacists or the American Pharmaceutical Association; or

- ii) Earned a bachelor of pharmacy degree and completed a certificate program accredited by the Accreditation Council for Pharmacy Education (ACPE) in each area of practice, and 40 hours of on-site supervised clinical practice and training in each area in which the pharmacist is choosing to practice; or
- iii) Earned a Doctor of Pharmacy degree and completed at least 40 hours of ACPE-approved continuing education regarding clinical practice and 40 hours of on-site supervised clinical practice and training in the area in which the pharmacist is choosing to practice; or
- iv) Possess current board specialty certification from the Board of Pharmaceutical Specialties, current certification from the National Institute for Standards in Pharmacist Credentialing, or current certification from the Commission for Certification in Geriatric Pharmacy. Such credentials must be in the area of pharmacy practice undertaken in the drug therapy management

- 3. Members may participate in the program if they are a fee-for-service member who receives prescription drug benefits, is at high risk of complications from drug interactions and who otherwise lacks access to informational consultation with a pharmacist.

8.800.18.C. SERVICES

- 1. Pharmacists participating in the program shall:
 - a. Schedule a face-to-face meeting with the member within ten days of the referral. If the member is unable or refuses to participate in a face-to-face meeting, the pharmacist may conduct the consultation by telephone.
 - b. Collect and review member drug histories.
 - c. Hold face-to-face or telephonic consultations with members.
 - d. Notify members that they will provide clinical recommendations to the member, the prescribing health care provider and the Department.
 - e. Provide the member with information regarding:
 - i) The prudent use of prescription drugs.
 - ii) How to avoid dangerous drug interactions.
 - iii) The appropriate use of medication to optimize therapeutic outcomes.
 - iv) How to reduce the risk of adverse events, including adverse drug interactions.
- 2. The Department shall notify members participating in the program in writing that a pharmacist has been assigned to review the member's records and that the pharmacist will contact the member within ten days from the date of notification.

8.800.18.D. REPORTING Within ten days following the consultation, the pharmacist shall provide a letter to the member, all appropriate health-care providers and the Department outlining the face-

to-face meeting. The letter shall include the pharmacist's recommendations for possible alternatives available for the member.

8.800.18.E. REIMBURSEMENT The Department shall pay each pharmacist participating in the program a predetermined amount.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule Concerning Medical Eligibility for Individuals Residing in Community Correction Facilities and Inmates of Correctional Institutions, Sections 8.100.3.B.1, 8.100.3.G.1.b and 8.100.5.C.5

Rule Number: MSB 16-08-16-A

Division / Contact / Phone: Eligibility Policy / Eric Stricca / 303-866-4475

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 16-08-16-A, Revision to the Medical Assistance Rule Concerning Medical Eligibility for Individuals Residing in Community Correction Facilities and Inmates of Correctional Institutions, Sections 8.100.3.B.1, 8.100.3.G.1.b and 8.100.5.C.5
3. This action is an adoption an amendment of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 8.100.3.B.1, 8.100.3.G.1.b and 8.100.5.C.5, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.100.3.B with the proposed text starting at 8.100.3.B.1 through the end of 8.100.3.B.5. Replace the current text at 8.100.3.G with the proposed text starting at 8.100.3.G.1 through the end of 8.100.3.G.1.g.v.3. Replace the current text at 8.100.C.5 with the proposed text starting at 8.100.5.C.1 through the end of 8.100.5.C.5. This rule is effective March 30, 2017.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule Concerning Medical Eligibility for Individuals Residing in Community Correction Facilities and Inmates of Correctional Institutions, Sections 8.100.3.B.1, 8.100.3.G.1.b and 8.100.5.C.5

Rule Number: MSB 16-08-16-A

Division / Contact / Phone: Eligibility Policy / Eric Stricca / 303-866-4475

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

On April 28, 2016, CMS issued guidance letter SHO#16-007, which clarified that federal financial participation may now be drawn for Medicaid-covered services for individuals who reside in community corrections facilities (halfway houses) that have freedom of movement. This is a reversal from prior guidance and now these individuals are no longer considered to be incarcerated and can be fully enrolled in Medicaid if all eligibility criteria are met. The Department of Public Safety has determined that all community corrections facilities meet the freedom of movement requirement except Gateway Through the Rockies in Colorado Springs. The eligibility policy rules are being updated to reflect this guidance.

Additionally, the rule that allows for individuals who are inmates of correctional facilities, if eligible, to be enrolled in Medicaid while having their benefits limited to a 24+ hour inpatient stay in a medical institution, will be clarified.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

State Health Official directive #16-007, dated April 28, 2016, Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS)

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);
25.5-4-102, 25.5-4-205.5, C.R.S. 2016

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule Concerning Medical Eligibility for Individuals Residing in Community Correction Facilities and Inmates of Correctional Institutions, Sections 8.100.3.B.1, 8.100.3.G.1.b and 8.100.5.C.5

Rule Number: MSB 16-08-16-A

Division / Contact / Phone: Eligibility Policy / Eric Stricca / 303-866-4475

REGULATORY ANALYSIS

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

The rule change will benefit individuals who are residents in Colorado Community Corrections facilities, excluding Gateway Through the Rockies, by allowing them to be able to enroll into Medicaid if they meet eligibility requirements. The rule change only affects individuals who would otherwise be eligible for a non-MAGI eligibility category; individuals who are otherwise eligible for MAGI eligibility categories and are residents in Colorado Community Corrections facilities are already eligible to enroll in Medicaid under 8.100.3.G.1.b and per State Health Official guidance letter #16-007.

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

Residents of Community Corrections facilities who would otherwise be eligible for non-MAGI eligibility categories will be eligible for Medicaid under this rule change and be able to gain access to health care that they previously could not. This will improve the health outcomes of these individuals and may reduce recidivism that is caused by lack of access to behavioral health medications and physical health care services (some individuals may recidivate just for access to health care coverage provided by county jails and Department of Corrections).

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

This rule change is a clarification of the Department's existing policy to cover individuals who would otherwise be eligible for Medicaid and are living in Community Corrections facilities. Individuals eligible for MAGI populations who are living in these facilities are already eligible to enroll in Medicaid under 8.100.3.G.1.b and per State Health Official guidance letter #16-007. This rule change extends the policy to individuals who would otherwise be eligible for non-MAGI populations. It is not certain how many individuals will be newly eligible for Medicaid under this rule, but as there is an employment requirement while living in a community corrections

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environment, the affected population is likely reasonably small and limited to individuals in the Working Adults with Disabilities Non-MAGI group who are earning more than the income limit for MAGI populations.

Under the rule change, the Department would incur costs related to covering the newly eligible individuals while they are residing in Community Corrections facilities, which would result in six to seven additional months of coverage on average. The Department assumes that there would be offsetting savings for covering clients for this additional time because without Medicaid coverage, the affected clients would incur costs related to the following: 1) receiving more costly care in the inpatient setting while at the Community Corrections facilities, and 2) receiving more costly care once they leave the facility and become eligible for Medicaid due to the exacerbation of medical conditions while they were without health insurance.

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

The benefit of allowing residents of Community Corrections continuity of health care coverage is that the individual will have an increase in their quality of health and life and possibly enhance their chances of completing the program and re-entering the general population. Inaction could decrease the quality of health of these individuals which could cost the state more in future Medicaid costs due to the exacerbation of conditions or if the individual returned to custody of Department of Corrections to receive medical services.

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

There are no other less costly alternatives.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

There are no alternatives to allowing eligible individuals to enroll in Medicaid.

8.100.3.B. Residency Requirements

1. Individuals shall make application in the county in which they live.. Individuals who reside in a county but who do not reside in a permanent dwelling nor have a fixed mailing address shall be considered eligible for the Medical Assistance Program, provided all other eligibility requirements are met. In no instance shall there be a durational residency requirement imposed upon the applicant, nor shall there be a requirement for the applicant to reside in a permanent dwelling or have a fixed mailing address. If an individual without a permanent dwelling or fixed mailing address is hospitalized, the county where the hospital is located shall be responsible for processing the application to completion. If the individual moves prior to completion of the eligibility determination the origination eligibility site completes the determination and transfers the case as applicable.
 - a. For applicants in Long Term Care institutions - The county of domicile for all Long Term Care clients is the county in which they are physically located and receiving services.
2. A resident of Colorado is defined as a person that is living within the state of Colorado and considers Colorado to be their place of residence at the time of application. For institutionalized individuals who are incapable of indicating intent as to their state of residence, the state of residence shall be where the institution is located unless that state determines that the individual is a resident of another state, by applying the following criteria:
 - a. for any institutionalized individual who is under age 21 or who is age 21 or older and incapable of indicating intent before age 21, the state of residence is that of the individual's parent(s) or legally appointed guardian at the time of placement;
 - b. for any institutionalized individual who became incapable of indicating intent at or after age 21, (1) the state of residence is the state in which the person was living when he or she became incapable of indicating intent, or (2) if this cannot be determined, the state of residence is the state in which the person was living when he or she was first determined to be incapable of indicating intent;
 - c. upon placement in another state, the new state is the state of residence unless the current state of residence is involved in the placement. If a current state arranged for an individual to be placed in an institution located in another state, the current state shall be the individual's state of residence, irrespective of the individual's indicated intent or ability to indicate intent;
 - d. in the case of conflicting opinions between states, the state of residence is the state where the individual is physically located.
3. For purposes of this section on establishing an individual's state of residence, an individual is considered incapable of indicating intent if:
 - a. the person has an I.Q. of 49 or less or has a mental age of 7 or less, based on standardized tests as specified in the persons in medical facilities section of this volume;
 - b. the person is judged legally incompetent; or
 - c. medical documentation, or other documentation acceptable to the eligibility site, supports a finding that the person is incapable of indicating intent.

4. Residence shall be retained until abandoned. A person temporarily absent from the state, inside or outside the United States, retains Colorado residence. Temporarily absent means that at the time he/she leaves, the person intends to return.
5. A non-resident shall mean a person who considers his/her place of residence to be other than Colorado. Any person who enters the state to receive Medical Assistance or for any other reason is a non-resident, so long as they consider their permanent place of residence to be outside of the state of Colorado.

8.100.3.G. General and Citizenship Eligibility Requirements

1. To be eligible to receive Medical Assistance, an eligible person shall:

- a. Be a resident of Colorado;
- b. Meet the following requirements while being an inmate, in-patient or resident of a public institution:
 - i). The following individuals, if eligible, may be enrolled for Medical Assistance
 - 1. Patients in a public medical institution
 - 2. Residents of a Long-Term Care Institution
 - 3. Prior inmates who have been paroled
 - 4. Resident of a publicly operated community residence which serves no more than 16 residents
 - 5. Individuals participating in community corrections programs or residents in community corrections facilities ("halfway houses") who have freedom of movement and association which includes individuals who:
 - a) are not precluded from working outside the facility in employment available to individuals who are not under justice system supervision;
 - b) can use community resources (e.g., libraries, grocery stores, recreation, and education) at will;
 - c) can seek health care treatment in the broader community to the same or similar extent as other Medicaid enrollees in the state; and/or
 - d) are residing at their home, such as house arrest, or another location
 - ii). Inmates who are incarcerated in a correctional institution such as a city, county, state or federal prison may be enrolled, if eligible, with benefits limited to an in-patient stay of 24 hours or longer in a medical institution.

8.100.5.C. Effective Date of Eligibility

1. Eligibility for the Aged, Blind and Disabled categories shall be approved effective on the later of:
 - a. The first day of the month of the Single Streamlined Application for Medical Assistance; or
 - b. The first day of the month the person becomes eligible for Medical Assistance.
2. The date that eligibility begins for Long-Term Care Medical Assistance is defined in section 8.100.7.A and B.
3. For the Medicaid Buy-In Program for Children with Disabilities, any child who is determined to be eligible for Medical Assistance at any time during a calendar month shall be eligible for benefits during the entire month.
4. Clients applying for Medical Assistance under the Aged, Blind and Disabled category shall be reviewed for retroactive eligibility as described at 8.100.3.E. When reviewing for retroactive eligibility for an individual who is SSI eligible or applied and became SSI eligible in each of the retroactive months, the applicant must:
 - a. Be aged at least 65 years; or
 - b. Meet the Social Security Administration definition of disability by:
 - i) Being approved as eligible to receive either SSI or SSDI, on or prior to the date of a medical service; or
 - ii) Having a disability onset date determined on or prior to the date of a medical service; and
 - c. Meet the financial requirements as described at 8.100.5.E.

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Office of the Attorney General

Tracking number: 2016-00644

Opinion of the Attorney General rendered in connection with the rules adopted by the

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

on 02/10/2017

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY

The above-referenced rules were submitted to this office on 02/15/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 21, 2017 09:11:29

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-10 8.200

Rule title

10 CCR 2505-10 8.200 MEDICAL ASSISTANCE - SECTION 8.200 1 - eff 03/30/2017

Effective date

03/30/2017

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses

Rule Number: MSB 16-08-24-A

Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney

x3436 / Amanda Forsythe x6459

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 16-08-24-A, Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses
3. This action is an amendment adoption of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):
Sections(s) 8.200, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No
If yes, state effective date:
Is rule to be made permanent? (If yes, please attach notice of <Select One> hearing).

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.200 with the proposed text starting at 8.200.1 through the end of 8.200.2.E

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses

Rule Number: MSB 16-08-24-A

Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney x3436 / Amanda Forsythe x6459

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

This rule revision, which changes supervision requirements for Registered Nurses, will change the supervision requirement for the provider type Registered Nurses from Direct Supervision requiring onsite supervision to General Supervision allowing supervision to be provided offsite. The Scope of Practice for Registered Nurses in Colorado under the Department of Regulatory Agencies allows General Supervision. Colorado Medicaid seeks to change their rules on supervision to match the standard practice in the state. The change is in rule 8.200.2.D.b. The rule describes the coverage and reimbursement rules for providing physician services in Colorado Medicaid.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

42 CFR 440.230(2)(b)

Each service must be sufficient in amount, duration, and scope to reasonably achieve its purpose. This change will achieve the purpose of vaccine administration in Colorado Medicaid.

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2015);

The Department is required to provide services and payment that may include provisions that encourage the highest quality of medical benefits and the provision thereof at the least expense possible. 25.5-4-401(2), C.R.S. (2015). This rule falls within that authority. The Scope of Practice for Registered Nurses in Colorado does not require physician oversight during the course of independent nursing practice. However, individual facilities or physician

Initial Review
Proposed Effective Date

12/09/16
03/01/17

Final Adoption
Emergency Adoption

01/13/17

DOCUMENT #03

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practices may have policies requiring some level of physician oversight. For physician services covered by Medicaid, the Department can require oversight.

Initial Review
Proposed Effective Date

12/09/16
03/01/17

Final Adoption
Emergency Adoption

01/13/17

DOCUMENT #03

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses

Rule Number: MSB 16-08-24-A

Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney
x3436 / Amanda Forsythe x6459

REGULATORY ANALYSIS

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

The persons affected are Colorado Medicaid clients, as all clients may receive care from Registered Nurses.

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

It is impossible to determine the increase in services that will occur under this rule.

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

There is likely no increase in costs. The services are currently being rendered by higher level providers and will now be available from Registered Nurses.

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

The probable costs are relatively small for either inaction or action. The rule change is being pursued to update Medicaid reimbursement policies with that of other payers in the state.

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

There is no alternative way to provide services to Medicaid clients by RNs under General Supervision at this time.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The alternatives considered were to retain the existing requirements, which were not seen as good policy at the Department.

8.200 PHYSICIAN SERVICES

8.200.1 Definitions

Advanced Practice Nurse means a provider that meets the requirements to practice advanced practice nursing as defined in Article 38 of Title 12 of the Colorado Revised Statutes. In Colorado an Advanced Practice Nurse may have prescriptive authority.

Certified Family Planning Clinic means a family planning clinic certified by the Colorado Department of Public Health and Environment, accredited by a national family planning organization and staffed by medical professionals licensed to practice in the State of Colorado, including but not limited to, doctors of medicine, doctors of osteopathy, physicians' assistants, and advanced practice nurses.

Direct Supervision means the supervising provider shall be on-site during the rendering of services and immediately available to give assistance and direction throughout the performance of the service.

General Supervision means the supervising provider may not be on-site during the rendering of services, but is immediately available via telephonic or other electronic means to give assistance and direction throughout the performance of the service.

Licensed Psychologist means a provider that meets the requirements to practice psychology as defined in Part 3 of Article 43 of Title 12 of the Colorado Revised Statutes.

Medical Necessity is defined in 10 C.C.R. 2505-10, Section 8.076.1.8.

8.200.2 Providers

8.200.2.A. A doctor of medicine or a doctor of osteopathy may order and provide all medical care goods and services within the scope of their license that are covered benefits of the Colorado Medical Assistance Program.

1. A provider of covered dental care surgery may be enrolled as either a dentist or oral surgeon, but not as both. A dentist may order and provide covered dental care.

8.200.2.B. Physician services that may be provided by non-physician providers without a physician order.

1. Advanced Practice Nurses may provide and order covered goods and services in accordance with the scope of practice as described in the Colorado Department of Regulatory Agencies rules without a physician order.

2. Licensed Psychologists may provide and order covered mental health goods and services in accordance with the scope of practice as described in the Colorado Department of Regulatory Agencies rules without a physician order.
 - a. Services ordered by a Licensed Psychologist but rendered by a non-licensed mental health provider shall be signed and dated by the Licensed Psychologist contemporaneously with the rendering of the service by a non-licensed mental health provider.
 3. Optometrists may provide covered optometric goods and services within their scope of practice as described by the Colorado Department of Regulatory Agencies rules without a physician order.
 4. Podiatrists may provide covered foot care services within their scope of practice as described by the Colorado Department of Regulatory Agencies rules without a physician order.
 5. Licensed dental hygienists may provide unsupervised covered dental hygiene services in accordance with the scope of practice for dental hygienists as described in the Colorado Department of Regulatory Agencies rules without a physician order.
- 8.200.2.C. Physician services that may be provided by a non-physician provider when ordered by a provider acting under the authority described in Sections 8.200.2.A. and 8.200.2.B.
1. Registered occupational therapists, licensed physical therapists, licensed audiologists, certified speech-language pathologists, and licensed physician assistants may provide services ordered by a physician.
 - a. Services must be rendered and supervised in accordance with the scope of practice for the non-physician provider described in the Colorado Department of Regulatory Agencies rules.
- 8.200.2.D. Physician services that may be provided by a non-physician provider when supervised by an enrolled provider.
1. With the exception of the non-physician providers described in Sections 8.200.2.A. through 8.200.2.C. and 8.200.2.D.1.a., a non-physician provider may provide covered goods and services only under the Direct Supervision of an enrolled provider who has the authority to supervise those services, according to the Colorado Department of Regulatory Agencies rules. If Colorado Department of Regulatory Agencies rules do not designate who has the authority to supervise, the non-physician provider shall provide services under the Direct Supervision of an enrolled physician.

- a. Registered Nurses (RNs) are authorized to provide delegated medical services within their scope of practice as described in the Colorado Department of Regulatory Agencies rules under General Supervision.

8.200.2.E. Licensure and required certification for all physician services providers shall be in accordance with their specific specialty practice act and with current state licensure statutes and regulations.

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Tracking number: 2016-00596

Opinion of the Attorney General rendered in connection with the rules adopted by the

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

on 02/10/2017

10 CCR 2505-10 8.200

MEDICAL ASSISTANCE - SECTION 8.200

The above-referenced rules were submitted to this office on 02/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 21, 2017 09:11:02

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Finance and Accounting Rules (Volume 5)

CCR number

11 CCR 2508-1

Rule title

11 CCR 2508-1 RULE MANUAL VOLUME 5, FINANCE 1 - eff 04/01/2017

Effective date

04/01/2017

11 CCR 2508-1

5.000 FINANCE AND ACCOUNTING

5.100 PURPOSE AND SCOPE

These rules are the fiscal rules for county departments of social/human services concerning public assistance, social services, other forms of assistance, and the administration of the above including but not limited to internal controls, financial reporting, accounting, and auditing.

5.200 ROUTINE REPORTING PERIOD

5.201 Monthly Reporting to the Colorado Department of Human Services

The county social/human services director shall report to the Colorado Department of Human Services at such times and in such manner and form as the Colorado Department of Human Services may from time to time direct. The routine reporting period from the county to the Colorado Department of Human Services is a calendar month. The Controller of the Colorado Department of Human Services shall determine the date required to submit financial data for each monthly reporting cycle.

5.300 PROCUREMENT PROCESS

5.301 Counties Shall Follow County Procurement Processes

County departments of social/human services shall follow county procurement processes. If counties do not have procurement processes in place, State Procurement Rules shall be used pursuant to 1 CCR 101 through 1 CCR 109.

5.302 Compliance with Office of Management and Budget (OMB) Circulars

County departments of social/human services shall comply with 2 C.F.R. Part 200 and any other applicable federal cost circulars. When counties are a pass-through entity, they shall hold their subrecipients and contractors accountable for compliance with 2 C.F.R. Part 200 and any other applicable circulars. No later amendments or editions are incorporated.

Copies of this material are available by contacting the Controller of the Colorado Department of Human Services, 1575 Sherman Street, Denver, Colorado, 80203, and online at [http://www.ecfr.gov/cgi-bin/retrieveECFR?](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=87f8582883b9a1bdf2ba739bee355a07&mc=true&n=pt2.1.200&r=PART&ty=HTML)

[gp=&SID=87f8582883b9a1bdf2ba739bee355a07&mc=true&n=pt2.1.200&r=PART&ty=HTML](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=87f8582883b9a1bdf2ba739bee355a07&mc=true&n=pt2.1.200&r=PART&ty=HTML).

Additionally, any incorporated material in these rules may be examined at any State publications depository library.

5.400 County Allocations

5.401 Counties Shall Use Colorado Department of Human Services Guidance [Rev. eff. 7/1/12]

County departments of social/human services shall refer to an annual Colorado Department of Human Services county allocation letter which sets forth program allocations, as well as procedures that counties shall follow regarding any appeal of an allocation, closeout of actual expenditures each year, as well as methodology and data used to calculate annual allocations by program.

5.500 CONTRACTS

5.501 Contract Procedures

County departments of social/human services shall adhere to all county guidelines for contract processes and procedures. In the absence of county procedures, county departments of social/human services shall follow State contract processes and procedures pursuant to 1 CCR 101 through 1 CCR 109.

5.600 TRAVEL

5.601 Travel Procedures

County departments of social/human services shall adhere to all county guidelines for travel policies and reimbursement procedures. In the absence of county policies and procedures, county departments of social/human services shall follow State travel policies and procedures pursuant to 1 CCR 103-1.

5.700 REQUIRED USE OF STATEWIDE AUTOMATED SYSTEMS

County departments of social/human services shall use the Colorado Department of Human Services automated statewide client and/or provider information systems. These systems are designed to collect and store program data; assist with eligibility and payment determinations; generate forms and reports; create electronic benefit authorizations; and add to, delete, or make changes to the information on file.

5.800 REPORTING OF EMPLOYEE THEFT OR EMBEZZLEMENT

Any suspected theft or embezzlement of federal, State or local funds shall be immediately reported to at least one level of management above the party(s) suspected or to the county social/human services board. In addition, theft or embezzlement of State and/or federal funds or assets totaling \$5,000 or more per incident shall be reported in writing to the county social/human service board and to the Audit Division Director of the Colorado Department of Human Services at 4126 South Knox Court, Denver, Colorado 80236.

5.900 MAINTAIN INTERNAL CONTROLS AND ADEQUATE SEGREGATION OF DUTIES

County departments of social/human services shall maintain a written set of internal control policies and procedures that promote a sound internal control environment that ensures an adequate and appropriate segregation of duties. The same staff may not initiate, authorize, and record a transaction, if staff also has the ability to receipt or disburse monies for that same transaction.

CYNTHIA H. COFFMAN
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DAVID C. BLAKE
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Office of the Attorney General

Tracking number: 2017-00029

Opinion of the Attorney General rendered in connection with the rules adopted by the

Finance and Accounting Rules (Volume 5)

on 02/14/2017

11 CCR 2508-1

RULE MANUAL VOLUME 5, FINANCE

The above-referenced rules were submitted to this office on 02/15/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 21, 2017 09:09:57

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Social Services Rules (Staff Manual Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-8

Rule title

12 CCR 2509-8 CHILD CARE FACILITY LICENSING 1 - eff 04/01/2017

Effective date

04/01/2017

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7.717 EARLY CHILDHOOD COUNCILS

Each Early Childhood Council, whether newly established in a community or newly identified to serve as a council, shall work toward consolidating and coordinating funding. Together, the Early Childhood Councils throughout the state shall serve to create a seamless system of early childhood services representing collaboration among various public and private stakeholders for the effective delivery of early childhood services in the areas of early care and education, family support, mental health, and health. These services shall support children eight (8) years of age or younger and their parents in a manner that is responsive to local needs and conditions.

7.717.1 DEFINITIONS

“Children” means children eight (8) years of age or younger.

“County department” means the county Department of Human Services or Social Services.

“Early care and education provider” is a required Early Childhood Council membership stakeholder group that includes, but is not limited to, a licensed and legally exempt child care provider; Head Start grantee; or district preschool program representative.

“Early Childhood Council” means a council identified or established locally in communities throughout the state, either as a community consolidated child care services pilot site agency that existed prior to May 31, 2007 or pursuant to § 26-6.5-103, C.R.S., that represents public and private stakeholders for the purpose of developing and ultimately implementing a comprehensive system of early childhood services for children in the community to ensure school readiness. A council may be an Early Childhood Care and Education Council so long as no more than one council exists in a given service area.

“Early Childhood Council membership” means the members of a voting body of an Early Childhood Council with governing authority over all of the council’s duties enumerated in § 7.717.5.

“Family support and parent education services” is a required Early Childhood Council membership stakeholder group that includes, but is not limited to, a representative from a home visitation program; family resource center; or income assistance program.

“Health care entity” is a required Early Childhood Council membership stakeholder group that includes, but is not limited to, a representative from local public health, health care providers; Women, Infants, and Children (WIC) food nutrition service; Supplemental Nutrition Assistance Program (SNAP); Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program; or Parts B or C of the federal Individuals with Disabilities Education and Improvement Act.

“Local government” is a required Early Childhood Council membership stakeholder group that includes, but is not limited to, a representative from the County Board of Commissioners; City

Council; local school district board; or a local County Department of Human Services or Social Services.

“Mental health care” is a required Early Childhood Council membership stakeholder group that includes, but is not limited to, a representative from the community mental health centers or a local mental health care provider.

“Resource and referral agency” is a required Early Childhood Council membership stakeholder group that includes, but is not limited to, a representative from a child care resource and referral agency or other agency that provides this support for parents with children eight (8) years of age or younger.

“State Department” means the Colorado Department of Human Services.

7.717.2 CREATION AND RECONFIGURATION PROCESSES

- A. To create a new Early Childhood Council or reconfigure an existing Early Childhood Council, the Board(s) of Commissioners in the applicable county or counties must first designate a convening entity. This convening entity may be, but is not limited to, the following agency types:
 - 1. A local resource and referral agency;
 - 2. A County Department of Human Services or Social Services;
 - 3. A local school district;
 - 4. Department of Public Health; or,
 - 5. A Colorado Preschool Program Council.
- B. The convening entity shall convene an Early Childhood Council, either as part of a single county or as part of a multi-county regional network, by submitting an application to the state department under paragraph E.
- C. The convening entity shall initially approve the Early Childhood Council membership, ensuring the mandatory stakeholders listed in § 7.717.4 are included.
- D. Existing Early Childhood Councils may apply to merge or reconfigure under § 7.717.2. A reconfigured council replaces the councils named in the application to reconfigure.
- E. A convening entity's application for an agency applying to be newly identified as a council or an existing Early Childhood Council(s) applying to be a newly created and reconfigured council shall designate, at minimum, the following information:
 - 1. An intended service area that complies with § 7.717.3;
 - 2. The county or counties involved with the council;
 - 3. The participating Early Childhood Council members that includes stakeholders required by § 7.717.4;

4. The designated fiscal agent; and,
 5. Signatures of the Chair or Chairs of the Board or Boards of County Commissioners of all counties involved in the council, the legal signatory for the counties, and the president of any school district Board of Education involved in the council.
- F. The State Department's approval of an Early Childhood Council's application under § 7.717.6, does not guarantee funds to that council.

7.717.3 SERVICE AREA

- A. To the extent practicable, a service area of an Early Childhood Council shall be representative of the various public and private stakeholders in the local community who serve children.
- B. Early Childhood Council's service area may include more than one county.
- C. No two Early Childhood Councils may cover the same service area.

7.717.4 GOVERNANCE

- A. Early Childhood Council membership shall:
 1. To the extent practicable, reflect local needs and cultural and geographic diversity within the service area;
 2. Have voting rights;
 3. Consist of a minimum of ten (10) members;
 4. Include at least one representative, who operates or resides within the council's service area, from each of the following seven (7) mandatory stakeholder groups:
 - a. Early care and education;
 - b. Family support and parent education services;
 - c. Health care;
 - d. Local government;
 - e. Parent of a child five (5) years of age or younger;
 - f. Mental health care; and,
 - g. Resource and referral agency.
 5. Early Childhood Council membership may also include, but is not limited to, representation from any combination of the following stakeholder groups within the council's service area:
 - a. Child care association;

- b. Medical practice;
 - c. Dental practice;
 - d. School district parent organization;
 - e. Head Start Policy Council;
 - f. Chamber of Commerce;
 - g. Local business;
 - h. Faith-based organization;
 - i. Nonprofit organization;
 - j. Higher education institution; and/or,
 - k. Library.
- B. Each member of an Early Childhood Council shall sign a Memorandum of Understanding on behalf of the organization he or she represents to participate in and collaborate on the work of the Early Childhood Council.
- C. Each Early Childhood Council shall submit a summary of justification and a request for approval to the State Department in cases where:
- 1. One (1) individual represents multiple, mandatory stakeholder groups on the Early Childhood Council membership; and/or,
 - 2. A mandatory stakeholder group is vacant for more than ninety (90) days.
- D. Each Early Childhood Council shall adopt bylaws that provide for, at minimum:
- 1. Early Childhood Council name;
 - 2. Early Childhood Council purpose;
 - 3. Requirements for membership;
 - 4. Members' roles and responsibilities;
 - 5. Process for selecting members;
 - 6. Rules for membership rotation and terms;
 - 7. How meetings will be conducted; and,
 - 8. Meeting frequency and the quorum required for council action.
- E. Each Early Childhood Council shall designate and enter into a formal, written agreement with a fiscal agent that requires the fiscal agent to:

1. Accept legal and financial responsibility for the work being performed under the contract, including all deliverables and deadlines associated with the council scope of work;
 2. Acknowledge that if work is not performed in accordance with the council contract, payment may be withheld by the state department;
 3. Comply with fiscal contractual requirements, in accordance with the state fiscal rules (see 2 C.F.R. Part 200) and applicable federal guidance (see 1 CCR 101-1); and,
 4. Comply with the Colorado Information Security Act (see § 24-37.5, Part 4).
- F. In the case of an Early Childhood Council that is an incorporated legal entity, including a nonprofit corporation, the entity itself may serve as the fiscal agent, in which case it is directly responsible for the obligations set out in paragraph E.

7.717.5 EARLY CHILDHOOD COUNCIL DUTIES AND DELIVERABLES

- A. Each Early Childhood Council is responsible for the following minimum duties and functions:
1. To apply for early childhood funding pursuant to § 26-6.5-104, C.R.S.;
 2. Develop and execute a strategic plan that responds to local needs and conditions to increase and sustain the quality, accessibility, capacity, and affordability of early childhood services for children and their parents;
 3. To establish a local system of accountability to measure local progress based on the needs and goals set for program performance;
 4. To report annually the results of the accountability measurements defined in the strategic plan;
 5. To select a fiscal agent to disburse funds and serve as the employer of the Council Director, once hired;
 6. To conduct a comprehensive evaluation and report, based on the strategic plan; and,
 7. To actively inform and include small or under-represented early childhood service providers in Early Childhood Council activities and functions.
- B. Each Early Childhood Council shall submit and ensure that the State Department has current record of the council governance structure, to include at minimum:
1. Early Childhood Council membership, to include the name and contact information for representatives from each of the mandatory stakeholder groups in § 7.717.4, A (4);
 2. An organizational chart or other description of its officer/leadership structure, including current officers;

3. The name and contact information for the Council Director, or, if none has been hired, an interim program contact employed by the fiscal agent;
 4. The Early Childhood Council bylaws; and,
 5. An annual budget for developing a local early childhood system and infrastructure to improve and coordinate early childhood services.
- C. Each Early Childhood Council shall develop, execute, and submit for State Department compliance review, an up to date organizational strategic plan that:
1. Reflects the state department priorities and performance standards to increase and sustain the quality, accessibility, capacity, and affordability of early childhood services for children and their parents;
 2. Responds to the early childhood needs and conditions in the designated service area based upon a rigorous assessment; and,
 3. Sets measurable goals to increase and sustain quality, accessibility, capacity, and affordability of early childhood services for children and their parents.
- D. The strategic plan shall be developed at least once every five (5) years and include, at minimum:
1. A description of the long-term goals to be accomplished;
 2. A description of the short-term objectives;
 3. A description of the expected outcomes aligned with the goals and objectives; and,
 4. A definition of the data tools and methods for tracking progress towards the goals, objectives, and expected outcomes.
- E. Annually, each Early Childhood Council shall submit to the state department and its Early Childhood Council membership:
1. The current strategic plan; and,
 2. A written, comprehensive evaluation and report of its progress based on the strategic plan accountability metrics.

7.717.6 STATE DEPARTMENT FUNDING REQUIREMENTS

- A. To be eligible to receive infrastructure, quality improvement, technical assistance, and evaluation funding from the state department, an Early Childhood Council must:
1. Be properly convened; and meet the minimum service area and governance standards in § 7.717.3-4.
 2. Submit strategic plan for compliance review in accordance with § 7.717.5, C and D.

- B. Each Early Childhood Council seeking infrastructure, quality improvement, technical assistance, and evaluation funding shall submit an application to the state department that includes or describes:
 - 1. The Council's designated service area, as defined in § 7.717.3;
 - 2. The Council's current membership, including proof of a Memorandum of Understanding signed by the members representing each mandatory stakeholder group, as defined in § 7.717.4, A (4);
 - 3. The registered business name, certificate in good standing with the Colorado Secretary Of State, and the D-U-N-S number for the designated fiscal agent;
 - 4. The capacity to comply with state department data entry and data reporting requirements, as defined by the state department and other applicable funding stream requirements;
 - 5. Current record of the council governance structure, as defined in § 7.717.5, B;
 - 6. The Council director's signature; and,
 - 7. The Council's strategic plan, in compliance with § 7.717.5, C and D.
- C. If an Early Childhood Council fails to maintain ongoing compliance with these funding requirements, including the requirement of a current strategic plan, the State Department may deny its pending or immediately subsequent application for funding.
- D. Councils that have previously applied for and been denied funding by the State Department may re-apply by showing current compliance with state requirements.
- E. For one (1) year after March 30, 2017, in order to promote an orderly transition to a new governance structure, any Council may apply for a waiver of specific governance rules in § 7.717.4 upon a showing of substantial compliance and undue hardship. A Council shall submit any request for a waiver to the Early Childhood Leadership Commission, which shall consult with the Department on the request. The Department will grant such waivers upon recommendation by the Commission.

7.717.7 RULE WAIVER REQUEST

- A. A local Early Childhood Council may submit a rule waiver request to the Early Childhood Leadership Commission for any rule within C.C.R. 2509 that would prevent a Council from implementing council projects related to the minimum duties and functions defined in § 7.717.5, A.
- B. The Early Childhood Council submitting a waiver request is required to demonstrate that the waiver in question is necessary to support implementation of the Early Childhood Council projects related to the minimum duties and functions defined in § 7.717.5, A.
- C. The waiver request shall be submitted in writing to the Early Childhood Leadership Commission Director.

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Office of the Attorney General

Tracking number: 2016-00591

Opinion of the Attorney General rendered in connection with the rules adopted by the

Social Services Rules (Staff Manual Volume 7; Child Welfare, Child Care Facilities)

on 02/03/2017

12 CCR 2509-8

CHILD CARE FACILITY LICENSING

The above-referenced rules were submitted to this office on 02/07/2017 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.

February 21, 2017 09:09:40

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-10 8.200

Rule title

10 CCR 2505-10 8.200 MEDICAL ASSISTANCE - SECTION 8.200 1 - eff 02/10/2017

Effective date

02/10/2017

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses

Rule Number: MSB 17-01-29-A

Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney x3436 / Amanda Forsythe x6459

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board

2. Title of Rule: MSB 16-08-24-A, Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses

3. This action is an adoption of: an amendment

4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):

Sections(s) 8.200, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)? Yes

If yes, state effective date:

Is rule to be made permanent? (If yes, please attach notice of hearing). No

PUBLICATION INSTRUCTIONS*

DO NOT PUBLISH THIS PAGE

Replace the current text at 8.200 with the proposed text starting at 8.200.1 through the end of 8.200.2.E. This is an emergency rule and effective February 10, 2017.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses
Rule Number: MSB 17-01-29-A
Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney x3436 / Amanda Forsythe x6459

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

This rule revision changes the supervision requirements for Registered Nurses providing physician services. Under the revised rule, Colorado Medicaid will reimburse for services provided by Registered Nurses under general supervision, so long as the services fall within their scope of practice as set forth by the Colorado Department of Regulatory Agencies. In contrast to direct supervision, which requires that the supervisory physician provider be onsite, general supervision requires that the physician provider be available via telephone or email for the duration of the service(s) being provided by the registered nurse. The Department seeks to align its reimbursement policy with standard practice for registered nurses in the state.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or
☒ for the preservation of public health, safety and welfare.

Explain:

If this rule revision is not effective by March 1, 2017, Local Public Health Agencies will stop seeing Medicaid patients for services provided by RNs under general supervision. The Department of Health Care Policy and Financing worked with the Department of Public Health and Environment (CDPHE) to obtain a temporary one-year certification to allow billing and reimbursement for RN services under general supervision. Due to the absence of any objection to the proposed rule at the public rule review meeting in November or initial MSB meeting in December, the Department, CDPHE and the Local Public Health Agencies believed that a temporary certification would no longer be necessary after March 1, 2017. A failure to adopt an emergency rule would be a hardship to Medicaid clients whom depend on Local Public Health Agencies to provide necessary medical services.

3. Federal authority for the Rule, if any:

42 CFR 440.230(2)(b)

DO NOT PUBLISH THIS PAGE

Each service must be sufficient in amount, duration, and scope to reasonably achieve its purpose. This change helps achieve the purpose of ensuring sufficient access to physician services for Colorado Medicaid clients.

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2016);

The Department is required to provide services and payment that may include provisions that encourage the highest quality of medical benefits and the provision thereof at the least expense possible. 25.5-4-401(2), C.R.S. (2016). This rule falls within that authority. The scope of practice for Registered Nurses in Colorado does not require physician oversight during the course of independent nursing practice. Individual facilities or physician practices may have policies requiring some level of physician oversight. The Department is able to require a certain level of physician oversight as a condition of reimbursement for covered physician services.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision of Medicaid Assistance Rule Section 8.200 Concerning Supervision Requirements for Registered Nurses

Rule Number: MSB 17-01-29-A

Division / Contact / Phone: Health Programs Benefits and Operations / Richard Delaney x3436 / Amanda Forsythe x6459

REGULATORY ANALYSIS

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

The persons affected are Colorado Medicaid clients, as all clients may receive care from Registered Nurses.

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

It is impossible to determine the increase in services that will occur under this rule.

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

There is likely no increase in costs. The services are currently being rendered by higher level providers and will now be available from Registered Nurses.

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

The probable costs are relatively small for either inaction or action. The rule change is being pursued to update Medicaid reimbursement policies with that of other payers in the state.

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

There is no alternative way to provide services to Medicaid clients by RNs under General Supervision at this time.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The alternatives considered were to retain the existing requirements, which were not seen as good policy at the Department.

8.200 PHYSICIAN SERVICES

8.200.1 Definitions

Advanced Practice Nurse means a provider that meets the requirements to practice advanced practice nursing as defined in Article 38 of Title 12 of the Colorado Revised Statutes. In Colorado an Advanced Practice Nurse may have prescriptive authority.

Certified Family Planning Clinic means a family planning clinic certified by the Colorado Department of Public Health and Environment, accredited by a national family planning organization and staffed by medical professionals licensed to practice in the State of Colorado, including but not limited to, doctors of medicine, doctors of osteopathy, physicians' assistants, and advanced practice nurses.

Direct Supervision means the supervising provider shall be on-site during the rendering of services and immediately available to give assistance and direction throughout the performance of the service.

General Supervision means the supervising provider may not be on-site during the rendering of services, but is immediately available via telephonic or other electronic means to give assistance and direction throughout the performance of the service.

Licensed Psychologist means a provider that meets the requirements to practice psychology as defined in Part 3 of Article 43 of Title 12 of the Colorado Revised Statutes.

Medical Necessity is defined in 10 C.C.R. 2505-10, Section 8.076.1.8.

8.200.2 Providers

8.200.2.A. A doctor of medicine or a doctor of osteopathy may order and provide all medical care goods and services within the scope of their license that are covered benefits of the Colorado Medical Assistance Program.

1. A provider of covered dental care surgery may be enrolled as either a dentist or oral surgeon, but not as both. A dentist may order and provide covered dental care.

8.200.2.B. Physician services that may be provided by non-physician providers without a physician order.

1. Advanced Practice Nurses may provide and order covered goods and services in accordance with the scope of practice as described in the Colorado Department of Regulatory Agencies rules without a physician order.
2. Licensed Psychologists may provide and order covered mental health goods and services in accordance with the scope of practice as described in the Colorado Department of Regulatory Agencies rules without a physician order.
 - a. Services ordered by a Licensed Psychologist but rendered by a non-licensed mental health provider shall be signed and dated by the Licensed Psychologist contemporaneously with the rendering of the service by a non-licensed mental health provider.
3. Optometrists may provide covered optometric goods and services within their scope of practice as described by the Colorado Department of Regulatory Agencies rules without a physician order.
4. Podiatrists may provide covered foot care services within their scope of practice as described by the Colorado Department of Regulatory Agencies rules without a physician order.

5. Licensed dental hygienists may provide unsupervised covered dental hygiene services in accordance with the scope of practice for dental hygienists as described in the Colorado Department of Regulatory Agencies rules without a physician order.

8.200.2.C. Physician services that may be provided by a non-physician provider when ordered by a provider acting under the authority described in Sections 8.200.2.A. and 8.200.2.B.

1. Registered occupational therapists, licensed physical therapists, licensed audiologists, certified speech-language pathologists, and licensed physician assistants may provide services ordered by a physician.

- a. Services must be rendered and supervised in accordance with the scope of practice for the non-physician provider described in the Colorado Department of Regulatory Agencies rules.

8.200.2.D. Physician services that may be provided by a non-physician provider when supervised by an enrolled provider.

1. With the exception of the non-physician providers described in Sections 8.200.2.A. through 8.200.2.C. and 8.200.2.D.1.a., a non-physician provider may provide covered goods and services only under the Direct Supervision of an enrolled provider who has the authority to supervise those services, according to the Colorado Department of Regulatory Agencies rules. If Colorado Department of Regulatory Agencies rules do not designate who has the authority to supervise, the non-physician provider shall provide services under the Direct Supervision of an enrolled physician.

- a. Registered Nurses (RNs) are authorized to provide delegated medical services within their scope of practice as described in the Colorado Department of Regulatory Agencies rules under General Supervision.

8.200.2.E. Licensure and required certification for all physician services providers shall be in accordance with their specific specialty practice act and with current state licensure statutes and regulations.



COLORADO

Department of Health Care
Policy & Financing

Medical Services Board

FEBRUARY 2017 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE FEBRUARY 10, 2017 MEDICAL SERVICES BOARD MEETING

MSB 17-01-29-A Revision to the Medical Assistance Rule Concerning Physician Services, 10 CCR 2505-10, Section 8.200

For the preservation of public health, safety and welfare

Emergency rule-making is imperatively necessary. RNs at Local Public Health Agencies will stop seeing Medicaid patients under general supervision if the rule is not in place on March 1, 2017. The Department of Health Care Policy and Financing worked with the Department of Public Health and Environment to obtain a temporary one-year certification to allow billing for RN services under general supervision. There was no objection to the proposed rule in November or December, leading both departments and the local public health agencies to believe that a temporary certification was no longer necessary.

HCPF has publicized the change to stakeholders with implementation of 3/1/2017. Stakeholders, including Local Public Health Agencies and Behavioral Health Organization have amended their billing systems and policies to allow for billing for RN services with direct supervision of the supervising provider. It would be a hardship on these providers to delay implementation with less than 30 days' notice.

The emergency rulemaking is necessary to keep in compliance with the current policy. This rule change is crucial for the preservation of public health, safety, and welfare.



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Office of the Attorney General

Tracking number: 2017-00080

Opinion of the Attorney General rendered in connection with the rules adopted by the

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

on 02/10/2017

10 CCR 2505-10 8.200

MEDICAL ASSISTANCE - SECTION 8.200

The above-referenced rules were submitted to this office on 02/10/2017 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

February 21, 2017 09:10:45

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Terminated Rulemaking

Department

Department of Public Health and Environment

Agency

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

CCR number

6 CCR 1015-3

Tracking number

2017-00099

Termination date

02/27/2017

Reason for termination

This has been re-filed as 2017-00100.

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 03/01/2017

Department

Department of Health Care Policy and Financing

Agency

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)



COLORADO

Department of Health Care
Policy & Financing

PUBLIC NOTICE

March 10th, 2017

Children's Home and Community Based Services (CHCBS) Waiver Amendment Public Comment

The Colorado State Department of Health Care Policy and Financing (the Department) will be submitting a waiver amendment to the Centers for Medicare and Medicaid Services (CMS) on March 30th, 2017 for the Children's Home and Community Based Services Waiver (CHCBS).

The proposed amendment would increase the number of participants served annually.

For a more detailed summary of all changes and copies of the full draft waiver amendment please go to the Department's website at <https://www.colorado.gov/pacific/hcpf/hcbs-waiver-transition>.

To provide public comment or request a paper or electronic copy of any materials, including the full draft waiver, please contact Dennis Roy phone: 303-866-4828, fax: 303-866-2786, email: dennis.royjr@state.co.us; or visit 1570 Grant Street, Denver, Colorado 80203. Public Comments will also be accepted at: Ltss.PublicComment@state.co.us

Public Comments will be accepted between February 28th, 2017 and March 30th, 2017 for the CHCBS waiver.

General Information

A link to this notice will be posted for 30 days on the [Department's website](http://www.colorado.gov/hcpf) (www.colorado.gov/hcpf) starting on February 28th, 2017. Written comments may be addressed to: Dennis Roy, Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203.

The mission of the Department of Health Care Policy and Financing is to improve health care access and outcomes for the people we serve while demonstrating sound stewardship of financial resources.

www.colorado.gov/hcpf



Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 03/01/2017

Department

Department of Human Services

Agency

Social Services Rules (Staff Manual Volume 7; Child Welfare, Child Care Facilities)



COLORADO

State Board of Human Services

Initial Read of Proposed Rules for May 5, 2017 Rule Making Session

Agenda

Morgan County Department of Human Services
Large Conference Room
800 East Beaver Avenue
Fort Morgan, CO 80701

April 7, 2017

10:00 a.m.

Note: This is a public session. Reasonable accommodations may be provided upon request prior to the meeting by contacting State Board Administration at 303-866-5922. You may access State Board information and meeting notices on the Department's Internet site at: <https://sites.google.com/a/state.co.us/cdhs-state-board>. If you wish to listen to the broadcast, please go to the Board Meeting Broadcast on the meeting date to access GoToMeetings at: <https://sites.google.com/a/state.co.us/cdhs-state-board/broadcast>.

Members: David Ervin, Chairman, Bernard Buescher, Thomas Davidson, Stephen Johnson, Jeffrey Kuhr, Constance Rule, Dennis Swain, Chris Watney, Julie Westendorff

Open Comments Period

Board Business

Initial Read of Proposed Rules for May 5, 2017 Rule Making Session

Rules Concerning the Office of Performance & Strategic Outcomes

Document 1 State Review of an Incident of Egregious Abuse or Neglect, Near Fatality or Fatality of a Child (12 CCR 2509-2) 17-01-27-01

April 7 is being presented for public comment and initial reading.

[Allison Gonzales & Melissa Wavelet]

1) Throughout the review team process, it has been determined that having county departments who have assessed the egregious, near fatal or fatal incident, as well as county departments who have had prior history with the child and/or family within the last three years, present at the review is an integral piece in completing a thorough and effective State Child Fatality Review.

The State Child Fatality Review Team (CFRT) is a multidisciplinary team comprised of members from: Division of Child Welfare, Domestic Violence Program, Administrative Review Division, Colorado Department of Public Health and Environment, County Child Welfare Directors/Administrators, County Commissioners, the office of the Ombudsman, Law Enforcement, a Pediatrician, District Attorney, Attorney General Office, and the Colorado Department of Education. It is the statutorily defined duty of this team to create recommendations that are intended to mitigate incidents of egregious harm, near fatalities, and fatalities. This specific recommendation was made by the CFRT members as part of their analysis and discussion related to several incidents.

2) In order for rule to more accurately reflect the CFRT process and ensure compliance, the timeframe should be revised to reflect that the State Review shall occur within forty-five (45) business days of the State Department receiving all required and relevant reports and information critical to an effective fatality review.

Rules Concerning the Office of Behavioral Health

Document 2 Rules for Driving Under the Influence Level II Four Plus Treatment (2 CCR 502-1) 16-12-21-1
April 7 is being presented for public comment and initial reading.
[Ryan Templeton & Nancy VanDeMark]

The proposed rule creates a new service provision in treating an individual who has been convicted of four (4) or more separate and distinct episodes of driving under the influence, driving while ability impaired, vehicular homicide, vehicular assault, or any combination thereof. Rule promulgation began in response to legislation passed in 2015 (House Bill 15-1043) which established that a violation of driving under the influence will be a Class 4 Felony if the violation occurred after three (3) or more prior convictions, arising out of separate and distinct episodes of driving under the influence, driving while ability impaired, vehicular homicide, vehicular assault, or any combination thereof. A requirement before an individual is sentenced to the Department of Corrections for a Felony DUI, is that all other available sanctions and responses to the violation must have been exhausted, including treatment. The proposed rule establishes a more comprehensive treatment service provision for individuals with four (4) or more impaired driving offenses under the Level I and Level II education, therapy or treatment provision authorized in Section 42-4-1301.3(3)(c)(IV), C.R.S.

Rules Concerning the Office of Community Access and Independence

Document 3 Colorado Brain Injury Program Rule Updates FY 16/17 (1 CCR 201-17) 16-10-21-1
April 7 is being presented for public comment and initial reading.
[Karen Ferrington & Mark Wester]

Within the Colorado Traumatic Brain Injury Program (CBIP) administrative rules, the program seeks to align the eligibility section, CCR 12.530, with Federal and State Statutes. The rule change will bring the Colorado Brain Injury Program's client service eligibility criteria into accordance with the program's statute, C.R.S. § 26-1-3, and will appropriately remove lawful presence as a requirement for program access. The program also seeks to accomplish a minor technical change in CCR 12.551 to clean up miswording.

Rules Concerning the Office of Children, Youth, and Families

Document 4 Revisions to the Child Welfare Training and Certification Rules (12 CCR 2509-7) 17-01-31-01
April 7 is being presented for public comment and initial reading.
[Mimi Scheuermann & Robert Werthwein]

The training rules outline the required training and certification for specific staff based on job function. The current rule is a bit confusing as to the order of the section, and has language that is somewhat permissive. The change organizes the section by certification description, rather than job title, and is explicit in stating that certification must be obtained in order to perform certain responsibilities within the State and/or county department.

April 7 is being presented for public comment and initial reading.

[Jeannie Berzinskas & Robert Werthwein]

On June 8, 2016, the Bureau of Indian Affairs (BIA) released the first comprehensive regulations for the substantive legal requirement regarding the Indian Child Welfare Act (ICWA). The regulations provide the first legally-binding federal guidance about how to implement ICWA. The federal regulations went into effect December 12, 2016. These proposed changes will bring the current rules into compliance with the new federal regulations and mirror best practices as presented in the guidelines released by the BIA. The proposed rules will update definitions and notice provisions in the existing rules and adds new subparts to address ICWA implementation. It promotes uniformity and provides clarity to the Federal standards established by the statute. The rules will reflect best practices, as established by the BIA. The rule allows for early compliance that promotes the maintenance of Indian families, and the reunification of Indian children with their families.

Other Business

Departmental Update

- Executive Director

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 03/09/2017

Department

Department of State

Agency

Secretary of State



Notice of Mandatory Rule Review Written Comment Period

Elections Rules
[8 CCR 1505-1]
March 9, 2017

What is this about?

Secretary Williams is reviewing the Elections Rules in accordance with section 24-4-103.3, C.R.S. We invite you to participate in this effort by submitting written comments. The most helpful comments will reference issues within the scope of the rule review criteria outlined below, cite specific sections of the rules, and explain the reason for a recommended change.

For the rule review, the Secretary of State will consider:

1. Whether the rule is necessary;
2. Whether the rule overlaps or duplicates other rules of the agency or with other federal, state, or local government rules;
3. Whether the rule is written in plain language and is easy to understand;
4. Whether the rule has achieved the desired intent and whether more or less regulation is necessary;
5. Whether the rule can be amended to give more flexibility, reduce regulatory burdens, or reduce unnecessary paperwork or steps while maintaining its benefits;
6. Whether the rule is implemented in an efficient and effective manner, including the requirements for the issuance of permits and licenses;
7. Whether a cost-benefit analysis was performed by the applicable rule-making agency or official in the principal department pursuant to section 24-4-103 (2.5), C.R.S.; and
8. Whether the rule is adequate for the protection of the safety, health, and welfare of the state or its residents

A current copy of the rules is available online at:

<http://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=6994&fileName=8%20CCR%201505-1>.

How do I submit my comments and what is the deadline?

You may email your comments to SOS.Rulemaking@sos.state.co.us. To ensure consideration of your comments, please submit your comments by 5:00 p.m. on April 7, 2017.

Will my comments appear online?

Yes. To promote transparency and help generate discussion, our office will post a copy of your comments on the Secretary of State's website. We will also incorporate your comments into a report of our review findings that will appear in the Secretary of State's annual departmental regulatory agenda.

To view the comments that we receive, please visit:
www.sos.state.co.us/pubs/rule_making/ruleReviews.html.

Calendar of Hearings

Hearing Date/Time	Agency	Location
04/13/2017 11:45 AM	Colorado State Board of Education	Colorado Department of Education, State Board Room 101
04/13/2017 01:00 PM	Colorado State Board of Education	Colorado Department of Education, State Board Room 101
04/13/2017 02:45 PM	Colorado State Board of Education	Colorado Dept of Education, State Board Room 101
04/03/2017 02:00 PM	Division of Insurance	1560 Broadway, Ste 850, Denver CO 80202
04/03/2017 02:00 PM	Division of Insurance	1560 Broadway, Ste 850, Denver CO 80202
05/10/2017 10:15 AM	Passenger Tramway Safety Board	202 Main Street, 2nd Floor, Grand Junction, CO 81501
04/07/2017 09:00 AM	Division of Professions and Occupations - Board of Psychologists Examiners	1560 Broadway, Suite 1250C, Denver, CO 80202
05/18/2017 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
05/18/2017 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
04/19/2017 10:00 AM	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246
04/19/2017 10:00 AM	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246
03/30/2017 09:00 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
04/19/2017 10:00 AM	Health Facilities and Emergency Medical Services Division (1011, 1015 Series)	Sabin-Cleere Conference Room, Colorado Department of Public Health and Environment, Bldg. A, 4300 Cherry Creek Drive, South, Denver, CO. 80246
04/14/2017 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	303 East 17th Avenue, 11th Floor, Denver, CO 80203