Colorado Register

41 CR 9

Volume 41 , No. 9

May 10, 2018

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

2018-00183

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-1

Rule title

PROCEDURE AND ADMINISTRATION

Rulemaking Hearing

Date

06/06/2018

Time

09:00 AM

Location

1375 Sherman Street, Room 127, Denver, CO 80203

Subjects and issues involved

The purpose of the rule is to require certain taxpayers make payments by electronic funds transfer.

Statutory authority

The statutory bases for this rule are §§ 39-21-112, 39-22-604, 39-26-105.5, 39-27-105.3, 39-28-104, 39-28.5-106, 39-28.8-202, 39-28.8-304, and 39-29-111, C.R.S.

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DEPARTMENT OF REVENUE

Taxpayer Service Division - Tax Group

PROCEDURE AND ADMINISTRATION

1 CCR 201-1

~~**SPECIAL REGULATION**~~**Special Rule 1. Electronic Funds Transfer** ~~**EFT PAYMENT DUE**~~

~~1) Payments made via EFT (Electronic Funds Transfer) must be made by 4:00 PM Mountain Time on the due date to be credited to the State of Colorado on that day and considered timely. Payments made after 4:00 PM Mountain Time on the due date will be considered late.~~

~~2) When payment by EFT is required by statute but a check is mailed instead, the postmark date will not be considered to be the payment will not be considered to be the payment received date and such payment may be subject to penalty and interest.~~

Basis and Purpose. The bases for this rule are §§ 39-21-112, 39-22-604, 39-26-105.5, 39-27-105.3, 39-28-104, 39-28.5-106, 39-28.8-202, 39-28.8-304, and 39-29-111, C.R.S. The purpose of the rule is to require certain taxpayers make payments by electronic funds transfer.

(1) **Persons Required to Make Payments by Electronic Funds Transfer.** The following persons must remit payment of the following taxes by electronic funds transfer ("EFT").

(a) *Sales Tax*. Retailers whose annual state sales tax liability for the prior calendar year exceeded $75,000, determined without regard to the amount of state-administered city, county and special district taxes collected by the retailer for the same period.

(i) Retailers who meet this requirement must pay state and state-administered city, county, and special district sales taxes by EFT.

(ii) Retailers who meet the requirements of paragraph (1)(a) of this rule are not required to pay the following fees or taxes by EFT:

(A) retailer's use tax,

(B) county lodging tax,

(C) short term rental tax,

(D) daily rental fee, or

(E) local marketing district tax.

(iii) *Failure to Pay by EFT*. In addition to any other penalty, a taxpayer that fails to remit payment of sales tax by EFT in accordance with this rule is subject to penalty pursuant to § 39-26-118(2)(a), C.R.S.

(b) *Wage Withholding Tax*. Employers whose annual estimated withholding tax liability is more than $50,000.

(c) *Gasoline and Special Fuel Tax*. Distributors, importers, exporters, suppliers, carriers, blenders, refiners, terminal operators, or fuel licensees who are required to remit excise tax on gasoline or special fuels imposed by article 27 of title 39, C.R.S.

(d) *Cigarette and Tobacco Products Excise Tax*. Wholesalers and distributors who are required to remit excise tax on cigarettes or tobacco products imposed by articles 28 or 28.5 of title 39, C.R.S.

(e) *Retail Marijuana Sales and Excise Tax*. Persons who are required to remit sales and / or excise tax on retail marijuana imposed by article 28.8 of title 39, C.R.S.

(f) *Withholding of Income from Oil and Gas Interest*. Producers and purchasers who are required to withhold and remit a percentage of gross income paid to owners of oil and gas interests pursuant to § 39-29-111, C.R.S.

(2) **EFT Authorization.** The EFT protocol must conform to the requirements prescribed in Department guidance. Persons identified in paragraph (1), above, shall file an application for EFT authorization no later than 30 days prior to the due date for the first required EFT payment.

(3) **Payment Date.** Payments made by EFT must be made on or before 4:00 P.M. Mountain Standard Time on the due date of the tax payment in order to be treated as paid on that day. Payments made after 4:00 P.M. Mountain Standard Time are considered to be made on the following day. If the due date for the tax payment is on a weekend or a legal holiday, the due date is the next business day. Payments made on a weekend or legal holiday are treated as paid before 4:00 P.M. of the next business day.

(4) **Undue Hardship.** The Department may grant a waiver from the requirement to remit by EFT for reasons of undue hardship, subject to reasonable terms and conditions as the Department may prescribe for the proper administration of tax. The taxpayer has the burden to adequately demonstrate by objective and verifiable proof and to the satisfaction of the executive director that good cause exists to allow a waiver.

(a) *Examples*.

(i) Taxpayer is a retail marijuana cultivation facility and is not able to use a bank account or electronically transmit funds due to various federal laws governing taxpayer's business. Taxpayer has demonstrated undue hardship.

(ii) Taxpayer asserts that its financial institution charges a fee for providing EFT services and the amount of the fee is typical of EFT service fees. Taxpayer has not met its burden of establishing undue hardship.

Cross References

1. Department Publication DRP-5782, "Electronic Funds Transfer (EFT) Program for Tax Payments"

2. Form DR-5785, "Authorization For Electronic Funds Transfer (EFT) For Tax Payments"

3. § 39-22-105.5, C.R.S

4. § 39-22-604(4)(a), C.R.S

5. § 39-27-105.3, C.R.S.

6. § 39-28-104, C.R.S.

7. § 39-28.5-106, C.R.S.

8. § 39-28.8-202, C.R.S.

9. § 39-28.8-304, C.R.S.

10. § 39-21-119, C.R.S. and 1 CCR 201-1, Rule 39-21-119.

COLORADO DEPARTMENT OF REVENUE
STATEMENT OF BASIS AND PURPOSE

Electronic Funds Transfer
Special Rule 1
1 CCR 201-1

Basis

The statutory bases for this rule are §§ 39-21-112, 39-22-604, 39-26-105.5, 39-27-105.3, 39-28-104, 39-28.5-106, 39-28.8-202, 39-28.8-304, and 39-29-111, C.R.S.

Purpose

The purpose of the rule is to require certain taxpayers make payments by electronic funds transfer.

Notice of Proposed Rulemaking

Tracking number

2018-00182

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-1

Rule title

PROCEDURE AND ADMINISTRATION

Rulemaking Hearing

Date

06/06/2018

Time

09:00 AM

Location

1375 Sherman Street, Room 127, Denver, CO 80203

Subjects and issues involved

This rule will define the date documents or payments are considered filed with or made to the Department.

Statutory authority

The statutory bases for this rule are § 39-21-112(1), § 39-21-119, § 39-21-120, § 39-27-117, § 38-28.5-106, § 39-28.8-201, and § 39-28.8-202, C.R.S.

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DEPARTMENT OF REVENUE

Taxpayer Service Division - Tax Group

PROCEDURE AND ADMINISTRATION

1 CCR 201-1

Rule 39-21-119. Date Document or Payment Considered Made

The statutory bases for this rule are § 39-21-112(1), § 39-21-119, § 39-21-120, § 39-27-117, § 38-28.5-106, § 39-28.8-201, and § 39-28.8-202, C.R.S. The purpose for this rule is to define the date Documents or Payments are considered filed with or made to the Department.

(1) **General Rule.** A Document or Payment is considered to be filed or made on the date of the postmark displayed on the envelope or other appropriate wrapper or on the date of the Electronic Postmark for a Document or Payment made electronically.

(2) **Definitions.**

(a) "Department" means the Colorado Department of Revenue.

(b) "Document" means any return, report, claim, statement, or other document required to be filed within a prescribed period or on or before a prescribed date that is within the scope of article 21 of title 39 as defined in § 39-21-102, C.R.S.

(c) "Legal Holiday" means any day declared a legal holiday pursuant to § 24-11-101, C.R.S.

(d) "Payment" means any payment required to be made within a prescribed period or on or before a prescribed date that is within the scope of article 21 of title 39 as defined in § 39-21-102, C.R.S.

(e) "Electronic Postmark" means:

(i) for Documents filed through a third party transmitter by means other than those described in paragraphs (2)(e)(ii)-(iv) of this rule, a record acknowledging the date and time that the Document was submitted to the third party transmitter so long as the Department accepts such Document. A transmitter that receives a Document for electronic filing on or before the due date of the Document must ensure that it transmits the electronic Document on or before the due date. If the taxpayer and the transmitter are located in different time zones, the taxpayer's time zone controls the timeliness of the electronically filed Document.

(ii) for income tax returns filed through a third party transmitter that uses the Internal Revenue Service's Federal/State e-file program, a record acknowledging the date and time the return was submitted to the third party transmitter so long as the Internal Revenue Service accepts the return. If the Internal Revenue Service rejects an electronic return and the return is corrected and accepted within the timeframe for timely filing corrected returns after rejection, the Electronic Postmark is the date the initial rejection occurred.

(A) If a return is submitted to the third party transmitter on or before the due date of the return but is transmitted to the Internal Revenue Service after the prescribed due date, the Electronic Postmark will be considered the date submitted to the third party transmitter so long as the third party transmitter transmits the return within two days of the due date.

(B) If the taxpayer and the transmitter are located in different time zones, the Electronic Postmark must display the taxpayer's time zone to determine the timeliness of the electronically filed Document.

(iii) for Documents filed through a third party transmitter that files by secure file transfer protocol, a record of the date and time that the Document was submitted to the Department.

(iv) for Documents filed through the Department's online portal, a record acknowledging the date and time that the Document was submitted on the Department's online portal.

(v) for any form of electronic Payment, a record of the date and time that the taxpayer requested the payment be made.

(3) **Documents or Payments Sent Electronically.** Documents and Payments sent to the Department electronically shall be considered to be filed or paid on the date shown on the Electronic Postmark for such submitted Document or Payment. Any electronic return rejected by the Department will not be considered filed unless, if applicable, it is accepted within the timeframe for timely filing corrected returns after rejection. Unless otherwise indicated in this rule, a Document or Payment with an Electronic Postmark on or before 11:59 P.M. Mountain Standard Time on the due date is considered timely.

(a) *Payments Made by Electronic Funds Transfer.* Payments made by electronic funds transfer must be made on or before 4:00 P.M. Mountain Standard Time on the due date of the Payment in order to be treated as paid on that day. Payments made after 4:00 P.M. Mountain Standard Time are considered to be made on the following day.

(4) **Documents or Payments Sent Manually.** Documents or Payments mailed by the United States Postal Service or any "designated delivery service" determined by the Commissioner of the Internal Revenue Service pursuant to I.R.C. § 7502(f) are considered to be filed and received by the Department on the date shown on the postmark attached to the envelope or other appropriate wrapper. The Document or Payment shall be considered timely filed or paid if received by the Department after the due date for such Document or Payment so long as the postmark displays a date on or before the applicable due date. If the postmark bears a date after the due date for such Document or Payment, such Document or Payment is delinquent.

(a) This rule shall apply only if the Document or Payment:

(i) is deposited in an envelope or other appropriate wrapper,

(ii) displays sufficient prepaid postage, and

(iii) is properly addressed to the agency, officer, or office with which the Document or Payment is required to be filed or made.

(5) If the due date for a Document or Payment falls upon a Saturday, Sunday, or legal holiday, it shall be deemed to have been timely filed or paid if filed or paid on the next business day.

(a) If the due date for filing or paying federal income tax is extended by virtue of Emancipation Day in the District of Columbia, the due date for the filing or paying of any corresponding Colorado income tax will be similarly extended to coincide with the federal due date.

(6) For any Document or Payment that is submitted by the taxpayer but not received by the Department, the taxpayer bears the burden to demonstrate, by competent evidence, that the Document or Payment was timely submitted. "Competent evidence" means evidence, in addition to the testimony of the taxpayer, that is credible and sufficient to prove that the Document or Payment was actually submitted or sent on a specified date. For Documents or Payments sent by mail, the taxpayer must prove that the Document or Payment was actually deposited in the mail on a specified date before the last collection of mail from the place of deposit.

COLORADO DEPARTMENT OF REVENUE
STATEMENT OF BASIS AND PURPOSE

Date Document or Payment Considered Made
39-21-119
1 CCR 201-1

Basis

The statutory bases for this rule are § 39-21-112(1), § 39-21-119, § 39-21-120, § 39-27-117, § 38-28.5-106, § 39-28.8-201, and § 39-28.8-202, C.R.S.

Purpose

The purpose for this rule is to define the date documents or payments are considered filed with or made to the Department.

Notice of Proposed Rulemaking

Tracking number

2018-00186

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-2

Rule title

INCOME TAX

Rulemaking Hearing

Date

06/06/2018

Time

09:00 AM

Location

1375 Sherman Street, Room 127, Denver, CO 80203

Subjects and issues involved

The purpose of the amendments to these rules is to consolidate separate rules prescribing wage withholding requirements.

Statutory authority

The statutory bases for this rule are §§ 39-21-112(1), 39-21-119(3), 39-22-103(11), and 39-22-604, C.R.S

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DEPARTMENT OF REVENUE

Taxpayer Service Division - Tax Group

INCOME TAX

1 CCR 201-2

Rule 39-22-604. Colorado Income Tax Withholding

Basis and Purpose. The statutory bases for this rule are §§ 39-21-112(1), 39-21-119(3), 39-22-103(11) and 39-22-604, C.R.S. The purpose of this rule is to clarify the requirements for Employers to withhold Colorado income tax from Employee Wages.

(1) **General Rule.** Except as otherwise provided in this rule, every Employer making payment of Wages shall withhold from such Wages an amount of tax, as determined pursuant to § 39-22-604, C.R.S. and this rule, and report and remit such withheld tax in accordance with the same.

(a) Colorado Wages subject to withholding under this rule are any Wages for services performed:

(i) either wholly or partially in Colorado by an Employee who is not a Colorado resident or domiciliary, or

(ii) either inside or outside of Colorado or both by an Employee who is a Colorado resident or domiciliary.

(b) The withholding requirements prescribed by § 39-22-604, C.R.S. and this rule apply to every Employer making payment of Colorado Wages, as defined in this paragraph (1), irrespective of whether the Employer maintains a permanent place of business in Colorado.

(2) **Definitions.**

(a) *Department*. As used in this rule, the term "Department" means the Department of Revenue.

(b) *Employees and Employers*. As used in this rule, the terms "Employee" and "Employer" have the same meaning as given in § 39-22-604(2), C.R.S. Additionally, in accordance with § 39-22-103(11), C.R.S., in determining whether parties to a relationship are considered Employer and Employee subject to the provisions of this rule, due consideration shall be given to applicable sections of the internal revenue code, federal rulings, and federal regulations. In general, a relationship constituting an Employer-Employee relationship for federal income tax wage withholding purposes will similarly constitute an Employer-Employee relationship for the purposes of this rule.

(c) *Wages.* As used in this rule, "Wages" shall have the same meaning as given in § 39-22-604(2)(c), C.R.S.

(3) **Wages Not Subject to Colorado Withholding Requirement.** No withholding is required under this rule for:

(a) Wages paid to a Colorado resident for services performed in another state that imposes income tax withholding requirements on such Wages;

(b) any remuneration specifically excluded from the definition of Wages under I.R.C. § 3401(a); or

(c) Wages exempt from Colorado income tax withholding pursuant to:

(i) 49 U.S.C. § 11502 as compensation paid to a rail carrier Employee who is not a Colorado resident and who performs regularly assigned duties as a rail carrier Employee on a railroad in more than one State;

(ii) 49 U.S.C. § 40116(f) as pay of an air carrier Employee who is not a Colorado resident and who earns no more than fifty percent of his or her pay in Colorado;

(iii) 49 U.S.C. § 14503(a) as compensation paid to a motor carrier Employee who is not a Colorado resident and who performs regularly assigned duties in two or more States as such a motor carrier Employee with respect to a motor vehicle;

(iv) 50 U.S.C. § 4001(b) and § 39-22-109(2)(b), C.R.S. as compensation paid for military service to a servicemember who is not a Colorado resident or domiciliary;

(v) 50 U.S.C. § 4001(c) as compensation paid to the spouse of a military servicemember if such spouse is not a Colorado resident or domiciliary and is in Colorado solely to be with the servicemember serving in compliance with military orders;

(vi) § 39-22-604(2)(a), C.R.S. as compensation paid to any nonresident individual or non-domiciliary of Colorado who performs services in connection with any phase of a motion picture, television production, or television commercial for less than 120 days during the calendar year;

(vii) §§ 39-22-604(19) and 39-22-104(4)(t), C.R.S. as compensation paid to a Colorado nonresident for performing disaster-related work; or

(viii) §§ 39-22-604(20) and 39-22-104(4)(u), C.R.S. as compensation paid to an active duty servicemember in the armed forces of the United States who reacquires residency in Colorado pursuant to § 39-22-110.5, C.R.S.

~~**Regulation 22-604.1. Withholding Tax.**~~

(4) **Registration to Withhold Tax.**

(a) *Opening an Account.* Every ~~person, firm, corporation, partnership, etc., who becomes~~Employer subject to the withholding requirements prescribed by this rule and § 39-22-604, C.R.S. ~~provisions of this Act as an employer must~~shall apply for and maintain an active Wage withholding account with the Department. ~~file an Employer's Registration Report indicating that he will be required to withhold and shall request the Department of Revenue to assign a number identifying him as a withholding agent. This number will appear on the first return mailed by the Department to the employer. The number should also be noted on any inquiries by an employer to the Withholding Tax Section. Department of Revenue. Any employer previously registered with the Department of Revenue who ceases business or who not longer is required to withhold, shall immediately notify the Department of such circumstances.~~

(b) *Closing an Account.* ~~If a~~ An ~~employer~~Employer with an active Wage withholding account who ceases to pay Wages subject to withholding under this rule shall, within thirty days of such cessation: ~~goes out of business or otherwise permanently ceases to pay wages or other compensation, the employer should notify the Colorado Department of Revenue, Withholding Tax Section, immediately. Proper forms and information will be mailed upon receipt of such advice. In order to close an employer's account, it is necessary to submit:~~

(i) notify the Department of such cessation either online at *Colorado.gov/revenueonline* or by submitting the applicable Departmental form;

(ii) submit a ~~The~~ return ~~of income~~for tax withheld ~~covering payroll since the previous report~~ through the date~~s~~ of the final ~~last~~ Wage payment along with payment of any tax due; and ~~of wages (plus any adjustments for prior periods) together with payment in full.~~

(iii) furnish Forms W-2 to all Employees and the Department pursuant to paragraph (8) of this Rule ~~Annual reconciliation report~~ for the period from January 1 through the date of ~~last~~the final Wage payment ~~of wages.~~

~~(iii) Wage and tax statements showing all remuneration paid and tax withheld for each employee during the current year~~.

(5) **Withholding Exemption Certificate.**

(a) On or before the date of the commencement of employment with an Employer, the Employee shall furnish the Employer with a signed withholding certificate. The Internal Revenue Service Form W-4, "Employee's Withholding Allowance Certificate" furnished to the Employer pursuant to I.R.C. § 3402 shall also serve as the withholding certificate required to be furnished under this paragraph (5) and § 39-22-604(16), C.R.S. Except as otherwise provided in this rule, such certificate shall be prepared, take effect, and be subject to change in accordance with I.R.C. § 3402.

(b) In accordance with this paragraph (5)(b), the Department may adjust the withholding amount required for an Employee and the number of withholding allowances used in the calculation thereof.

(i) An Employer shall submit to the Department a copy of any currently effective withholding certificate upon written request from the Department or as directed by guidance published by the Department.

(ii) Prior to making any adjustment, the Department shall notify the Employee that the certificate previously filed by that Employee is being examined. The Employee shall be allowed to submit, within ten days of receipt of the notice, evidence sufficient to substantiate the correct number of withholding exemptions and allowances. Should the Department find, after reviewing any evidence submitted and any other pertinent information, the certificate filed by the Employee to be defective, the Department shall notify the Employer of any necessary adjustment to the Employee's withholding allowances or required withholding amount. The Employer shall thereafter withhold in accordance with the notice and any necessary adjustment prescribed therein.

(iii) An Employee may request a hearing to protest any adjustment made under this paragraph (5)(b). Such hearing shall be conducted pursuant to § 39-21-103, C.R.S. and any final determination shall be appealable in district court in accordance with § 39-21-105, C.R.S.

(6) **~~Regulation 39-22-604.3.~~ Determination of Require~~dment to~~ Withhold~~ing~~.** In order to compute the required amount of income tax to be withheld, an Employer may elect to use the wage bracket method, the percentage method of withholding, or any other method approved by the Department. The amount withheld using either the wage bracket method or the percentage method of withholding shall be computed in accordance with tables and guidance published by the Department. The amount of Wages used for computing the required amount of income tax to be withheld do not include any Wages that, under paragraph (3) of this rule, are not subject to Colorado income tax withholding. The Colorado Wages subject to withholding under this rule for a nonresident Employee shall be determined in accordance with § 39-22-109(2), C.R.S.

~~(a) **Who Must Withhold.**~~

~~(1) Any employer doing business in Colorado must withhold Colorado income tax from wages paid to any employee who is a Colorado resident or a nonresident of Colorado working in Colorado if such wages are subject to federal income tax withholding.~~

~~(2) Withholding is required of employers situated outside the state upon wages, commissions, or other emoluments paid to an employee for services performed within the state, even though the employee may be a nonresident and the employee's employment in Colorado may be of short duration.~~

~~(3) Under Colorado law the same exclusion from withholding and the same withholding exemptions exist as under the Internal Revenue Code. Therefore, agricultural workers and certain other employees specifically excluded from withholding under the Internal Revenue Code will be excluded under the Colorado Act.~~

~~(4) The federal W-4 form should be used to determine the number of exemptions to be used for Colorado withholding tax purposes.~~

~~(5) Whenever withholding is required under federal income tax law, the withholding deductions must be made for all persons subject to Colorado withholding.~~

~~(b) **Interstate Commerce and Transportation Employees.**~~

~~(1) An air carrier must withhold Colorado income tax from any interstate airline employee who is a resident of Colorado or a nonresident who earns over fifty percent of his or her wages in Colorado. An air carrier employee is deemed to have earned more than fifty percent of his or her pay in Colorado if the flight time worked by that employee within Colorado exceeds fifty percent of the total flight time worked by that employee while employed during the calendar year.~~

~~(2) A rail carrier subject to regulation by the Surface Transportation Board must withhold Colorado income tax from any interstate employee of any railroad, express company or sleeping car company who is a resident of Colorado.~~

~~(3) A motor carrier subject to regulation by the Surface Transportation Board or a motor private carrier must withhold Colorado income tax from any employee who is a resident of Colorado and performs his or her regularly assigned duties on a motor vehicle in two or more states.~~

~~(4) A water carrier subject to regulation by the Surface Transportation Board must withhold Colorado income tax from any interstate employee who is a resident of Colorado.~~

~~(5) The employers described in this section (b) are not required to file an annual information report with the state of Colorado with respect to any employee described in this section (b) unless more than fifty percent of the compensation paid to such airline employee during the taxable year was earned in Colorado, or unless such employee was a resident of Colorado.~~

~~For the purposes of this section (b) "compensation" shall mean all monies received for services rendered by an employee, as defined in this regulation in the performance of his duties and shall include wages and salaries.~~

~~(c) **Nonresident Employees**~~

~~(1) Except for those employees described in section (b), if the duties of a nonresident employee involve work both within and without the state of Colorado, tax is to be withheld from that portion of total wages primarily allocable to Colorado. The method of allocation must be submitted to and approved by the Director of Revenue.~~

~~(2) If the activities of such employee or agent within Colorado are not in the regular course of the employer's business or if such activities are of extremely short duration, or if such employee or agent is assigned on a variable basis so that consistent and regular division of the duties performed within and without Colorado cannot be determined for withholding purposes, the employer may apply to the Executive Director for specific release from the requirement to withhold giving full particulars of the nature and extent of his Colorado venture and related employment.~~

~~(3) Employers, to be relieved of withholding on employees who meet the foregoing conditions, must first secure from the employees an affidavit setting forth the name, address, state of residence, and domicile of the employee. The employer shall, by such reasonable means as are available to the employer, verify the statement contained in the said affidavit and shall thereupon forward such affidavits to the Department of Revenue to support the exemption from withholding claimed by the employee.~~

~~(4) At the end of the calendar year, the employer will prepare an information report for each employee so exempted, showing in the wage block the total annual wage and wage allocable to Colorado. These reports shall be forwarded to the Department of Revenue on or before March 15 of the following year.~~

~~(5) Failure of any nonresident employee to file a Colorado income tax return and to pay the tax, if any is due, within the time prescribed by law, even though such employee has been granted an exemption from withholding, shall void the exemption from withholding and the employer shall be required to withhold Colorado income tax as herein provided.~~

~~(6) Except as provided by Public Law 91-569, no exemption from withholding applies to the wages of an employee who is performing all of his services within Colorado for a definite period of time and who thereafter is reassigned to performing services outside of the state of Colorado.~~

(7) ~~REGULATION 39-22-604(4)~~ **Withholding ~~t~~Tax ~~f~~Filing ~~p~~Periods and ~~d~~Due ~~d~~Dates.**

~~(1) An employer shall be either a quarterly, monthly, or weekly filer based on an annual determination; in exceptional cases, an employer may be a seasonal filer. An employer~~An Employer required to withhold Colorado income tax ~~must file withholding tax returns and remit taxes withheld under one of four rules: the~~ is a quarterly filer, monthly filer, or weekly filer based upon an annual determination.~~, or seasonal rule in paragraph (3) of this regulation.~~

(~~2~~a) *Determination of Status.* The determination of whether an ~~employer~~Employer is a quarterly, monthly, or weekly ~~or seasonal~~ filer ~~for a calendar year~~ is based initially on the Employer's estimated annual Colorado income tax withholding. Thereafter, ~~on an annual determination made by the Executive Director. With the exception of a seasonal filer, this determination is made based upon the~~ if the actual aggregate amount of Colorado

income tax withholding ~~tax~~ reported by the ~~employer~~Employer for ~~the~~any calendar year~~lookback period as defined in paragraph (2)(e) of this regulation~~ exceeds the amount established under this paragraph (7)(a) for the Employer's filing status, the Employer's filing status shall be redetermined based upon the actual aggregate amount of Colorado income tax withholding reported by the Employer for that calendar year. Any change in an Employer's filing status required based upon a review of the aggregate amount of Colorado income tax withholding reported during a calendar year shall become effective on January 1 of the following year.

(i~~a~~) *Quarterly filer.* An ~~employer~~Employer is a quarterly filer for the entire calendar year if the Employer's annual ~~aggregate amount of~~ Colorado withholding tax ~~reported for the lookback period~~ is less than $7,000.

(ii~~b~~) *Monthly filer.* An ~~employer~~Employer is a monthly filer for the entire calendar year if the Employer's annual~~aggregate amount of~~ Colorado withholding tax ~~reported for the lookback period~~ is at least $7,000, but not more than $50,000. ~~The Executive Director, upon application therefore, may approve the reclassification of monthly filers to a quarterly filing status if necessary to meet the "no more stringent than corresponding federal requirements" provision of C.R.S. § 39-22-604(4).~~

(iii~~c~~) *Weekly filer.* An ~~employer~~Employer is a weekly filer for the entire calendar year if the Employer's annual~~aggregate amount of~~ Colorado withholding tax ~~reported for the lookback period~~ is more than $50,000.

~~(d) *Seasonal filer.* An employer is a seasonal filer for the entire calendar year if the business is not operating for the entire calendar year and if there is no Colorado withholding made for that part of the year during which the business is not operating.~~

~~(e) *Lookback period.* The lookback period for each calendar year is the most recent twelve-month period ending June 30. The aggregate amount of Colorado withholding tax liability as originally filed for the lookback period will determine the status as a quarterly, monthly, or weekly filer. New employers shall be treated as having zero tax liability for any part of the lookback period during which they did not exist as an employer.~~

(~~3~~b) *Due Dates*. An Employer shall file returns and remit withheld taxes in accordance with this paragraph (7)(b).

(~~a~~i) *Quarterly rule.* An ~~employer~~Employer that is a quarterly filer must file a Colorado withholding tax return and ~~pay~~remit the total Colorado tax withheld for the calendar quarter on or before the last day of the month following the close of the calendar quarter. Except as provided in paragraph (7)(b)(iv) of this rule, a quarterly filer must file a ~~A~~ return ~~must be filed~~ for each calendar quarter, even if no taxes have been withheld.

(~~b~~ii) *Monthly rule.* An ~~employer~~Employer that is a monthly filer must file a Colorado withholding tax return and ~~pay~~remit the total Colorado tax withheld for the month on or before the fifteenth day of the following month. Except as provided in paragraph (7)(b)(iv) of this rule, a monthly filer must file a~~A~~ return ~~must be filed~~ for each month, even if no taxes have been withheld.

(iiic) *Weekly rule.* An employerEmployer that is a weekly filer must remit anythe total Colorado withholding taxes accumulated as of any Friday on or before the third business day following such Friday.

(ivd) *Seasonal rule.* An Employer whose business does not operate continuously throughout the year may request permission from the Department to file returns for only those periods that the business is in operation. If the Department grants such approval, the Employer is not required to file returns for those months for which the business does not operate.In order to file on a seasonal basis, the employer must obtain approval from the Department and supply the scheduled months for which there is withholding. An employer that is a seasonal filer must file a Colorado withholding tax return and pay the Colorado tax withheld on or before the fifteenth day of the month following each month of operation. Returns must be filed for scheduled months of operation even if no taxes have been withheld.

(ev) Filing and payments are required only on business days. If the due date for filing an return and remitting tax falls upon a Saturday, Sunday, or legal holidayon any day that is not a business day, the return and taxes shall be deemedwill be treated as timely paid if filed and paid on the firstnext business day thereafter.

(f) *Change of status.* When an employer's Colorado withholding tax filing status is required to be changed as a result of a new lookback period, any resulting change in filing status shall become effective on January 1 of the following year.

(4) Required withholding from winnings, which shall include gaming and racing, shall be filed with a return and remitted on a monthly basis on or before the fifteenth of the following month.

(5) **Electronic Funds Transfer.** Any employer who has an annual estimated withheld tax liability of more than $50,000 must remit any withheld tax by electronic funds transfer (EFT). The annual estimated withheld tax will be based on the tax liability for the most recent twelve month period ending June 30. The EFT shall be made using standard banking conventions as outlined in the application and agreement for EFT between the taxpayer and the Department.

(a) *Undue Hardship.* The Department may grant in cases of undue hardship a yearly waiver from the requirement to remit all withholding tax liability by EFT. The Department will, upon written request from the taxpayer, grant such request only if it determines, and the employer adequately proves, to the satisfaction of the executive director that good cause exists to allow a waiver for hardship. Taxpayers can submit such written request to the Department each year upon receiving notice of the requirement to make EFT by sending a written request to:

Colorado Department of Revenue

Denver, CO 80261-0009

(i) Undue hardship means excessive or extraordinary hardship. Undue hardship will be determined on a case-by-case basis, and any determination of undue hardship will be fact-specific, and will be limited to the information provided by the taxpayer. Undue hardship cannot be established by general and conclusory statements or on a general distrust of information technology such as the Internet, electronic communications, or the security of information provided by means of electronic transfer. Undue hardship may be demonstrated by the

~~documented general unavailability of the technology and communications systems necessary for electronic filing and electronic payment. Undue hardship may also be demonstrated on the basis of the substantial financial cost to the taxpayer relative to the amount of the tax owed by the taxpayer for the current tax year.~~

~~Cross Reference~~

~~(1) The publication DRP-5782 describing the EFT Program and Form DR-5785, "Authorization For Electronic Funds Transfer (EFT) For Tax Payments" may be examined at an Colorado State Publications Depository Library (see http://www.cde.state.co.us/stateinfo/sldepsit.htm for a listing of locations). Copies of the publication DRP-5782 describing the EFT program or Form DR-5785, "Authorization For Electronic Funds Transfer (EFT) For Tax Payments" may be obtained from the Department Forms Room, on the first floor at 1375 Sherman Street, Denver, Colorado 80203 and via the Department's website at:~~

~~https://www.colorado.gov/pacific/tax/forms-number-order~~

~~Scroll down the Web page to the listing of these forms by form number. These forms appear near the bottom of the list.~~

(8) **Annual Withholding Information Returns.**

(a) *Statements for Employees*. On any Form W-2 an Employer provides, pursuant to I.R.C. § 6051, to an Employee who is either a Colorado resident or who performs services for the Employer in Colorado, the Employer shall report:

(i) the Employee's Colorado Wages including:

(A) in the case of an Employee who is a Colorado resident, the entirety of the Employee's Wages except for any Wages exempted from withholding pursuant to paragraph (3)(b) or (3)(c) of this rule; and

(B) in the case of an Employee who is not a Colorado resident, the portion of the Employee's Wages that are Colorado-source income as determined in accordance with § 39-22-109(2), C.R.S.; and

(ii) the amount of Colorado income tax deducted and withheld from the Employee's Wages.

(b) *Filing Forms W-2 with the Department.* Every Employer shall file with the Department any Forms W-2 reporting Colorado Wages pursuant to paragraph (8)(a) of this rule. Such Forms W-2 shall be filed on or before the due date for filing such Forms W-2 pursuant to I.R.C. § 6071.

(i) *Mandatory electronic filing.* Any Employer required by I.R.C. § 6011(e) to file any Form W-2 by magnetic media shall electronically file such Form W-2 with the Department in accordance with published Departmental guidance.

(ii) Any Forms W-2 an Employer must file pursuant to paragraph (8)(b) of this rule, but for which electronic filing is not required under paragraph (8)(b)(i) of this rule, the Employer may elect to file with the Department either:

(A) electronically; or

(B) in paper form along with DR 1093, "Annual Transmittal of State W-2 Forms".

(iii) *Penalty for failure to file Forms W-2*. If an Employer required by this paragraph (8)(b) to file Forms W-2 with the Department fails to do so within the time prescribed, the Employer shall be subject to a penalty, at the discretion of the executive director, of not less than five dollars nor more than fifty dollars for each Form W-2 that is not timely filed, unless such failure is shown to have been due to reasonable cause. Any Employer required by paragraph (8)(b)(i) of this rule to file Forms W-2 electronically will be deemed to have filed such forms only when the Employer has filed such Forms W-2 electronically.

(c) *Correction of Statements*.

(i) In the time prescribed by I.R.C. § 6051 an Employer shall furnish a corrected Form W-2 to both the Employee and the Department to show:

(A) the correct amount of Wages paid during the prior calendar year if the amount of such Wages entered on a statement furnished to the Employee for such prior year is incorrect; and

(B) the amount actually deducted and withheld as Colorado income tax if such amount is less or more than the amount entered as tax withheld on the statement furnished the Employee for such prior year.

(9) In accordance with § 39-22-103(11), C.R.S., due consideration shall be given to federal rulings and regulations interpreting the sections of the internal revenue code cited in this rule.

Cross References

1. See § 39-22-103(8), C.R.S., 1 CCR, 201-2, Regulations 39-22-103(8)(A) and 39-22-103(8)(B) for definitions and rules to determine if an individual is a resident individual and domiciliary of Colorado.

2. See § 39-22-103(11), C.R.S. regarding reference to the Internal Revenue Code for meaning and interpretation of Colorado income tax statutes.

3. See 1 CCR 201-1, Special Regulation 1 for mandatory electronic funds transfer (EFT) payment requirements.

4. Colorado Income Tax Withholding Tables for Employers (DR 1098)

5. Colorado W-2 Wage Withholding Tax Return (DR 1094)

6. Annual Transmittal of State W-2 Forms (DR 1093)

7. *Colorado.gov/RevenueOnline* for electronic filing

Regulation 22-604.1. Withholding Tax. [Repealed and replaced with Rule 39-22-604]

Regulation 39-22-604.3. Requirement to Withhold. [Repealed and replaced with Rule 39-22-604]

REGULATION 39-22-604(4) Withholding tax filing periods and due dates [Repealed and replaced with Rule 39-22-604]

COLORADO DEPARTMENT OF REVENUE
STATEMENT OF BASIS AND PURPOSE

Colorado Income Tax Wage Withholding
39-22-604, 604.1, 604.3, and 604(4)
1 CCR 201-2

Basis

The statutory bases for this rule are §§ 39-21-112(1), 39-21-119(3), 39-22-103(11), and 39-22-604, C.R.S.

Purpose

The purpose of the amendments to these rules is to consolidate separate rules prescribing wage withholding requirements.

Notice of Proposed Rulemaking

Tracking number

2018-00184

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-4

Rule title

SALES AND USE TAX

Rulemaking Hearing

Date

06/06/2018

Time

09:00 AM

Location

1375 Sherman Street, Room 127, Denver, CO 80203

Subjects and issues involved

The purpose of the amendment is to clarify sales tax remittance requirements and conditions under which a retailer is eligible to deduct a retailers service fee from the sales tax they remit.

Statutory authority

The bases for this rule are §§ 39-21-112(1), 39-21-119, 39-26-105, 39-26-107, 39-26-109, 39-26-112, and 39-26-118 C.R.S.

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DEPARTMENT OF REVENUE

Taxpayer Service Division – Tax Group

SALES AND USE TAX

1 CCR 201-4

Ruleegulation 39-26-105. Remittance of TaxEMITTANCE OF TAX

Basis and Purpose. The statutory bases for this rule are §§ 39-21-112(1) and 119, C.R.S. and §§ 39-26-105, 107, 109, 112, and 118 C.R.S. The purpose of this rule is to clarify sales tax remittance requirements and conditions under which a retailer is eligible to deduct a retailer's service fee from the sales tax they remit.

(1) **Retailer Requirements.**

(a) A retailer is liable and responsible for tax on the retailer'sfor the total tax received from all taxable sales made during the tax period prescribed for the retailer pursuant to 1 CCR 201-4, Rule 39-26-109,in each month. The tax shall be calculated using the tax rate in effect at the time of the sale and applied to all taxable sales, including all taxable sales made for less than the minimum amount subject to tax pursuant to § 39-26-106, C.R.S. A retailer is also liable and responsible, pursuant to § 39-26-112, C.R.S., for the payment of any tax collected in excess of the tax rate in effect at the time of the sale and must remit such excess amount to the Department.

(b) AThe retailer shall file with the Department a return reporting of theirits gross sales, including any sales exempt from taxation under article 26 of title 39, C.R.S., made during the preceding tax period. If a retailer makes no retail sales during its preceding tax period, the retailer must file a return reporting zero sales. month and shall include nontaxable sales permitted under Article 26 of Title 39 made during such time. The rReturns and any required supplemental forms must be completed in full.fully filled out in detail. Supplemental forms must be attached whenever necessary to demonstrate all pertinent facts.

(bc) AThe retailer must file their monthly returns and remit any sales or use tax due to the Department on the due date, unless permission has been obtained in accordance with the filing schedules prescribed by 1 CCR 201-4, Rule 39-26-109.from the Department, in writing, to make quarterly, seasonal, or annual returns. Payment must be made payable to the Department by check, draft, or money order or may be made by acceptable forms of electronic payment. Cash payments should only be made by personal messenger.

(2) **Due Date of Returns.**

(a) Sales tax returns and payments of tax reported thereon are due the twentieth day of the month following the close of the tax period. If the twentieth day of the month following the close of the tax period is a Saturday, Sunday, or legal holiday, the due date shall be the next business day.Returns and payments for any accounting period are due and shall be filed on the twentieth day following the last day of the accounting period reported, or the next business day if the twentieth day is a Saturday, Sunday or holiday. All returns filed or payments remitted after this due date are delinquent.

~~(b) Returns mailed by the United States Postal Service or any mail Common Carriers, such as UPS, FedEx, and DHL, are considered to be received by the Department on the date shown on the cancellation mark or other mark showing the date mailed.~~

(3) **Retailer's Service~~Vendor's~~ Fee.** ~~The vendor's fee is allowed~~ Except as provided in this paragraph (3), a retailer may, in the remittance of collected sales tax, deduct and retain a retailer's service fee in the amount prescribed by § 39-26-105(1)(c), C.R.S.~~if the retailer timely files a complete tax return, all required schedules and makes full remittance of tax due.~~

(a) If the retailer is delinquent in ~~filing the tax return or any required schedules or the payment of~~remitting any portion of the tax due, other than in unusual circumstances shown to the satisfaction of the executive director, the retailer shall not retain ~~the vendor's~~ a retailer's service fee for any portion of the tax for which the retailer is delinquent~~and shall remit to the executive director an amount equal to the full amount of the tax due for the filing period~~.

(b) If a retailer has retained a retailer's service fee pursuant to paragraph (3) of this rule and, subsequent to the applicable due date, owes additional tax for the filing period as the result of an amended return or an adjustment made by the Department, the retailer shall not be permitted to retain a retailer's service fee with respect to the additional tax, but the retailer may retain the retailer's service fee associated with the original return, so long as the retailer filed the original return in good faith.

~~(b) The vendor's fee shall not apply to organizers of special sales events unless the organizer elects to obtain a sales tax license, file a sales tax return, and remit the sales tax as provided in §39-26-103(9)(b.5)(IV)(B), C.R.S.~~

Cross Reference(s):

1. ~~You can find~~ Forms, returns, ~~schedules, etc.~~and instructions can be found online at www.c*olorado.gov/tax*.~~ on the Department's website at www.colorado.gov/revenue/tax > Forms~~

2. For additional information about excess tax collected by a retailer, see § 39-26-112, C.R.S. and 1 CCR 201-4, Rule 39-26-106.

~~2~~3. For ~~procedural~~ information ~~on~~about mandatory electronic funds transfer (EFT) requirements and the timeliness of payments made via EFT, see ~~Procedure and Administration~~ 1 CCR 201-1, Special Rule 1~~, EFT Payment Due~~.

~~3~~4. For information about dates payments or returns are deemed to have been made, see § 39-21-119, C.R.S. and 1 CCR 201-1, Rule 39-21-119.

5. For information about electronic filing, see ~~and~~§ 39-21-120, C.R.S. and 1 CCR 201-1, Rule 39-21-120.

COLORADO DEPARTMENT OF REVENUE
STATEMENT OF BASIS AND PURPOSE

Remittance of Tax
39-26-105
1 CCR 201-4

Basis

The bases for this rule are §§ 39-21-112(1), 39-21-119, 39-26-105, 39-26-107, 39-26-109, 39-26-112, and 39-26-118 C.R.S.

Purpose

The purpose of the amendment is to clarify sales tax remittance requirements and conditions under which a retailer is eligible to deduct a retailer's service fee from the sales tax they remit.

Notice of Proposed Rulemaking

Tracking number

2018-00185

Department

200 - Department of Revenue

Agency

201 - Taxpayer Service Division - Tax Group

CCR number

1 CCR 201-4

Rule title

SALES AND USE TAX

Rulemaking Hearing

Date

06/06/2018

Time

09:00 AM

Location

1375 Sherman Street, Room 127, Denver, CO 80203

Subjects and issues involved

The purpose of this amendment is to move the requirements in this rule to 1 CCR 201-1, Special Rule 1 Electronic Funds Transfer.

Statutory authority

The statutory bases for this rule are §§ 39-21-112(1), 39-26-105.5, C.R.S.

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DEPARTMENT OF REVENUE

Taxpayer Service Division – Tax Group

SALES AND USE TAX

1 CCR 201-4

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

~~**REGULATION 39-26-105.5 MANDATORY ELECTRONIC FUNDS TRANSFER**~~

~~(1) **Qualifications.**~~

~~(a) A sales tax licensee who had a Colorado state sales tax liability of more than seventy-five thousand dollars in the previous calendar year must remit all state and state-administered city, county, and special district sales taxes by electronic funds transfer for the following calendar year. State-administered local sales taxes paid by the licensee are not included in the calculation of the seventy-five thousand dollar threshold.~~

~~(b) The Department does not collect the sales taxes for home rule municipalities that collect and administer their own sales taxes.~~

~~(2) Electronic funds transfer shall be made using standard banking conventions as outlined in the application and agreement for electronic funds transfer between the taxpayer and the Department.~~

~~(3) If the vendor fails to pay taxes by electronic funds transfer or is delinquent in filing the tax return, any required schedules, or the payment of tax, other than in unusual circumstances shown to the satisfaction of the Executive Director, the vendor shall not retain this vendor's fee and shall remit to the Executive Director an amount equal to the full amount of the tax due for the filing period. See, 39-26-105(1), C.R.S.~~

~~(4) **Undue Hardship.** The Department may grant in cases of undue hardship a yearly waiver from the requirement to remit all sales tax payments by electronic funds transfer. The Department will grant such request if it determines, to the satisfaction of the executive director, that good cause exists. Taxpayers may submit a written request to the Department each year, upon receiving notice from the Department of the requirement to make electronic funds transfer, by sending such written request to:~~

~~Colorado Department of Revenue
Excise Unit, Room 237,
PO Box 17087,
Denver, CO 80217-00873~~

~~(a) Undue hardship means excessive or extraordinary hardship. Undue hardship will be determined on a case-by-case basis, will be fact-specific, and will be limited to the information provided by the taxpayer. Undue hardship cannot be established by general and conclusory statements or on a general distrust of information technology such as the Internet, electronic communications, or the security of information provided by means of electronic transfer. Undue hardship may be demonstrated by the documented general unavailability of the technology and communications systems necessary for electronic filing and electronic payment. Undue hardship may also be demonstrated on the basis of~~

~~the substantial financial cost to the taxpayer relative to the amount of the tax owed by the taxpayer for the current tax year.~~

~~Cross Reference~~

~~(1) Necessary Forms, Department Publication DRP-5782, "Electronic Funds Transfer (EFT) Program for Tax Payments" describing the electronic funds transfer program, and Form DR-5785, "Authorization For Electronic Funds Transfer (EFT) For Tax Payments," can be found at www.colorado.goc/revenue/tax > Forms > Forms by Number. These forms must be completed for authorization to use electronic funds transfer.~~

COLORADO DEPARTMENT OF REVENUE
STATEMENT OF BASIS AND PURPOSE

Mandatory Electronic Funds Transfer
39-26-105.5
1 CCR 201-4

Basis

The statutory bases for this rule are §§ 39-21-112(1), 39-26-105.5, C.R.S.

Purpose

The purpose of this amendment is to move the requirements in this rule to 1 CCR 201-1, Special Rule 1 Electronic Funds Transfer.

Notice of Proposed Rulemaking

Tracking number

2018-00196

Department

200 - Department of Revenue

Agency

204 - Division of Motor Vehicles

CCR number

1 CCR 204-30

Rule title

DRIVER LICENSE-DRIVER CONTROL

Rulemaking Hearing

Date

05/30/2018

Time

03:00 PM

Location

1881 Pierce Street Room 110

Subjects and issues involved

The purpose of these rules is to promote the safety and welfare of the citizens of Colorado by establishing standards and requirements for licensing commercial drivers license testing units and testers, to establish fees for such licensing and maximum fees that may be charged by such testing units, to establish certain procedures and standards for issuing and possessing commercial drivers licenses, and to ensure compliance with state and federal requirements.

Statutory authority

24-4-103, 42-2-111(1)(b), 42-2-114.5, 42-2-403, 42-2-406 (3 through 7), and 42-2-407(8), C.R.S.

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DEPARTMENT OF REVENUE

Division of Motor Vehicles 1 CCR 204-30 Rule 7

RULES AND REGULATIONS FOR THE COMMERCIAL DRIVER'S LICENSE (CDL) PROGRAM – (Sections D(4), I(15)(d) and (20)(a) and (b), J(9)(c) and (20)(d), M(1) and (2)

D. DRIVER LICENSING REQUIREMENTS

. . .

4) Each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division of the Department of Higher Education must provide proof of having successfully passed training on the recognition, prevention, and reporting of human trafficking prior to taking the CDL skills test.

I. CDL TESTING UNIT REQUIREMENTS

. . .

15) The testing unit must ensure that:

d) The driving tester obtains a copy of a certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, and that the driving tester uploads a copy of the certificate into CSTIMS.

. . .

20) A driving tester and a testing unit shall charge fees only in accordance with section 42-2-406, C.R.S. and this rule. A driving tester and a testing unit shall only charge for tests administered.

a) Except as otherwise provided in paragraph (b) of this subsection (20), the maximum total fee, including but not limited to any administrative fee, for administering a CDL Skills Test or retest to an applicant is two hundred ~~twenty~~seventy-five dollars ($~~225~~275.00).

b) The maximum total fee, including but not limited to any administrative fee, for administering a CDL Skills Test or retest to an employee or volunteer of a nonprofit organization that provides specialized transportation services for the elderly and for persons with disabilities, to any individual employed by a school district, or to any individual employed by a board of cooperative services is one hundred twenty-five dollars ($~~100~~125.00).

J. DRIVING TESTER REQUIREMENTS

. . .

9) Prior to administering the CDL Skills Test, the driving tester must ensure that the driver has in his/her immediate possession, a valid USDOT medical card, and a valid CLP for operating the class and endorsement(s), and/or restriction(s) of the vehicle being used for testing.

c) The driving tester must obtain a copy of a certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education.

. . .

20) The driving tester must:

d) Upload into CSTIMS the completion certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education.

M. RECORDING AND AUDITING REQUIREMENTS

1) The testing unit must maintain all pass/fail records for three years. These must include the CDL Skills Testing records for each applicant tested, the dates of the testing, the applicant's identification information, a copy of a certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, the vehicle information and the name and state assigned driving tester number for the driving tester who administered the test. If a testing unit is no longer licensed, the unit must return all testing records to the Department within 30 days.

   a) After three years, testing units may destroy all pass/fail records (shred, burn).

2) A testing unit must enter all (pass and fail) CDL Skills Test results into CSTIMS immediately after the test including the upload of the score form and, for each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, a copy of a certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking ~~immediately after the test~~.

. . .

DEPARTMENT OF REVENUE

Division of Motor Vehicles

1 CCR 204-30 Rule 7

RULE 7 RULES AND REGULATIONS FOR THE COMMERCIAL DRIVER'S LICENSE (CDL) PROGRAM

A. BASIS, PURPOSE, AND STATUTORY AUTHORITY

1) The Department is authorized to adopt rules and regulations as necessary for the Commercial Driver's License Program in accordance with sections 24-4-103, 42-2-111(1)(b), 42-2-114.5, 42-2-403, 42-2-406 (3 through 7), and 42-2-407(8), C.R.S.

2) The purpose of these rules is to promote the safety and welfare of the citizens of Colorado by establishing standards and requirements for licensing commercial driver's license testing units and testers, to establish fees for such licensing and maximum fees that may be charged by such testing units, to establish certain procedures and standards for issuing and possessing commercial driver's licenses, and to ensure compliance with state and federal requirements.

B. INCORPORATION BY REFERENCE OF FEDERAL RULES

1) Adoption: The Department incorporates by reference the Federal Motor Carrier Safety Regulations ("FMCSR"), 49 CFR parts 171, 172, and 300-399, Qualifications and Disqualification of Drivers, 26 USC Section 501(c) (2015), and the Colorado Department of Public Safety, Colorado State Patrol, Rules and Regulations Concerning Minimum Standards for the Operation of Commercial Vehicles at 8 CCR 1507.1.

2) "49 CFR", when referenced in this rule, means the Federal Regulations published in the Code of Federal Regulations ("CFR"), Title 49, parts 171, 172, and 300-399 (October 1, 2016) by the National Archives and Records Administration's Office of the Federal Register and Government Publishing Office, and available at the original issuing agencies the Federal Motor Carrier Safety Administration and National Highway and Traffic Safety Administration, both located at 1200 New Jersey Avenue SE, Washington, D.C., 20590. The Federal rules and regulations referenced or incorporated in this rule, and 8 CCR 1507-1, are on file and available for inspection by contacting the Driver License Section of the Department of Revenue in person at, 1881 Pierce Street, Room 128, Lakewood, Colorado, 80214, or by telephone at 303-205-5600, and copies of the materials may be examined at any state publication depository library.

C. DEFINITIONS

1) AAMVA: American Association of Motor Vehicle Administrators is a voluntary, nonprofit, tax exempt, educational unit that represents state and provincial officials in the United States and Canada who administer and enforce motor vehicle laws

2) CDL: "Commercial Driver's License" as defined in section 42-2-402(1), C.R.S.

3) CDL Compliance Unit: The administrative unit contained within the Department charged with the oversight and regulation of CDL third party testing units and testers on AAMVA's CDL skills testing.

4) CDL Passenger Vehicle: A passenger vehicle designed to transport 16 or more passengers, including the driver.

5) CDL Skills Test: "Driving tests" as referenced in section 42-2-402, C.R.S. and consists of the Vehicle Inspection, Basic Control Skills, and the Road Test.

6) CDL Vehicle Class: A group or type of vehicle as defined in Part B of this Rule.

7) CLP – Commercial Learners Permit: The permit issued by the Department entitling the driver, while having such permit in his/her immediate possession, to drive a commercial motor vehicle of certain classes and/or endorsement(s), and/or restriction(s) upon the highways with a driver that possesses a CDL with

the same class and/or endorsements or higher, as the CLP holder.

8) CMV: “Commercial Motor Vehicle” as defined in section 42-2-402(4), C.R.S.

9) C.R.S.: Colorado Revised Statutes.

10) CSTIMS - Commercial Skills Test Information Management System: Web-based system used by states to manage the CDL Skills Test portion of the CDL licensing process.

11) Disqualifications: The suspension, revocation, cancellation, or any other withdrawal by the Department of a person's privilege to drive a CMV or a determination by the FMCSA under the rules of practice for motor carrier safety contained in 49 CFR, that a person is no longer qualified to operate a CMV under 49 CFR; or the loss of qualification that automatically follows conviction of an offense listed in 49 CFR.(12)

12) Designed to Transport: The manufacturer's original rated capacity for the vehicle.

13) Endorsements: The letter indicators below added to a CDL and/or CLP indicate successful completion of the appropriate knowledge, and if applicable, the CDL Skills Test, and allow the operation of a special configuration of vehicle(s):

a) T = Double/triple trailers (not allowed on a CLP per 49 CFR)

b) P = CDL Passenger vehicle

c) N = Tank vehicles

d) H = Hazardous materials (Not allowed on a CLP per 49 CFR)

e) S = School buses

f) X = Combination of tank vehicle and hazardous materials (Not allowed on a CLP per 49 CFR)

g) M = Motorcycle (not allowed on a CLP per 49 CFR)

h) 3 = Three wheel motorcycle (not allowed on a CLP per 49 CFR)

14) Exemptions: Regulatory relief given to a person or class of persons normally subject to regulations.

15) FMCSA: Federal Motor Carrier Safety Administration is an agency within the USDOT.

16) FMCSR: Federal Motor Carrier Safety Regulations (49 CFR).

17) GCWR: Gross Combination Weight Rating is the value specified by the manufacturer as the maximum loaded weight of the combination vehicle.

18) Government agency: A state, county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof organized pursuant to law and any separate entity created by intergovernmental contract cooperation only between or among the state, county, city and county, municipality, school district, special improvement district, and every other kind of district, agency, instrumentality, or political subdivision thereof.

19) Intrastate Driver: A driver with a CDL restricted to operating a CMV within the boundaries of Colorado, and not authorized to transport items of interstate commerce or hazardous materials.

20) Interstate Commerce: Trade, traffic, or transportation in the United States between a place in a state and a place outside of such state (including a place outside of the United States), or between two places in a state through another state or a place outside of the United States, or between two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States.

21) Interstate Driver: A CDL holder authorized to cross state lines and transport interstate commerce while operating a CMV.

22) Intrastate Commerce: Trade, traffic, or transportation in any state that is not described in the term "interstate commerce."

23) Knowledge Test: A written test that meets the federal standards contained in 49 CFR.

24) Non-Profit: An organization filing with the United States Code 26 USC Section 501(c).

25) Paved Area: A paved area is a surface made up of materials and adhesive compounds of a sufficient depth and strength that the area provides a durable, solid, smooth surface upon which an applicant may demonstrate basic vehicle control skills.

26) Public Transportation Entity: A mass transit district or mass transit authority authorized under the laws of this state to provide transportation services to the general public.

27) Restrictions: Prohibits the operation of certain types of vehicles or restricts operating a CMV to within designated boundaries:

a) L = No Air Brake equipped CMV

b) K = Intrastate only

c) E = No Manual Transmission

d) M = No Class A Passenger Vehicle

e) N = No Class A and B Passenger Vehicle

f) O = No Tractor-Trailer

g) P = No Passenger

h) X = No Liquid in Tank

i) V = Medical Variance (49 CFR)

j) Z = Restricted from operating a CMV with full airbrakes

28) Self Certification Choice:

- **Non-excepted interstate**. A person's certification that he or she operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR, and is required to be medically examined and certified pursuant to 49 CFR.

- **Excepted interstate**. A person's certification must certify that he or she operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR from all or parts of the qualification requirements of 49 CFR, and is therefore not required to be medically examined and certified pursuant to 49 CFR.

- **Non-excepted intrastate**. A person's certification that he or she operates only in intrastate commerce and therefore is subject to Colorado driver qualification requirements.

- **Excepted intrastate**. A person's certification must certify that he or she operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the Colorado driver qualification.

29) USDOT: United States Department of Transportation.

D. DRIVER LICENSING REQUIREMENTS

1) Each applicant applying for a CDL or CLP must be a resident of Colorado, at least 18 years of age, and comply with the testing and licensing requirements of the Department.

a) The CDL and CLP will indicate the class of license, any endorsements, and any restrictions for that individual. The CDL is valid for the operation of a non-CMV including a motorcycle with the

appropriate motorcycle endorsement on the license.

b) A Colorado CDL may be issued upon surrender of a valid CDL from another state without additional testing except that an applicant must test for a hazardous material endorsement and school bus endorsement.

c) An applicant with an out-of-state CLP cannot transfer that CLP to Colorado but must apply for a Colorado CLP and take all applicable CDL knowledge tests (49 CFR).

2) Each applicant applying is required to make one of the following applicable self-certifications for the type of commercial driving the individual intends to do (49 CFR):

- **Non-excepted interstate**.
- **Excepted interstate**.
- **Non-excepted intrastate**.
- **Excepted intrastate**.

3) Each applicant must meet the medical and physical qualifications under 49 CFR. Each applicant must submit their medical examiner's certificate and, if applicable, any federal variance or state medical waiver or Skills Performance Evaluation to a Driver License Office (49 CFR).

4) Each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division of the Department of Higher Education must provide proof of having successfully passed training on the recognition, prevention, and reporting of human trafficking prior to taking the CDL skills test.

E. ENDORSEMENTS

1) T-Double/Triple Trailers: Required to operate a CMV used for drawing two or more vehicles or trailers with a GCWR that is 26,001 lbs. or more and combined GVWR of the vehicles being towed is in excess of 10,000 lbs.

2) P-Passenger: Required to operate a vehicle designed by the manufacturer to transport 16 or more passengers, including the driver.

3) N-Tank Vehicles: Required to operate a vehicle that hauls liquid or liquid gas in a permanently mounted cargo tank rated at 119 gallons or more or a portable tank rated at 1,000 gallons or more.

4) H-Hazardous Materials: Required to transport materials that require the motor vehicle to display a placard pursuant to the hazardous materials regulations.

5) S-School Buses: Required to operate a school bus as defined in section 42-1-102(88), C.R.S.

6) X-Combination Tank/Hazmat: Required to operate vehicles that meet the definition of (3) and (4) above.

F. RESTRICTIONS

1) Intrastate: The letter "K" is added to the CDL of a driver between the ages of 18 through 20, to an individual who has been issued a valid medical waiver from the Colorado State Patrol (8 CCR 1507-1)* or who self-certifies to excepted or not excepted intrastate driving (49 CFR). Under this CDL restriction, the driver must not:

a) Operate a CMV outside Colorado state boundaries; or

b) Transport interstate commerce as defined in 49 CFR.

*The waiver from Colorado State Patrol is valid only while the driver is transporting commodities OTHER

THAN bulk hazardous materials, as defined in 49 CFR or commodities with a hazard class identified in 49 CFR, or commodities subject to the “Poison by Inhalation Hazard” shipping description in 49 CFR.

2) Air brake: The letter "L" is added to the CDL/CLP of an individual restricted from operating vehicles equipped with air brakes.

   a) An individual may apply for removal of the "L" restriction after having successfully completed the air brake knowledge test and the CDL Skills Test in a vehicle equipped with air brakes that is representative of the CDL vehicle class.

   b) When taking the CDL Skills Test in a vehicle equipped with air brakes, the applicant must have in his/her immediate possession a CLP without the "L" restriction.

3) Transmission: The letter "E" is added to the CDL of an individual restricted from operating vehicles equipped with a standard transmission.

   a) An individual may apply for removal of the "E" restriction after having successfully completed the CDL Skills Test in a vehicle equipped with a standard transmission that is representative of the CDL vehicle class.

   b) When taking the CDL Skills Test in a vehicle equipped with a standard transmission, the applicant must have in his/her immediate possession a CLP without the "E" restriction.

4) Class A Bus: The letter "M" is added to the CDL of an individual restricted from operating a Class A Passenger vehicle (49 CFR).

   a) An individual may apply for removal of the "M" restriction after having successfully completed the CDL Skills Test in a Class A Passenger vehicle.

   b) Before taking the CDL Skills Test in a Class A Passenger vehicle, the applicant must have in his/her immediate possession a CLP without the "M" restriction.

5) Class B Bus: The letter "N" is added to the CDL of an individual restricted from operating a Class B Passenger vehicle (49 CFR).

   a) An individual may apply for removal of the "N" restriction after having successfully completed the CDL Skills Test in a Class B Passenger vehicle.

   b) Before taking the CDL Skills Test in a Class B Passenger vehicle, the applicant must have in his/her immediate possession a CLP without the "N" restriction.

6) No Tractor-Trailer: The letter "O" is added to the CDL of an individual restricted from operating a vehicle equipped with a 5^{th} wheel type coupling system (49 CFR).

   a) An individual may apply for removal of the "O" restriction after having completed the CDL Skills Test in a tractor/semi-trailer combination vehicle equipped with a 5th wheel type coupling system.

   b) When taking the CDL Skills Test in a tractor/semi-trailer combination vehicle equipped with a 5th wheel type coupling system, the applicant must have in his/her immediate possession a CLP without the "O" restriction.

7) No Passengers: The letter "P" is added to the CLP of an individual restricted from operating a Passenger vehicle with Passengers.

   a) The "P" restriction is removed by successfully completing the CDL Skills Test in a Passenger vehicle.

8) No Cargo in a Tank Vehicle: The letter "X" is added to the CLP of an individual restricted from operating a Tank vehicle containing liquid or gas.

   a) An individual may apply to have the "X" restriction removed after having successfully completed the CDL Skills Test.

9) Medical, Variance/Skills Performance Evaluation: The letter “V” will be added to any CLP or CDL for individuals who have been issued a federal medical variance (49 CFR).

10) Air brake: The letter "Z" is added to the CDL/CLP of an individual restricted from operating vehicles equipped with full air brakes.

   a) The "Z" restriction is removed by successfully completing the air brake knowledge test and the CDL Skills Test in a vehicle equipped with air brakes that is representative of the CDL vehicle class.

b) When taking the CDL Skills Test in a vehicle equipped with air brakes, the applicant must have in his/her immediate possession a CLP without the "Z" restriction.

G. EXEMPTIONS

1) FMCSR 49 CFR Applicability: Authorizes the state to grant certain groups exceptions from the CDL requirements.

a) FMCSR – 49 CFR: Exception for individuals who operate CMVs for military purposes.

b) FMCSR – 49 CFR: Exception for operators of farm vehicles, as defined at section 42-2- 402(4)(b)(III), C.R.S. and firefighters and other persons who operate CMVs that are necessary to the preservation of life or property, or the execution of emergency governmental functions, or that are equipped with audible and visual signals and are not subject to normal traffic regulation.

c) FMCSR – 49 CFR: Exception for drivers employed by an eligible unit of local government, operating a commercial motor vehicle within the boundaries of that unit for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, if the properly licensed employee who ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle or if the employing governmental entity determines that a snow or ice emergency exists that requires additional assistance.

d) FMCSR – 49 CFR: Restricted CDL for certain drivers in farm-related service industries.

2) FMCSR 49 CFR specifies the exceptions to the physical qualifications for individuals engaged in custom harvesting operations.

H. ENTITY ELIGIBLE TO APPLY FOR A CDL TESTING UNIT LICENSE

1) The Department may authorize a testing unit to administer the CDL Skills Test on behalf of the Department if such training and testing is equal to the training and testing of the Department.

2) A CDL Testing Unit must enter into a written contract with the Department and agree to:

a) Maintain an established place of business in Colorado with a vehicle fleet of no less than three CMVs owned, leased or registered to the testing unit, the business owner, or an employee of the business;

b) Maintain an adult education occupational business license with the Division of Private Occupational Schools, a division of the Colorado Department of Higher Education; or

c) Be a government agency, public school district, private or parochial school, or other type of pre-primary, primary, or secondary school transporting students from home to school or from school to home.

I. CDL TESTING UNIT REQUIREMENTS

1) An entity must apply for and receive a CDL testing unit license from the Department in order to administer CDL Skills Tests. The CDL testing unit and each driving tester license expires on June 30th of each year. The licenses for both the testing unit and driving tester(s) must be displayed in the place of business.

a) Testing unit and driving tester license fees are waived for non-commercial testing units and driving testers that only provide public transportation, and that do not test outside of their unit.

b) Public transportation entities that test outside of their unit or that do not provide public transportation only, must submit the appropriate fees.

c) If a license is not renewed on or before June 30th, the initial fees will apply. Testing unit and driving

tester license(s) may be suspended or inactivated until appropriate fees and documentation are submitted.

d) Licenses can be renewed up to 60 days prior to June 30th of each year.

2) The testing unit is not permitted to guarantee issuance of a Commercial Driver's License or to suggest that training will guarantee issuance of a Commercial Driver's License.

3) Testing units must only test if they have a current testing unit license issued by the Department.

4) Testing units must ensure that each driving tester has a valid tester license issued by the Department when he or she administers a CDL Skills Test.

5) The testing unit must notify the Department in writing within 3 business days of the termination or departure from the testing unit of any driving tester.

6) A testing unit's place of business must be a separate establishment and may not be part of a home. The unit's physical address must not be a post office box.

7) The testing unit must have written permission from the landowner to administer the CDL vehicle basic control skills exercises on areas not owned by the testing unit. This written permission must be submitted to the Department for approval prior to testing.

8) The testing unit must maintain at least one employee who is licensed as a CDL driving tester.

9) The testing unit must ensure that the unit's driving tester(s) follow the Department's standards for administering the CDL Skills Test.

10) The testing unit must ensure that the unit's driving tester(s) complete all CDL Third Party Testing forms correctly.

11) The testing unit must ensure that the unit's driving tester(s) administer the CDL Skills Test to applicants in a vehicle equal to or lower than, the class and/or endorsement, and/or restriction on applicant's CDL instruction permit or CDL.

12) Once a new driving tester candidate has passed the required 5 day new CDL third party tester's training course , the testing unit must ensure that within thirty (30) days the new tester candidate:

a) Applies for his/her Third Party Testers license;

b) Administers two (2) drive tests while accompanied by a licensed driving tester who shall monitor the test and compare pass-fail results with those of the new driving tester candidate; and

c) Completes an Application for the fingerprint/background check.

13) The testing unit is responsible for ensuring that driving testers attend all mandated training provided by the CDL Compliance Unit. Failure of driving testers to attend scheduled training may result in the suspension of testing privileges for the testing unit and the tester.

14) The testing unit must schedule all tests utilizing CSTIMS. The testing unit or driving tester must notify the CDL Compliance Unit of all canceled tests via CSTIMS as soon as the testing unit or driving tester is aware of the cancellation. The testing unit or driving tester must notify the Department of all tests scheduled or schedule changes via CSTIMS at least three (3) days in advance of the test. Tests not administered due to weather conditions or a vehicle failure may be rescheduled with approval from a CDL Compliance Unit.

a) The testing unit is not permitted to schedule an applicant more than once within any three (3) day period.

b) Testing units must identify the applicant in Scheduled Comments in CSTIMS as Public, Employee, or Student.

c) The test must begin within 15 minutes before and no later than 15 minutes after its scheduled time. The test begins when the driving tester reads the Vehicle Inspection Overview to the applicant.

15) The testing unit must ensure that:

a) The driving tester enters into CSTIMS all test results immediately after the completion of the test;

b) The test results entered into CSTIMS match the Class, Endorsements, and Restrictions of the vehicle in which the applicant has successfully completed the CDL Skills Test; and

c) The driving tester uploads the correct score forms into CSTIMS.

d) The driving tester obtains a copy of a certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, and that the driving tester uploads a copy of the certificate into CSTIMS.

16) The testing unit must administer CDL Skills Tests only on Department approved testing areas and routes.

17) The testing unit must ensure all three portions of the CDL Skills Test are conducted during daylight.

18) The testing unit must ensure the vehicle being used for testing does not have any labels or markings that indicate which components are to be inspected by an applicant during the Vehicle Inspection portion of the CDL Skills Test. Manufacturer labels and/or markings are permitted.

19) The testing unit must enter into an agreement with the Department containing, at a minimum, provisions that:

a) allow the FMCSA, the Department, and their representatives to conduct random inspections and audits without prior notice;

b) allow the Department to conduct on-site inspections at least annually;

c) require all driving testers to meet the same training and qualifications as state examiners, to the extent necessary to conduct CDL Skills Tests in compliance with these rules and regulations;

d) at least annually, allow the Department at its discretion to take the tests administered by the testing unit as if the Department employee was an applicant, or test an applicant who was tested by the testing unit to compare pass-fail results; and

e) reserve to the Department the right to take prompt and appropriate action against any testing unit or driving tester when such driving tester fails to comply with Department or federal standards or any other provisions in the contract or the rules and regulations.

20) A driving tester and a testing unit shall charge fees only in accordance with section 42-2-406, C.R.S. and this rule. A driving tester and a testing unit shall only charge for tests administered.

a) Except as otherwise provided in paragraph (b) of this subsection (20), the maximum total fee, including but not limited to any administrative fee, for administering a CDL Skills Test or retest to an applicant is two hundred ~~twenty~~seventy-five dollars ($~~225~~275.00).

b) The maximum total fee, including but not limited to any administrative fee, for administering a CDL Skills Test or retest to an employee or volunteer of a nonprofit organization that provides specialized transportation services for the elderly and for persons with disabilities, to any

individual employed by a school district, or to any individual employed by a board of cooperative services is one hundred twenty-five dollars ($~~100~~125.00).

21) The testing unit must make all CDL testing records available for inspection during normal business hours.

22) The testing unit must hold the state harmless from liability resulting from the administration of the CDL program.

23) The testing unit must make annual application for renewal of the unit's testing license and individual driving tester license(s) before the license expires on June 30th of each year.

J. DRIVING TESTER REQUIREMENTS

1) The driving tester must possess a valid USDOT medical card and a valid CDL with the appropriate class and endorsement(s) to operate the vehicle(s) in which the CDL Skills Test is administered.

2) The driving tester must conduct the full CDL Skills Test in accordance with Department procedures and must use the Colorado CDL Skill Test Score Form.

3) The driving tester must complete all CDL Third Party Testing forms correctly.

4) The driving tester must administer all portions of the CDL Skills Test in English.

5) Interpreters are not allowed for any portion of the CDL Skills Test.

6) The driving tester agrees to hold the State harmless from any liability arising from or in connection with a CDL Skills Test.

7) The driving tester must only test if the driving tester has a valid tester license issued by the Department.

8) The driving tester must test in the CDL class of vehicle or endorsement(s) group authorized by the Department.

9) Prior to administering the CDL Skills Test, the driving tester must ensure that the driver has in his/her immediate possession, a valid USDOT medical card, and a valid CLP for operating the class and endorsement(s), and/or restriction(s) of the vehicle being used for testing.

   a) The driving tester must ensure that the instruction permit has been held by the applicant for at least fourteen (14) days prior to taking the skills test.

   b) The driving tester must also ensure the applicant has in his/her immediate possession a valid Driver's License and must compare the photo on the license to the applicant to verify identity.

   c) The driving tester must obtain a copy of a certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education.

10) The driving tester must administer the CDL Skills Test to applicants in a vehicle equal to or lower in class and/or endorsement(s), and/or restriction(s) than the applicant has on his or her CLP.

11) The driving tester must administer the CDL Skills Test only on Department approved testing areas and routes.

12) The driving tester must administer all three portions of the CDL Skills Test during daylight.

13) The driving tester must ensure that the vehicle in which the CDL Skills Test will be administered is in proper working and mechanical order.

14) The vehicle inspection, the basic vehicle control skills, and the on-road driving test must be administered by the same driving tester in sequential order with no more than a 15-minute break between each portion of the CDL Skills Test. CDL Skills Test must be scheduled to avoid a lunch break.

15) The Department may issue a driving tester license to a driving tester candidate upon the successful completion of the following requirements:

a) A testing unit must submit an application requesting that the driving tester candidate be granted a driving tester license;

b) The driving tester candidate must be an employee of the testing unit submitting the application;

c) The driving tester candidate must successfully complete the 5 day new CDL third party tester's training course;

d) Within 30 days following the date the driving tester candidate completes the 5 day new CDL third party tester's training course, the driving tester candidate must:

1. Administer two (2) drive tests while accompanied by a licensed driving tester who shall monitor the test and compare pass-fail results with those of the new driving tester candidate; and

2. Complete the application for the fingerprint/background check.

e) All licensing fees must be received by the Department.

16) The driving tester must inform the applicant that he/she may be randomly selected for a retest as mandated by 49 CFR.

17) The driving tester may administer CDL Skills Test as an employee of, and on behalf of, the licensed testing unit. The driving tester may administer tests for more than one unit. However the driving tester must be licensed under each unit to conduct testing on its behalf. The driving tester must keep all CDL records separate for each testing unit.

18) If an applicant fails any portion(s) of the CDL Skills Test, he or she must return on a different day and perform all three (3) portions of the CDL Skills Test over again.

19) In order to qualify for renewal, the driving tester must administer a minimum of ten (10) CDL Skills Tests with different applicants within the twelve-month period preceding the application for renewal from the Department.

20) The driving tester must:

a) Enter into CSTIMS all test results immediately after the completion of the test;

b) Ensure that the test results entered into CSTIMS match the Class, Endorsements, and Restrictions of vehicle in which the applicant has successfully completed the CDL Skills Test; and

c) Upload the correct score forms into CSTIMS.

d) Upload into CSTIMS the completion certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education.

21) Upon leaving a testing unit, the driving tester's license may be transferred to another testing unit within three

(3) months. If the driving tester is not employed as a driving tester at a licensed testing unit within three (3) months, the tester will be required to attend a new tester training class in order to be licensed by the Department. All training and license fees will apply and are the responsibility of the tester.

22) The driving tester cannot administer the CDL Skills Test to an applicant with whom he/she has conducted in- vehicle skills training.

K. COURSE AND ROUTE REQUIREMENTS

1) A testing unit must have a paved area for the CDL vehicle inspection and the basic control skills exercises that contain:

a) Solid painted lines and traffic cones marking the testing boundaries in accordance with Department standards.

(i) Traffic cones used to mark the testing boundaries must be a minimum of twelve inches in height, and the same size traffic cones must be used for each exercise. Traffic cones must be replaced when they no longer retain their original shape and color.

b) Boundary lines and cones clearly visible in the basic control skill exercise testing area.

(i) The testing area boundaries must be cleared of snow, debris, and vehicles that would obstruct the applicant's view during the basic control skill exercise.

(ii) Testing on dirt, sand, or gravel is not allowed.

2) The testing unit must request and receive approval from the Department for any change(s) to the approved road test route prior to administering a CDL road test.

L. RIGHTS

1) The driving tester or testing unit may refuse to test an applicant. The driving tester or testing unit contact person must notify the CDL Compliance Unit if an applicant is refused a test and must refer that driver to the CDL Compliance Unit.

2) Government driving testers who want to test outside of their governmental testing unit may make a written request to the CDL Compliance Unit, and must receive approval from the CDL Compliance Unit prior to administering CDL Skills Tests outside of their governmental testing unit.

M. RECORDING AND AUDITING REQUIREMENTS

1) The testing unit must maintain all pass/fail records for three years. These must include the CDL Skills Testing records for each applicant tested, the dates of the testing, the applicant's identification information, a copy of a certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking from each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, the vehicle information and the name and state assigned driving tester number for the driving tester who administered the test. If a testing unit is no longer licensed, the unit must return all testing records to the Department within 30 days.

a) After three years, testing units may destroy all pass/fail records (shred, burn).

2) A testing unit must enter all (pass and fail) CDL Skills Test results into CSTIMS immediately after the test including the upload of the score form and, for each initial applicant for a Class A CDL who has attended a commercial driving school certified for approval by the Private Occupational Schools Division in the Department of Higher Education, a copy of a certificate reflecting successful completion of training on the recognition, prevention, and reporting of human trafficking ~~immediately after the test~~.

3) During CDL compliance audits and/or inspections, driving testers must cooperate with the Department and/or FMCSA by allowing access to testing areas and routes, furnishing CDL Skills Testing records and results, and providing other items pertinent to the mandated audit and/or inspection. The driving tester must surrender testing records upon request. The driving tester may make copies and retain copies of such records.

4) If the testing unit provided the vehicle for the CDL Skills Test, the testing unit will furnish the vehicle for an applicant driver selected for a retest. No fees, including any vehicle rental fees required for testing, will be collected for this mandatory evaluation. The Department is not liable during retests for any damage, injury, or expense incurred.

5) If the applicant tested in his/her own vehicle, the applicant will supply the vehicle for any CDL Skills Retest.

N. BOND

1) A testing unit that is not an agency of government, or a Colorado school district, must maintain a bond in the amount of $20,000.00 with the Department pursuant 49 CFR. A surety company authorized to do business within the State of Colorado must execute the bond.

   a) The bond must be for the use and benefit of the Department in the event of a monetary loss suffered by the Department that falls within the limitations of the bond, attributable to the willful, intentional, or negligent conduct of the testing unit or its agent(s) or employee(s).

   b) If the amount of the bond is decreased or terminated, or if there is a final judgment outstanding on the bond, the testing unit cannot test outside their unit.

   c) The Department must be named on the bond as the beneficiary or the bond must be held in the name of the Department.

2) A testing unit that is an agency of government, or any Colorado school district, that will administer CDL driving tests outside of their unit, must maintain a bond in the amount of $5,000.00 with the Department. A surety company authorized to do business within the State of Colorado must execute the bond.

   a) The bond must be for the use and benefit of the Department in the event of a monetary loss within the limitations of the bond, attributable to the willful, intentional or negligent conduct of the testing unit or its agent(s) or employee(s).

   b) If the amount of the bond is decreased or terminated, or if there is a final judgment outstanding on the bond, the testing unit cannot test outside their unit.

   c) The Department must be named on the bond as the beneficiary or the bond must be held in the name of the Department.

O. REVOCATION, CANCELLATION, OR SUSPENSION OF TESTING UNITS AND TESTERS

1) The license of a testing unit or driving tester may be suspended or revoked for willful or negligent actions that may include but are not limited to any of the following:

   a) Misrepresentations on the application to be a testing unit or a driving tester;

   b) Improper testing and/or certification of an applicant driver who has applied for a CDL;

   c) Falsification of test documents or results;

   d) Violations of CDL rules for testing units or driving testers;

   e) Failure to employ a minimum of at least one licensed CDL driving tester;

   f) Failure to comply or cooperate in a CDL Compliance audit and record review;

g) Violations of the contract terms and conditions;

h) For any other violation of this rule or applicable state statute or federal regulation.

2) A testing unit or driving tester that is suspended must not perform any duties related to CDL Third Party Testing.

3) Summary Suspension: Where the Department has objective and reasonable grounds to believe and finds that a testing unit or driving tester has been guilty of a deliberate and willful violation or that the public health, safety, or welfare imperatively requires emergency action and incorporates the findings in its order, it may summarily suspend the license pending proceedings for suspension or revocation which will be promptly instituted and determined. Testing is not permitted while the license is suspended.

4) Appeal Process: Any person aggrieved by the denial of issuance, denial of renewal, suspension, or revocation of a testing unit license or driving tester license is entitled to a hearing pursuant to section 42-2-407(7), C.R.S. Except as otherwise provided in paragraph (3) of this subsection O, the request for hearing must be submitted in writing and appropriately labeled, such as "CDL Cease Testing Appeal," to the Department of Revenue, Hearings Division, 1881 Pierce Street, Room 106, Lakewood, Colorado, 80214. Subsequent appeal may be had as provided by law.

5) Material incorporated by reference in this rule does not include later amendments to or editions of the incorporated material. Copies of the material incorporated by reference may be obtained by contacting the Division of Motor Vehicles, Driver License Section of the Department of Revenue, 1881 Pierce Street, Room 128, Lakewood, Colorado, 80214, 303-205-5600, and copies of the materials may be examined at any state publication depository library.

Notice of Proposed Rulemaking

Tracking number

2018-00198

Department

400 - Department of Natural Resources

Agency

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

CCR number

2 CCR 406-0

Rule title

CHAPTER W-0 - GENERAL PROVISIONS

Rulemaking Hearing

Date

06/07/2018

Time

08:30 AM

Location

Cortez Conference Center, 2121 E. Main St., Cortez, CO 81321

Subjects and issues involved

CHAPTER W-0 - GENERAL PROVISIONS - SEE ATTACHED

Statutory authority

SEE ATTACHED

Contact information

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Title

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April 30, 2018

RULE-MAKING NOTICE
PARKS AND WILDLIFE COMMISSION MEETING
June 7-8, 2018

In accordance with the State Administrative Procedure Act, section 24-4-103, C.R.S., the Parks and Wildlife Commission gives notice that regulations will be considered for adoption at their next meeting on **June 7-8, 2018. The Parks and Wildlife Commission meeting will be held at the Cortez Conference Center, 2121 E. Main St., Cortez, CO 81321. The following regulatory subjects and issues shall be considered** pursuant to the Commission's authority in sections 33-9-101 to 111, C.R.S. ("Administration of Parks and Wildlife"), in sections 33-1-101 to 33-6-209, C.R.S. (the "Wildlife Act"), and especially sections 33-1-104, 33-1-106, 33-1-107, 33-1-108, 33-1-121, 33-2-104, 33-2-105, 33-2-106, 33-3-104, 33-4-101, 33-4-102 and 33-5.5-102, 33-6-107, 33-6-109, 33-6-112, 33-6-113, 33-6-114, 33-6-114.5, 33-6-117, 33-6-119, 33-6-121, 33-6-124, 33-6-125, 33-6-127, 33-6-128, 33-6-130, 33-6-205, 33-6-206, 33-6-207, 33-6-208, 33-6-209, C.R.S., and in sections 33-10-101 to 33-33-113, C.R.S. (the "Parks Act"), and especially sections 33-10-106, 33-10-107, 33-10.5-107, 33-11-109, 33-12-101, 33-12-103, 33-12-103.5, 33-12-106, 33-12.5-103, 33-13-103, 33-13-104, 33-13-106, 33-13-109, 33-13-110, 33-13-111, 33-14-107, 33-14.5-107, 33-32-103 and 33-33-105. C.R.S.

FINAL REGULATORY ADOPTION - **June 7-8, 2018,** beginning **at 8:30 a.m.***

EFFECTIVE DATE OF REGULATIONS approved during the June 2018 Parks and Wildlife Commission meeting: August 1, 2018, unless otherwise noted.

FINAL REGULATIONS

WILDLIFE REGULATIONS

Chapter W-0 - "General Provisions" 2 CCR 406-0

At its June meeting, the Parks and Wildlife Commission will consider the adoption of regulations to keep wildlife license prices static through the 2018 license year, including the current wildlife management public education fund surcharge. This proposed action is in response to the pending approval of Senate Bill 18-143, which would otherwise increase wildlife license fees as of August 2018 and in the middle of the 2018 license year. These regulations are being proposed to avoid confusion, ensure consistent and equitable fees for the remainder of the 2018 license year, and for proper management of the agency.

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

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

**Please reference the Commission agenda, to be posted on or after May 29, 2018, to ensure when each regulatory item will be addressed by the Commission. The agenda will be posted at http://cpw.state.co.us/aboutus/Pages/CommissionMeetings.aspx.*

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

May 24, 2018, for mailing by the Division of Parks and Wildlife to the Parks and Wildlife Commission on **May 25, 2018.**

Comments received by the Division between noon on **May 24, 2018** and noon **June 4, 2018** will be provided to the Commission during a second mailing. Comments received after noon on **June 4, 2018** will be held and shared with the Commission as part of the subsequent meeting mailing.

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

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

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

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

OTHER AGENDA ITEMS: The Parks and Wildlife Commission may consider and make policy, program implementation, and other non-regulatory decisions, which may be of public interest at this meeting. A copy of the complete meeting agenda may be viewed on the Division of Parks and Wildlife's internet home page at **http://cpw.state.co.us**, on or after **May 29, 2018**.

Notice of Proposed Rulemaking

Tracking number

2018-00195

Department

500,1008,2500 - Department of Human Services

Agency

502 - Behavioral Health

CCR number

2 CCR 502-5

Rule title

BEHAVIORAL HEALTH EXECUTIVE DIRECTOR RULES

Rulemaking Hearing

Date

06/18/2018

Time

10:00 AM

Location

CDHS, 1575 Sherman Street, Denver, CO

Subjects and issues involved

"See attachment for detailed description.

CDHS holds two public hearings, an initial and final, for each proposed rule packet.

The initial hearing allows the public an opportunity to submit written data, views, or arguments and to testify for or against the proposed rules. The Board does not vote on the proposed rule at the initial hearing, but asks CDHS to consider all public comment and discussion and, if needed, submit revisions to the proposed rule.

The final hearing, usually the month following the initial hearing, allows the same opportunity for public comment, after which the Board votes on final adoption of the proposed rule.

Please visit CDHS State Board website for meeting dates.

Statutory authority

"26-1-108(1.7), C.R.S. (2017)
27-80-111(1), C.R.S. (2017)"

Contact information

Name

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Title

Rule Author

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Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
CDHS Tracking #:	**18-03-27-02**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-7405
OBH, CBH	Ryan Templeton	E-Mail: ryan.templeton@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

In order for the Office of Behavioral Health to be in compliance with Section 27-80-111, C.R.S., rules must be establish by the executive director for the fees to be charged for addiction counselor training. These executive director rules will formalize the fees currently established in the Certified Addiction Counselor (CAC) Clinical Training Program – OBH Approved Trainer Program.

Executive Director Authority for Rule:

Code	Description
26-1-108(1.7), C.R.S. (2017)	(a) The executive director shall have authority to adopt "executive director rules" for programs administered and services provided by the state department as set forth in this title and in title 27, C.R.S.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
27-80-111(1), C.R.S. (2017)	The executive director shall establish by rule fees to be charged for addiction counselor training.

Does the rule incorporate material by reference?	[X]	Yes	[ ]	No
Does this rule repeat language found in statute?	[ ]	Yes	[X]	No

If yes, please explain. Rule references Section 27-80-111, C.R.S.

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
CDHS Tracking #:	**18-03-27-02**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-7405
OBH, CBH	Ryan Templeton	E-Mail: ryan.templeton@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Certified addiction counselors applying to become an OBH approved addiction counselor trainer bear the impact of the fees established by the current OBH Approved Trainer Program and the rules that will standardize these fees.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Applicants applying to become an Office of Behavioral Health approved Certified Addiction Counselor Trainer are required to submit a one-time $150 fee, for an single trainer, or a one-time $200 fee, for co-trainers when they submit their training materials.

As of January 2018, there are 17 Certified Addiction Counselor Training Facilities in Colorado. Within these facilities, each of their trainings are administered by an OBH Approved Trainer. On average the Office of Behavioral Health receives 30 approved trainer applications per year.

No short-term or long-term consequences are expected from this rule as the rule does not make any changes to the fees that are currently being collected through the OBH Approved Trainer Program. The one-time fee to apply to become an OBH Approved Trainer ($150/singer trainer; $200/co-trainers) went into effective April 1, 2010.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

Pursuant to 27-80-111, C.R.S., the funds collected by the addiction counselor training fee must be sufficient to cover a portion of the costs of administering the certified addiction counselor training program within the Office of Behavioral Health.

No other state agencies are expected to be impacted by this rule. The Addiction Counselor Training Fund, where the collected fees are to be deposited, has already been created by the State Treasurer and appropriated to the Office of Behavioral Health.

County Fiscal Impact

No county fiscal impact is expected with this rule.

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
CDHS Tracking #:	**18-03-27-02**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-7405
OBH, CBH	Ryan Templeton	E-Mail: ryan.templeton@state.co.us

Federal Fiscal Impact

No federal fiscal impact is expected with this rule.

Other Fiscal Impact *(such as providers, local governments, etc.)*

Applicants applying to become an Office of Behavioral Health approved Certified Addiction Counselor Trainer are required to submit a one-time $150 fee, for an single trainer, or a one-time $200 fee, for co-trainers when they submit their training materials.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Pursuant to 27-80-111, C.R.S., the funds collected by the addiction counselor training fee must be sufficient to cover a portion of the costs of administering the certified addiction counselor training program within the Office of Behavioral Health. In early 2010, Colorado Department of Human Services Executive Management, Office of Behavioral Health Management and the OBH Manager of the Certified Addiction Counselor Training Program reviewed the costs associated with administering the Certified Addiction Counselor Training Program. The one-time fee to apply to become an OBH Approved Trainer was reviewed and the current fee ($150/singer trainer; $200/co-trainers) went into effective April 1, 2010.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

No alternatives were considered, as rules for the fees to be charged for addiction counselor training are required by Section 27-80-111, C.R.S.

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule Section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
20.000 through 20.600	Rule Volume 2 CCR 502-5 needs to be renumbered to accommodate the new CAC Trainer Fees Rule section.	Section 20.000 through Section 20.600.	Section 20.100 through Section 20.100.6.	Renumber Rule Volume 2 CCR 502-5 in order to accommodate the new CAC Trainer Fees rule section.	No
20.200	Title Only	New rule	Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program Approved Trainer Fees	New title	No
20.200.1	Creates a new definitions section	New rule	"Co-trainers" means an application contains information on (2) trainers; both trainers must be in attendance for the full approved training; each has specific approved curriculum sections to teach, and neither is approved to teach the class independently of the other. "Single trainer" means the trainer is responsible for training the entire approved curriculum.	Establishes definitions for new CAC Trainer Fees rule section.	No
20.200.2	Create a general provision section	New rule	An applicant applying for CAC clinical training program approved trainer status shall submit a complete application with required documentation and a one-time fee established pursuant to 27-80-111, C.R.S.	Provides general guidance on the CAC Trainer Fees rule section.	No
20.200.3	Sets CAC Trainer Fees	New Rule	A. An applicant applying as a single trainer shall submit a one-time fee of one hundred fifty dollars ($150.00). B. An applicant applying as co-trainers shall submit a one-time application fee of two hundred dollars ($200.00).	Sets a fee for CAC training as required by 27-80-111, C.R.S.	Yes

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
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STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

The Office of Behavioral Health Workforce Development and Innovation Unit in collaboration with the Office of Behavioral Health's regulatory staff created an initial rule draft. This initial rule draft was created to meet the Office of Behavioral Health's statutory requirement of establishing rules for the fees to be charged for addiction counselor training. The rule draft also aligns with the fees currently established in the Certified Addiction Counselor (CAC) Clinical Training Program – OBH Approved Trainer Program.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

The Certified Addiction Counselor (CAC) Clinical Training Program Approved Trainer Fees rule draft, along with a feedback survey was posted on Colorado Department of Human Services website. The Office of Behavioral Health informed behavioral health stakeholders through direct contact and through the OBH monthly newsletter that the rule draft was available for review and feedback. Stakeholders specifically targeted for review and feedback on the proposed rule included current OBH approved CAC trainers and certified addiction counselors.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

Not applicable

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [X] No

Name of Sub-PAC	Not applicable		
Date presented	Not applicable		
What issues were raised?	Not applicable		
Vote Count	*For*	*Against*	*Abstain*
	n/a	n/a	n/a
If not presented, explain why.	There is not a Behavioral Health Sub-PAC, this rule-making packet was presented to PAC on April 5, 2018 without a Sub-PAC review.		

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	April 5, 2018		
What issues were raised?	No		
Vote Count	*For*	*Against*	*Abstain*

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
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	Unanimous	0	0
If not presented, explain why.	n/a		

Other Comments
Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

General Feedback	
Feedback	*Response*
There is a distinct quality difference in trainers, which I do not believe would be reflected in standardized rates for trainings. I think it is appropriate for trainers with higher ratings/skills to be able to determine their fee for the time they spend training. Without a way to evaluate the trainer to determine fees and the lack of current industry standards, what would guide the fee schedule for services? Also, with the workforce shortage why would you eliminate the opportunity to be competitive with private practice, facility work, etc. by limiting a trainer's potential growth?	The one-time fee for becoming an Office of Behavioral Health (OBH) approved trainer is currently the standard for the OBH Approved Trainer Program. This rule allows the Office of Behavioral Health to be in compliance with Section 27-80-111, C.R.S. by establishing the fee for addiction counselor training in rule. The Office of Behavioral Health sets the one-time fee to become an OBH approved trainer. The Office of Behavioral Health does not set the fees for how much the OBH approved trainer can charge for their training.

Section 21.200.3 CAC Clinical Training Program Approved Trainer Fees	
Feedback	*Response*
My feedback is: if the state of CO NEEDS these CAC trainers to certify others to improve the quality of care for the state, it seems indulgent to charge these providers TWICE - first to obtain their independent CAC, then second to help others obtain theirs. Additionally, the CAC trainers must provide their own curriculum, without compensation, the state will utilize in the training of others. In essence, the CAC trainer does the work for the state of CO, then the state charges them fees to complete training the state does not offer for its practitioners. The additional fee is unreasonable.	The Office of Behavioral Health (OBH) in the Colorado Department of Human Services oversees the CAC Clinical Training Program. Within this program is included the OBH Approved Trainer Program. The purpose of this program is to approve qualified trainers to provide required training classes for certification as an addiction counselor in Colorado. Individual trainers develop training curriculums, agendas, PowerPoint presentations, and examinations for each of the classes they wish to train based on the Core Competencies developed by the CAC Clinical Training Program. The approved CAC trainer program was established to ensure consistency across the trainings needed for certification as an addiction counselor. The one-time fee is statutorily required and the

	funds collected by the fee are expected to cover a portion of the costs associated with the administration of the Certified Addiction Counselor Training Program. The Office of Behavioral Health sets the one-time fee to become an OBH approved trainer. The Office of Behavioral Health does not set the fees for how much the OBH approved trainer can charge for their training.
This change appears appropriate.	This rule establishes fees for the training of addiction counselors as required by statute. The fees established in this rule are the fees that are currently being collected when an applicant applies to be an Office of Behavioral Health Approved Trainer.
I am good with it.	The Office of Behavioral Health appreciates your input.
The fees seem reasonable and equitable.	This rule establishes fees for the training of addiction counselors as required by statute. The fees established in this rule are the fees that are currently being collected when an applicant applies to be an Office of Behavioral Health Approved Trainer.
Trainer and co-trainer should have the same fees.	The Office of Behavioral Health feels that having two separate fees based on the applying entity is appropriate. Co-trainers apply for approval as one applicant. Each co-trainer must be appropriately credentialed to be an OBH approved trainer and the higher fee covers of the cost of the additional confirmation requirements.

(2 CCR 502-5)

~~20.000~~ 20.100 EXECUTIVE DIRECTOR RULES – THE PROCEDURE FOR AWARDING GAMBLING ADDICTION GRANTS

~~20.100~~ 20.100.1 DEFINITIONS

****

~~20.110~~ 20.100.11 GENERAL PROVISIONS

****

~~20.200~~ 20.100.2 GRANT ADMINISTRATION

****

~~20.300~~ 20.100.3 GAMBLING ADDICTION COUNSELING GRANT CRITERIA

B. Gambling Addiction Counseling Grant Application Procedure

2. Gambling Addiction Counseling Grant Application Contents

a. Proof that the criteria in Section ~~20.300~~ 20.100.3, A, is met; and,

****

~~20.310~~ 20.100.31 AWARDING GAMBLING ADDICTION COUNSELING GRANTS

****

~~20.320~~ 20.100.32 GAMBLING ADDICTION COUNSELING GRANT AWARDEE DATA REPORTING REQUIREMENTS

****

~~20.400~~ 20.100.4 GAMBLING ADDICTION TRAINING GRANTS AND CRITERIA FOR GRANT AWARDEES

B. Gambling addiction training grant applicants must meet the following requirements:

2. Certified Addiction Counselor II or higher and/or a behavioral health professional as defined in Section ~~20.100~~ 20.100.1; and,

C. Gambling Addiction Training Grant Application Procedure

2. Gambling Addiction Training Grant Application Contents

a. Proof that the criteria in Section ~~20.400~~ 20.100.4, B, is met; and,

****

~~20.410~~ 20.100.41 **GAMBLING ADDICTION TRAINING GRANT AWARDING PROCEDURE**

****

~~20.420~~ 20.100.42 **GAMBLING ADDICTION TRAINING GRANT VERIFICATION PROCEDURE**

****

~~20.500~~ 20.100.5 **APPEALS PROCESS FOR GAMBLING ADDICITON COUNSELING GRANTS AND GAMBLING ADDICTION TRAINING GRANTS**

****

~~20.600~~ 20.100.6 **REPORTING**

****

20.200 EXECUTIVE DIRECTOR RULES – CERTIFIED ADDICTION COUNSELOR (CAC) CLINICAL TRAINING PROGRAM APPROVED TRAINER FEES

20.200.1 DEFINITIONS

"CO-TRAINERS" MEANS AN APPLICATION CONTAINS INFORMATION ON TWO (2) TRAINERS; BOTH TRAINERS MUST BE IN ATTENDANCE FOR THE FULL APPROVED TRAINING; EACH HAS SPECIFIC APPROVED CURRICULUM SECTIONS TO TEACH, AND NEITHER IS APPROVED TO TEACH THE CLASS INDEPENDENTLY OF THE OTHER.

"SINGLE TRAINER" MEANS THE TRAINER IS RESPONSIBLE FOR TRAINING THE ENTIRE APPROVED CURRICULUM.

20.200.2 GENERAL PROVISIONS

AN APPLICANT APPLYING FOR CAC CLINICAL TRAINING PROGRAM APPROVED TRAINER STATUS SHALL SUBMIT A COMPLETE APPLICATION WITH REQUIRED DOCUMENTATION AND A ONE-TIME FEE ESTABLISHED PURSUANT TO 27-80-111, C.R.S.

20.200.3 CAC CLINICAL TRAINING PROGRAM APPROVED TRAINER FEES

A. AN APPLICANT APPLYING AS A SINGLE TRAINER SHALL SUBMIT A ONE-TIME FEE OF ONE HUNDRED FIFTY DOLLARS ($150.00).

B. AN APPLICANT APPLYING AS CO-TRAINERS SHALL SUBMIT A ONE-TIME APPLICATION FEE OF TWO HUNDRED DOLLARS ($200.00).

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
CDHS Tracking #:	**18-03-27-02**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-7405
OBH, CBH	Ryan Templeton	E-Mail: ryan.templeton@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

In order for the Office of Behavioral Health to be in compliance with Section 27-80-111, C.R.S., rules must be establish by the executive director for the fees to be charged for addiction counselor training. These executive director rules will formalize the fees currently established in the Certified Addiction Counselor (CAC) Clinical Training Program – OBH Approved Trainer Program.

Executive Director Authority for Rule:

Code	Description
26-1-108(1.7), C.R.S. (2017)	(a) The executive director shall have authority to adopt "executive director rules" for programs administered and services provided by the state department as set forth in this title and in title 27, C.R.S.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
27-80-111(1), C.R.S. (2017)	The executive director shall establish by rule fees to be charged for addiction counselor training.

Does the rule incorporate material by reference?	[X]	Yes	[ ]	No
Does this rule repeat language found in statute?	[ ]	Yes	[X]	No

If yes, please explain. Rule references Section 27-80-111, C.R.S.

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Certified addiction counselors applying to become an OBH approved addiction counselor trainer bear the impact of the fees established by the current OBH Approved Trainer Program and the rules that will standardize these fees.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Applicants applying to become an Office of Behavioral Health approved Certified Addiction Counselor Trainer are required to submit a one-time $150 fee, for an single trainer, or a one-time $200 fee, for co-trainers when they submit their training materials.

As of January 2018, there are 17 Certified Addiction Counselor Training Facilities in Colorado. Within these facilities, each of their trainings are administered by an OBH Approved Trainer. On average the Office of Behavioral Health receives 30 approved trainer applications per year.

No short-term or long-term consequences are expected from this rule as the rule does not make any changes to the fees that are currently being collected through the OBH Approved Trainer Program. The one-time fee to apply to become an OBH Approved Trainer ($150/singer trainer; $200/co-trainers) went into effective April 1, 2010.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

Pursuant to 27-80-111, C.R.S., the funds collected by the addiction counselor training fee must be sufficient to cover a portion of the costs of administering the certified addiction counselor training program within the Office of Behavioral Health.

No other state agencies are expected to be impacted by this rule. The Addiction Counselor Training Fund, where the collected fees are to be deposited, has already been created by the State Treasurer and appropriated to the Office of Behavioral Health.

County Fiscal Impact

No county fiscal impact is expected with this rule.

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
CDHS Tracking #:	**18-03-27-02**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-7405
OBH, CBH	Ryan Templeton	E-Mail: ryan.templeton@state.co.us

Federal Fiscal Impact

No federal fiscal impact is expected with this rule.

Other Fiscal Impact *(such as providers, local governments, etc.)*

Applicants applying to become an Office of Behavioral Health approved Certified Addiction Counselor Trainer are required to submit a one-time $150 fee, for an single trainer, or a one-time $200 fee, for co-trainers when they submit their training materials.

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

Pursuant to 27-80-111, C.R.S., the funds collected by the addiction counselor training fee must be sufficient to cover a portion of the costs of administering the certified addiction counselor training program within the Office of Behavioral Health. In early 2010, Colorado Department of Human Services Executive Management, Office of Behavioral Health Management and the OBH Manager of the Certified Addiction Counselor Training Program reviewed the costs associated with administering the Certified Addiction Counselor Training Program. The one-time fee to apply to become an OBH Approved Trainer was reviewed and the current fee ($150/singer trainer; $200/co-trainers) went into effective April 1, 2010.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

No alternatives were considered, as rules for the fees to be charged for addiction counselor training are required by Section 27-80-111, C.R.S.

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
CDHS Tracking #:	**18-03-27-02**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-7405
OBH, CBH	Ryan Templeton	E-Mail: ryan.templeton@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule Section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
20.000 through 20.600	Rule Volume 2 CCR 502-5 needs to be renumbered to accommodate the new CAC Trainer Fees Rule section.	Section 20.000 through Section 20.600.	Section 20.100 through Section 20.100.6.	Renumber Rule Volume 2 CCR 502-5 in order to accommodate the new CAC Trainer Fees rule section.	No
20.200	Title Only	New rule	Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program Approved Trainer Fees	New title	No
20.200.1	Creates a new definitions section	New rule	"Co-trainers" means an application contains information on (2) trainers; both trainers must be in attendance for the full approved training; each has specific approved curriculum sections to teach, and neither is approved to teach the class independently of the other. "Single trainer" means the trainer is responsible for training the entire approved curriculum.	Establishes definitions for new CAC Trainer Fees rule section.	No
20.200.2	Create a general provision section	New rule	An applicant applying for CAC clinical training program approved trainer status shall submit a complete application with required documentation and a one-time fee established pursuant to 27-80-111, C.R.S.	Provides general guidance on the CAC Trainer Fees rule section.	No
20.200.3	Sets CAC Trainer Fees	New Rule	A. An applicant applying as a single trainer shall submit a one-time fee of one hundred fifty dollars ($150.00). B. An applicant applying as co-trainers shall submit a one-time application fee of two hundred dollars ($200.00).	Sets a fee for CAC training as required by 27-80-111, C.R.S.	Yes

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
CDHS Tracking #:	**18-03-27-02**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-7405
OBH, CBH	Ryan Templeton	E-Mail: ryan.templeton@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

The Office of Behavioral Health Workforce Development and Innovation Unit in collaboration with the Office of Behavioral Health's regulatory staff created an initial rule draft. This initial rule draft was created to meet the Office of Behavioral Health's statutory requirement of establishing rules for the fees to be charged for addiction counselor training. The rule draft also aligns with the fees currently established in the Certified Addiction Counselor (CAC) Clinical Training Program – OBH Approved Trainer Program.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

The Certified Addiction Counselor (CAC) Clinical Training Program Approved Trainer Fees rule draft, along with a feedback survey was posted on Colorado Department of Human Services website. The Office of Behavioral Health informed behavioral health stakeholders through direct contact and through the OBH monthly newsletter that the rule draft was available for review and feedback. Stakeholders specifically targeted for review and feedback on the proposed rule included current OBH approved CAC trainers and certified addiction counselors.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

Not applicable

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [X] No

Name of Sub-PAC	Not applicable		
Date presented	Not applicable		
What issues were raised?	Not applicable		
Vote Count	*For*	*Against*	*Abstain*
	n/a	n/a	n/a
If not presented, explain why.	There is not a Behavioral Health Sub-PAC, this rule-making packet was presented to PAC on April 5, 2018 without a Sub-PAC review.		

PAC

Have these rules been approved by PAC?

[X] Yes [ ] No

Date presented	April 5, 2018		
What issues were raised?	No		
Vote Count	*For*	*Against*	*Abstain*

Title of Proposed Rule:	**Executive Director Rules – Certified Addiction Counselor (CAC) Clinical Training Program – Approved Trainer Fees**	
CDHS Tracking #:	**18-03-27-02**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-7405
OBH, CBH	Ryan Templeton	E-Mail: ryan.templeton@state.co.us

	Unanimous	0	0
If not presented, explain why.	n/a		

Other Comments
Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

General Feedback	
Feedback	*Response*
There is a distinct quality difference in trainers, which I do not believe would be reflected in standardized rates for trainings. I think it is appropriate for trainers with higher ratings/skills to be able to determine their fee for the time they spend training. Without a way to evaluate the trainer to determine fees and the lack of current industry standards, what would guide the fee schedule for services? Also, with the workforce shortage why would you eliminate the opportunity to be competitive with private practice, facility work, etc. by limiting a trainer's potential growth?	The one-time fee for becoming an Office of Behavioral Health (OBH) approved trainer is currently the standard for the OBH Approved Trainer Program. This rule allows the Office of Behavioral Health to be in compliance with Section 27-80-111, C.R.S. by establishing the fee for addiction counselor training in rule. The Office of Behavioral Health sets the one-time fee to become an OBH approved trainer. The Office of Behavioral Health does not set the fees for how much the OBH approved trainer can charge for their training.

Section 21.200.3 CAC Clinical Training Program Approved Trainer Fees	
Feedback	*Response*
My feedback is: if the state of CO NEEDS these CAC trainers to certify others to improve the quality of care for the state, it seems indulgent to charge these providers TWICE - first to obtain their independent CAC, then second to help others obtain theirs. Additionally, the CAC trainers must provide their own curriculum, without compensation, the state will utilize in the training of others. In essence, the CAC trainer does the work for the state of CO, then the state charges them fees to complete training the state does not offer for its practitioners. The additional fee is unreasonable.	The Office of Behavioral Health (OBH) in the Colorado Department of Human Services oversees the CAC Clinical Training Program. Within this program is included the OBH Approved Trainer Program. The purpose of this program is to approve qualified trainers to provide required training classes for certification as an addiction counselor in Colorado. Individual trainers develop training curriculums, agendas, PowerPoint presentations, and examinations for each of the classes they wish to train based on the Core Competencies developed by the CAC Clinical Training Program. The approved CAC trainer program was established to ensure consistency across the trainings needed for certification as an addiction counselor. The one-time fee is statutorily required and the

	funds collected by the fee are expected to cover a portion of the costs associated with the administration of the Certified Addiction Counselor Training Program. The Office of Behavioral Health sets the one-time fee to become an OBH approved trainer. The Office of Behavioral Health does not set the fees for how much the OBH approved trainer can charge for their training.
This change appears appropriate.	This rule establishes fees for the training of addiction counselors as required by statute. The fees established in this rule are the fees that are currently being collected when an applicant applies to be an Office of Behavioral Health Approved Trainer.
I am good with it.	The Office of Behavioral Health appreciates your input.
The fees seem reasonable and equitable.	This rule establishes fees for the training of addiction counselors as required by statute. The fees established in this rule are the fees that are currently being collected when an applicant applies to be an Office of Behavioral Health Approved Trainer.
Trainer and co-trainer should have the same fees.	The Office of Behavioral Health feels that having two separate fees based on the applying entity is appropriate. Co-trainers apply for approval as one applicant. Each co-trainer must be appropriately credentialed to be an OBH approved trainer and the higher fee covers of the cost of the additional confirmation requirements.

(2 CCR 502-5)

~~20.000~~ 20.100 EXECUTIVE DIRECTOR RULES – THE PROCEDURE FOR AWARDING GAMBLING ADDICTION GRANTS

~~20.100~~ 20.100.1 DEFINITIONS

****

~~20.110~~ 20.100.11 GENERAL PROVISIONS

****

~~20.200~~ 20.100.2 GRANT ADMINISTRATION

****

~~20.300~~ 20.100.3 GAMBLING ADDICTION COUNSELING GRANT CRITERIA

B. Gambling Addiction Counseling Grant Application Procedure

2. Gambling Addiction Counseling Grant Application Contents

a. Proof that the criteria in Section ~~20.300~~ 20.100.3, A, is met; and,

****

~~20.310~~ 20.100.31 AWARDING GAMBLING ADDICTION COUNSELING GRANTS

****

~~20.320~~ 20.100.32 GAMBLING ADDICTION COUNSELING GRANT AWARDEE DATA REPORTING REQUIREMENTS

****

~~20.400~~ 20.100.4 GAMBLING ADDICTION TRAINING GRANTS AND CRITERIA FOR GRANT AWARDEES

B. Gambling addiction training grant applicants must meet the following requirements:

2. Certified Addiction Counselor II or higher and/or a behavioral health professional as defined in Section ~~20.100~~ 20.100.1; and,

C. Gambling Addiction Training Grant Application Procedure

2. Gambling Addiction Training Grant Application Contents

a. Proof that the criteria in Section ~~20.400~~ 20.100.4, B, is met; and,

****

~~20.410~~ 20.100.41 **GAMBLING ADDICTION TRAINING GRANT AWARDING PROCEDURE**

****

~~20.420~~ 20.100.42 **GAMBLING ADDICTION TRAINING GRANT VERIFICATION PROCEDURE**

****

~~20.500~~ 20.100.5 **APPEALS PROCESS FOR GAMBLING ADDICITON COUNSELING GRANTS AND GAMBLING ADDICTION TRAINING GRANTS**

****

~~20.600~~ 20.100.6 **REPORTING**

****

20.200 EXECUTIVE DIRECTOR RULES – CERTIFIED ADDICTION COUNSELOR (CAC) CLINICAL TRAINING PROGRAM APPROVED TRAINER FEES

20.200.1 DEFINITIONS

"CO-TRAINERS" MEANS AN APPLICATION CONTAINS INFORMATION ON TWO (2) TRAINERS; BOTH TRAINERS MUST BE IN ATTENDANCE FOR THE FULL APPROVED TRAINING; EACH HAS SPECIFIC APPROVED CURRICULUM SECTIONS TO TEACH, AND NEITHER IS APPROVED TO TEACH THE CLASS INDEPENDENTLY OF THE OTHER.

"SINGLE TRAINER" MEANS THE TRAINER IS RESPONSIBLE FOR TRAINING THE ENTIRE APPROVED CURRICULUM.

20.200.2 GENERAL PROVISIONS

AN APPLICANT APPLYING FOR CAC CLINICAL TRAINING PROGRAM APPROVED TRAINER STATUS SHALL SUBMIT A COMPLETE APPLICATION WITH REQUIRED DOCUMENTATION AND A ONE-TIME FEE ESTABLISHED PURSUANT TO 27-80-111, C.R.S.

20.200.3 CAC CLINICAL TRAINING PROGRAM APPROVED TRAINER FEES

A. AN APPLICANT APPLYING AS A SINGLE TRAINER SHALL SUBMIT A ONE-TIME FEE OF ONE HUNDRED FIFTY DOLLARS ($150.00).

B. AN APPLICANT APPLYING AS CO-TRAINERS SHALL SUBMIT A ONE-TIME APPLICATION FEE OF TWO HUNDRED DOLLARS ($200.00).

Notice of Proposed Rulemaking

Tracking number

2018-00197

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 Accident and Health (General)

Rulemaking Hearing

Date

06/01/2018

Time

10:00 AM

Location

1560 Broadway, Ste 110 D, Denver CO 80202

Subjects and issues involved

4-2-18 CONCERNING THE METHOD OF CREDITING AND CERTIFYING CREDITABLE COVERAGE FOR PRE-EXISTING CONDITIONS FOR INDIVIDUAL GRANDFATHERED HEALTH BENEFIT PLANS

Statutory authority

10-1-109(1), 10-16-109, C.R.S., and 10-16-118(1)(b), C.R.S. (2012)

Contact information

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DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Proposed Amended Regulation 4-2-18

CONCERNING THE METHOD OF CREDITING AND CERTIFYING CREDITABLE COVERAGE FOR PRE-EXISTING CONDITIONS FOR INDIVIDUAL GRANDFATHERED HEALTH BENEFIT PLANS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109(1), 10-16-109, C.R.S., and 10-16-118(1)(b), C.R.S. (2012).

Section 2 Scope and Purpose

The purpose of this regulation is to establish the method individual grandfathered health benefit plans must use to credit and certify creditable coverage for purposes of limiting pre-existing condition exclusion periods, as required by § 10-16-118(1)(b), C.R.S. (2012).

Section 3 Applicability

This amended regulation shall apply to all certificates of creditable coverage issued on or after ~~January 1, 2014~~the effective date of this regulation.

Section 4 Definitions

A. "Creditable coverage" shall have the same meaning as found at §10-16-102(16), C.R.S.~~"Individual", as used in this regulation, means a person age nineteen years and older.~~

B. "Grandfathered health benefit plan" shall have the same meaning as found at §10-16-102(31), C.R.S.

C. "Person" means, for the purposes of this regulation, a person age nineteen (19) years and older.

~~C~~D. "Significant break in coverage" means, for the purposes of this regulation, a period of consecutive days during all of which the ~~individual~~person does not have any creditable coverage, except that neither a waiting period nor an affiliation period is taken into account in determining a significant break in coverage. For plans subject to the jurisdiction of the Colorado Division of Insurance (Division), a significant break in coverage consists of more than ninety (90) consecutive days. For all other plans (i.e., those not subject to the jurisdiction of the Division, a significant break in coverage may consist of as few as sixty-three (63) days.)

Section 5 Rules

A. Application of federal laws concerning creditable coverage.

1. The method for crediting and certifying creditable coverage for purposes of limiting pre-existing condition exclusion periods, as required by § 10-16-118(1)(b), C.R.S. (2012), shall be as set forth in the federal regulations incorporated by reference into this regulation.

2. Where Colorado law exists on the same subject and has different requirements that are not pre-empted by federal law, Colorado law shall prevail.

B. Colorado law concerning creditable coverage.

1. The method for crediting and certifying creditable coverage described in this regulation shall apply to ~~both group and~~ individual grandfathered health benefit plans that are subject to § 10-16-118(1)(b), C.R.S. (2012)

2. Colorado law requires individual grandfathered health ~~coverage~~benefit plans to waive any exclusionary time periods applicable to pre-existing conditions for the period of time an individual was previously covered by creditable coverage, provided there was no significant break in coverage, if such creditable coverage was continuous to a date not more than ninety (90) days prior to the effective date of the new coverage. Colorado law prevails over the federal regulations.

~~3. Application of the rules regarding breaks in coverage can vary between issuers located in different states, and between fully insured plans and self-insured plans within a state. The laws applicable to the grandfathered health benefit plan that has the pre-existing condition exclusion will determine which break rule applies.~~

~~4~~3. Colorado law does not require a specific format for certificates of creditable coverage as long as all of the information required by 45 C~~.~~F~~.~~R~~.~~ 146.115(a)(3), or 45 C~~.~~F~~.~~R~~.~~ 148.124(b)(2), as appropriate, is included. However, any health coverage plan subject to the jurisdiction of the Division must issue certificates of creditable coverage that reflect the definition of a "significant break in coverage" found in section 4.~~C~~D. of this regulation.

C. Pre-existing condition exclusion period for group health benefit plans.

~~Colorado~~Federal law prohibits group grandfathered ~~group~~ health benefit plans from imposing a pre-existing condition limitation period.

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 the regulation shall not be affected and shall remain in full force and effect.

Section 7 Incorporated Materials

45 CFR § 146.115 published by the Government Printing Office shall mean 45 CFR § 146.115 as published on the effective date of this regulation and does not include later amendments to or editions of 45 CFR § 146.115. A copy of 45 CFR § 146.115 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A ~~C~~certified copy of the 45 CFR § 146.115 may be requested from the ~~Rulemaking Coordinator,~~ Colorado Division of Insurance~~, 1560 Broadway, Suite 850, Denver, CO 80202~~. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.

45 CFR § 148.124~~(b)~~ published by the Government Printing Office shall mean 45 CFR § 148.124~~(b)~~ as published on the effective date of this regulation and does not include later amendments to or editions of 45 CFR § 148.124~~(b)~~. A copy of 45 CFR § 148.124~~(b)~~ may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A ~~C~~certified copy of the 45 CFR § 148.124~~(b)~~ may be requested from the ~~Rulemaking Coordinator,~~ Colorado Division of Insurance~~, 1560 Broadway, Suite 850, Denver, CO 80202.~~ A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.

Section 8 Enforcement

Non-compliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 9 Effective Date

This amended regulation is effective on ~~January~~July 1, 201~~4~~8.

Section 10 History

Originally issued as Emergency Regulation 97-E-6, effective July 31, 1997.
Issued as Regulation 4-2-18, effective October 30, 1997.
Amended, effective November 1, 1999.
Amended, effective October 1, 2004.
Amended regulation effective March 1, 2012.
Amended regulation effective January 1, 2014.
Amended regulation effective July 1, 2018.

Notice of Proposed Rulemaking

Tracking number

2018-00191

Department

700 - Department of Regulatory Agencies

Agency

725 - Division of Real Estate

CCR number

4 CCR 725-1

Rule title

RULES REGARDING REAL ESTATE BROKERS

Rulemaking Hearing

Date

06/05/2018

Time

09:00 AM

Location

1560 Broadway, Suite 1250-C, Denver, CO

Subjects and issues involved

Rule B. Continuing Education

B-2 Methods of completing continuing education.

Statutory authority

Part 1 of Title 12, Article 61, Colorado Revised Statutes, as amended.

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DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF REAL ESTATE
REAL ESTATE COMMISSION
4 CCR 725-1

NOTICE OF PROPOSED PERMANENT RULEMAKING HEARING
June 5, 2018

RULE B. CONTINUING EDUCATION

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

STATEMENT OF BASIS

The statutory basis for the rules titled Rules of the Colorado Real Estate Commission is Part 1 of Title 12, Article 61, Colorado Revised Statutes, as amended.

STATEMENT OF PURPOSE

The purpose of this rule is to effectuate the legislative directive to promulgate necessary and appropriate rules in conformity with the state statutes of the real estate practice act.

SPECIFIC PURPOSE OF THIS RULEMAKING

The specific purpose of this rule is to amend or repeal existing rules with respect to continuing education requirements to implement calendar year license cycles as mandated by HB18-1227.

PROPOSED NEW, AMENDED AND REPEALED RULES

[Deleted material is shown ~~struck through~~; new material is shown in red.] Rules, or portions of rules, which are unaffected are reproduced. Readers are advised to obtain a copy of the complete rules of the Commission at www.dora.colorado.gov/dre.

Proposed New, Amended and Repealed Rules

Rule B. Continuing Education

B-2. Methods of completing continuing education.

Licensees may satisfy the entire continuing education requirement for a license cycle through one of the following options:

(a) Complete the twelve hours required by section 12-61-110.5(1)(c), C.R.S., and required by this rule in annual 4-hour increments developed by the Commission, otherwise referred to as the "Annual Commission Update Course." Licensees who choose this option must complete an additional 12 hours of elective credit hours to meet the 24-hour total continuing education requirement during the license cycle in subject areas listed in section 12-61-110.5(3), C.R.S. Please note that a licensee may not take the same version of the Annual Commission Update Course more than once. If a licensee takes more than 12 hours of the

Annual Commission Update course during a license cycle, the licensee will receive elective credit hours for any additional hours.

(a.1) To accommodate licensees during the transition period, licensees may complete ~~the 4-hour "Transition Course" along with~~ two different versions of the Annual Commission Update Course to satisfy the ~~twelve~~eight (8) hours of mandated education pursuant to section 12-61-110.5(1)(~~c~~d), C.R.S. Licensees who choose this option must complete an additional ~~12~~16 hours of elective credit hours to meet the 24-hour total continuing education requirement during the transition period in subject areas listed in section 12-61-110.5(3), C.R.S. ~~A licensee may take the Transition Course at any time during the transition period including in the same year they complete one of the two Annual Commission Update Courses.~~

(b) Complete the Commission approved 24-hour "Broker Reactivation Course." This option is available to licensees under one of the following conditions:

(1) Licensee is currently active and did not use the Broker Reactivation Course to satisfy the Rule B-2(a) or (a.1) requirements in the previous license cycle.

(2) Licensee is (A) inactive and/or expired for up to thirty-six months prior to activating an inactive license or reinstating an expired license to active status and (B) unable to comply with the education requirements listed in Rule B-2(a) or (a.1).

(c) Pass the Colorado state portion of the licensing exam.

(d) Complete 72 total hours of pre-licensure education concerning the understanding and preparation of Colorado real estate contracts (48 hours) and real estate closings (24 hours). The courses and course providers are required to comply with the requirements as described at section 12-61-103(4)(a), C.R.S. Any inactive or expired licensee who cannot meet the education requirements listed in section (a), (a.1), (b), or (c), must comply with the education requirements found in section (d) of this rule before activation or reinstatement of the license.

A hearing on the above subject matter will be held on Tuesday, June 5, 2018, at the Colorado Division of Real Estate, 1560 Broadway, Suite 1250C, Denver, Colorado 80202 beginning at 9:00 a.m.

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

Notice of Proposed Rulemaking

Tracking number

2018-00172

Department

1000 - Department of Public Health and Environment

Agency

1001 - Air Quality Control Commission

CCR number

5 CCR 1001-9

Rule title

REGULATION NUMBER 7 CONTROL OF OZONE VIA OZONE PRECURSORS AND CONTROL OF HYDROCARBONS VIA OIL AND GAS EMISSIONS

Rulemaking Hearing

Date

07/19/2018

Time

09:00 AM

Location

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

Subjects and issues involved

To consider revisions to Regulation Number 7 to satisfy Reasonably Available Control Technology (RACT) requirements for Moderate nonattainment areas by establishing categorical RACT requirements for major sources of nitrogen oxides (NOx) in the Denver Metro and North Front Range Nonattainment Area. Specifically, the proposed revisions include RACT requirements in Section XVI.D. for boilers, stationary combustion turbines, lightweight aggregate kilns, glass melting furnaces and compression ignition reciprocating internal combustion engines (collectively referred to as stationary combustion equipment) located at major sources of NOx. The Commission may also make clarifying revisions and typographical, grammatical, and formatting corrections throughout Regulation Number 7.

Statutory authority

Sections 25-7-101, 105(1)(a), 301, 106, 106(1)(c) and (2), 109(1)(a), 110, 110.5, 110.8, and Section 24-4-103 CRS as applicable and amended.

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DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Air Quality Control Commission

REGULATION NUMBER 7

Control of Ozone via Ozone Precursors and Control of Hydrocarbons via Oil and Gas Emissions

(Emissions of Volatile Organic Compounds and Nitrogen Oxides)

5 CCR 1001-9

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

Outline of Regulation

XVII. (State Only, except Section XVII.E.3.a. which was submitted as part of the Regional Haze SIP) Statewide Controls for Oil and Gas Operations and Natural Gas-Fired Reciprocating Internal Combustion Engines

XVIII. (State Only) Natural Gas-Actuated Pneumatic Controllers Associated with Oil and Gas Operations

XIX. Control of Emissions from Specific Major Sources of VOC and/or NOx in the 8-Hour Ozone Control Area

XX. Statements of Basis, Specific Statutory Authority and Purpose

>>>>>>>>>>>>>>>

XVI. Control of Emissions from Stationary and Portable ~~Engines and Other~~ Combustion Equipment in the 8-Hour Ozone Control Area

XVI.A Requirements for new and existing engines.

XVI.A.1. The owner or operator of any natural gas-fired stationary or portable reciprocating internal combustion engine with a manufacturer's design rate greater than 500 horsepower commencing operations in the 8-hour Ozone Control Area on or after June 1, 2004 shall employ air pollution control technology to control emissions, as provided in Section XVI.B.

XVI.A.2. Any existing natural gas-fired stationary or portable reciprocating internal combustion engine with a manufacturer's design rate greater than 500 horsepower, which existing engine was operating in the 8-hour Ozone Control Area prior to June 1, 2004, shall employ air pollution control technology on and after May 1, 2005, as provided in Section XVI.B.

XVI.B. Air pollution control technology requirements

XVI.B.1. For rich burn reciprocating internal combustion engines, a non-selective catalyst reduction and an air fuel controller shall be required. A rich burn reciprocating internal combustion engine is one with a normal exhaust oxygen concentration of less than 2% by volume.

XVI.B.2. For lean burn reciprocating internal combustion engines, an oxidation catalyst shall be required. A lean burn reciprocating internal combustion engine is one with a normal exhaust oxygen concentration of 2% by volume, or greater.

XVI.B.3. The emission control equipment required by this Section XVI.B shall be appropriately sized for the engine and shall be operated and maintained according to manufacturer specifications.

XVI.C. The air pollution control technology requirements in Sections XVI.A. and XVI.B. do not apply to:

XVI.C.1. Non-road engines, as defined in Regulation Number 3, Part A, Section I.B.31.

XVI.C.2. Reciprocating internal combustion engines that the Division has determined will be permanently removed from service or replaced by electric units on or before May 1, 2007. The owner or operator of such an engine shall provide notice to the Division of such intent by May 1, 2005 and shall not operate the engine identified for removal or replacement in the 8-hour Ozone Control Area after May 1, 2007.

XVI.C.3. Any emergency power generator exempt from APEN requirements pursuant to Regulation Number 3, Part A.

XVI.C.4. Any lean burn reciprocating internal combustion engine operating in the 8-hour Ozone Control Area prior to June 1, 2004, for which the owner or operator demonstrates to the Division that retrofit technology cannot be installed at a cost of less than $5,000 per ton of VOC emission reduction. Installation costs and the best information available for determining control efficiency shall be considered in determining such costs. In order to qualify for such exemption, the owner or operator must submit an application making such a demonstration, together with all supporting documents, to the Division by May 1, 2005. Any reciprocating internal combustion engine qualifying for this exemption shall not be moved to any other location within the 8-hour Ozone Control Area.

XVI.D. Requirements for major sources of NOx

XVI.D.1. Applicability. Except as provided in Section XVI.D.2., the requirements of this Section XVI.D. apply to owners and operators of any stationary combustion equipment that existed at a major source of NOx as of June 3, 2016 located in the 8-Hour Ozone Control Area.

XVI.D.2. Exemptions. The following stationary combustion equipment are exempt from the emission limitation requirements of Section XVI.D.4., the compliance demonstration requirements in Section XVI.D.5., and the related recordkeeping and reporting requirements of Sections XVI.D.7.a-f. and XVI.D.8, but these sources must maintain any and all records necessary to demonstrate that an exemption applies. These records must be maintained for a minimum of five years and made available to the Division upon request.

Once stationary combustion equipment no longer qualifies for any exemption, the owner or operator must comply with the applicable requirements of this Section XVI.D. as expeditiously as practicable but no later than 36 months after any exemption no longer applies. Additionally, once stationary combustion equipment that is not equipped with CEMS or CERMS no longer qualifies for any exemption, the owner or operator must conduct a performance test using EPA test methods within 180 days and notify the Division of the results and whether emission controls will be required to comply with the emission limitations of Section XVI.D.4.

XVI.D.2.a. Any stationary combustion equipment whose utilization is less than 20% of its capacity factor on an annual average basis over a 3-year rolling period.

XVI.D.2.b. An engine testing operation or process line.

XVI.D.2.c. Any gaseous fuel fired stationary combustion equipment used to control VOC emissions from a commercial or industrial process.

XVI.D.2.d. Any stationary combustion equipment with total uncontrolled actual emissions less than 5 tpy NOx on a calendar year basis.

XVI.D.2.e. Any natural gas-fired engines subject to a work practice or emission control requirement contained in this Regulation 7, Section XVI.A. or B.

XVI.D.2.f. Any stationary combustion equipment subject to a federally enforceable work practice or emission control requirement contained in this Regulation 7, Section XIX.A.-D or Regulation 3, Part F.

XVI.D.3. Definitions

XVI.D.3.a. "Affected unit" means any stationary combustion equipment that is subject to or becomes subject to an emission limitation in Section XVI.D.4.

XVI.D.3.b. "Boiler" means an enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water.

XVI.D.3.c. "Capacity factor" means -the ratio of the amount of fuel burned by an emissions unit in a calendar year to the amount of fuel it could have burned if it had operated at the designed heat input rating for 8,760 hours during the calendar year. Alternatively, for electric generating units, capacity factor can mean the ratio of the unit's actual annual electric output (expressed in MWe/hr) to the electric output the unit could have achieved if it operated at its nameplate capacity (or maximum observed hourly gross load (expressed in MWe/hr) if greater than the nameplate capacity) for 8,760 hours during the calendar year.

XVI.D.3.d. "Continuous emission monitoring system" ("CEMS") or "Continuous emission rate monitoring system" ("CERMS") means the total equipment required to sample, condition (if applicable), analyze, and provide a written record of such emissions and/or emission rates, expressed on a continuous basis in terms of an applicable emission limitation. Such equipment includes, but is not limited to, sample collection and calibration interfaces, pollutant analyzers, a diluent analyzer (oxygen or carbon dioxide), stack gas volumetric flow monitors (if appropriate for CERMS), and data recording and storage devices.

XVI.D.3.d. "Compression ignition reciprocating internal combustion engine (RICE)" means a type of stationary RICE that is liquid fuel-fired and not ignited with a spark plug or other sparking device.

XVI.D.3.e. "Digester gas" means any gaseous byproduct of wastewater treatment typically formed through the anaerobic decomposition of organic waste materials and composed principally of methane and carbon dioxide.

XVI.D.3.f. "Duct burner" means a device that combusts fuel and is placed in the exhaust duct from another source (e.g., stationary combustion turbine, internal combustion engine, or kiln) to allow the firing of additional fuel to heat the exhaust gases before the exhaust gases enter a heat recovery steam generating unit.

XVI.D.3.g. "Gaseous fuel" means natural gas, landfill gas, refinery fuel gas, digester gas, methane, ethane, propane, butane, or any gas stored as a liquid at high pressure such as liquefied petroleum gas.

XVI.D.3.h. "Glass melting furnace" means an emissions unit comprising a refractory vessel in which raw materials are charged, melted at high temperature, refined, and conditioned to produce molten glass.

XVI.D.3.i. "Kiln" means the equipment used to remove combined (chemically bound) water and/or gases from mineral material through direct or indirect heating.

XVI.D.3.j. "Lightweight aggregate" means the expanded, porous product from heating shales, clays, slates, slags, or other natural materials in a kiln.

XVI.D.3.k. "Liquid fuel" means any fuel which is a liquid at standard conditions including but not limited to distillate oils, kerosene and jet fuel. Liquefied gaseous fuels are not liquid fuels.

XVI.D.3.l. "Process heater" means an enclosed device using controlled flame and a primary purpose to transfer heat directly to a process material or to a heat transfer material for use in a process.

XVI.D.3.m. "Reciprocating internal combustion engine" means any reciprocating internal combustion engine which uses reciprocating motion to convert heat energy into mechanical work and which is not used to propel a motor vehicle or a vehicle used solely for competition.

XVI.D.3.n. "Stationary combustion equipment" means an emissions unit that combusts solid, liquid, or gaseous fuel, generally for the purposes of producing electricity, generating steam, or providing useful heat or energy for industrial, commercial, or institutional use. Stationary combustion equipment includes, but is not limited to, boilers, duct burners, engines, glass melting furnaces, kilns, process heaters and stationary combustion turbines.

XVI.D.3.o. "Stationary combustion turbine" means a non-mobile, enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine. Stationary combustion turbines can be simple cycle or combined cycle and they may or may not include a duct burner.

XVI.D.4. Emission limitations. By [DATE; no later than 36 months after the effective date of this rule], no owner or operator of stationary combustion equipment may cause, allow or permit NOx to be emitted in excess of the following emission limitations. When demonstrating compliance using continuous emissions monitoring pursuant to Section XVI.D.5.a.(ii)(B), the following emission limitations are on a 30-day rolling average basis.

XVI.D.4.a. Boilers

XVI.D.4.a.(i) For a gaseous fuel-fired boiler with a maximum design heat input capacity equal to or greater than 100 MMBtu/hr, 0.2 lb/MMBtu of heat input or less than 165 parts per million dry volume corrected to 3% oxygen.

XVI.D.4.a.(ii) For a liquid fuel-fired boiler with a maximum design heat input capacity equal to or greater than 100 MMBtu/hr, 0.2 lb/MMBtu of heat input or less than 165 parts per million dry volume corrected to 3% oxygen.

XVI.D.4.a.(iii) Boilers with a maximum design heat input capacity less than 100 MMBtu/hr must comply with the combustion process adjustment requirements contained in Section XVI.D.6. when burning gaseous fuel, liquid fuel, or any combination thereof.

XVI.D.4.b. Stationary combustion turbines

XVI.D.4.b.(i) Stationary combustion turbines with a maximum design heat input capacity equal to or greater than 10 MMBtu/hr and which commenced construction on or before February 18, 2005 must comply

with the applicable NOx emission limits in 40 CFR Part 60, Subpart GG (July 1, 2017).

XVI.D.4.b.(ii) Stationary combustion turbines with a maximum design heat input capacity equal to or greater than 10 MMBtu/hr and which commenced construction, modification or reconstruction after February 18, 2005 must comply with the applicable NOx emission limits in 40 CFR Part 60, Subpart KKKK (July 1, 2017).

XVI.D.4.b.(iii) Stationary combustion turbines with a maximum design heat input capacity less than 10 MMBtu/hr must comply with the combustion process adjustment requirements contained in Section XVI.D.6. when burning gaseous fuel, liquid fuel, or any combination thereof.

XVI.D.4.c. Lightweight aggregate kilns. For lightweight aggregate kilns with a maximum design heat input capacity equal to or greater than 50 MMBtu/hr, 56.6 pounds of NOx per hour.

XVI.D.4.d. Glass melting furnaces

XVI.D.4.d.(i) For, glass melting furnaces with a maximum design heat input capacity equal to or greater than 50 MMBtu/hr, 1.2 pounds of NOx per ton of glass pulled. However, days in which a glass melting furnace is operated at less than 35% of maximum designed production may be excluded from the 30-day rolling average for purposes of demonstrating compliance with Section XVI.D.4.d.(i). During each day excluded from the 30-day rolling average, NOx emissions must be measured continuously in accordance with the applicable monitoring requirements of Section XVI.D.5, and the furnace must be operated in accordance with good air pollution control practices.

XVI.D.4.e. Compression ignition RICE

XVI.D.4.e.(i) For a compression ignition RICE with a maximum design power output equal to or greater than 500 horsepower, 9 grams per brake horsepower-hour.

XVI.D.4.e.(ii) Compression ignition RICE with a maximum design power output less than 500 horsepower must comply with the combustion process adjustment requirements contained in Section XVI.D.6.

XVI.D.5. Compliance demonstration. By [DATE; no later than 36 months after the effective date of this rule], the owner or operator of an affected unit must determine compliance with the applicable emission limitations contained in Section XVI.D.4. according to the applicable methods contained in this Section XVI.D.5.

VI.D.5.a. Emissions monitoring requirements for major source RACT limits

XVI.D.5.a.(i) Continuous emission monitoring

XVI.D.5.a.(i)(A) Owners or operators of an affected unit subject to a NOx emission limit in Section XVI.D.4.a.(i)-(ii), c. or d. must install, operate and maintain a NOx CEMS or CERMS to monitor compliance with the applicable emission limit in accordance with this section XVI.D.5.a.(i). Owners or operators of affected units

subject to a NOx emission limit in Section XVI.D.4.b. or e. may install, operate and maintain a NOx CEMS or CERMS to monitor compliance with the applicable emission limit in accordance with this Section XVI.D.5.a.(i) in lieu of performance testing pursuant to Section XVI.D.5.a.(ii).

XVI.D.5.a.(i)(A)(1) The owner or operator of an affected unit that is subject to or becomes subject to the monitoring requirements of 40 CFR part 75 and 40 CFR part 75, Appendices A to I, must use those monitoring methods and specifications for monitoring NOx emissions for purposes of this Section XVI.D.5. and for demonstrating compliance with Section XVI.D.4. The missing data substitution procedures and bias adjustment requirements of 40 CFR Part 75 do not apply for purposes of demonstrating compliance with Section XVI.D.4. or this Section XVI.D.5.

XVI.D.5.a.(i)(A)(2) For an affected unit equipped with a NOx CEMS or CERMS for purposes of demonstrating compliance with an applicable subpart of 40 CFR Part 60, the owner or operator must use the definition of operating day, data averaging methodology, and data validation requirements of the applicable subpart of 40 CFR Part 60 for purposes of demonstrating compliance with an applicable 30-day rolling average emission limit in Section XVI.D.4. The owner or operator must calibrate, maintain, and operate the CEMS or CERMS and validate emissions data according to the applicable requirements of 40 CFR Part 60, Section 60.13, the performance specifications in 40 CFR Part 60, Appendix B, and the quality assurance procedures of 40 CFR Part 60, Appendix F.

XVI.D.5.a.(i)(A)(3) For an affected unit that is not equipped with a NOx CEMS or CERMS for purposes of demonstrating compliance with 40 CFR Part 60 or Part 75, the owner or operator must install, operate, and maintain a NOx CEMS or CERMS that measures emissions in terms of the applicable emission limitation and must calibrate, maintain, and operate the CEMS or CERMS and validate emissions data according to the applicable provisions of 40 CFR Part 60, Section 60.13, the performance specifications in 40 CFR Part 60, Appendix B, and the quality assurance procedures of 40 CFR Part 60, Appendix F. The owner or operator must use the following methodology for purposes of demonstrating compliance with an applicable 30-day rolling average emission limit in Section XVI.D.4.:

XVI.D.5.a.(i)(A)(3)(a) A unit operating day is a calendar day when any fuel is combusted in the affected unit.

XVI.D.5.a.(i)(A)(3)(b) 30-day rolling average emission rates must be calculated as the arithmetic

average emissions rates determined by the CEMS or CERMS for all hours the affected unit combusted any fuel from the current unit operating day and the prior 29 unit operating days.

XVI.D.5.a.(i)(A)(4) When an affected unit utilizes a common flue gas stack system with one or more affected units, but no non-affected units, the owner or operator must follow the applicable procedures of 40 CFR Part 75, Appendix F for the determination of all sampling locations and apportionment of emissions to an individual affected unit.

XVI.D.5.a.(ii) Initial and periodic performance testing

XVI.D.5.a.(ii)(A) An owner or operator of a stationary combustion turbine subject to 40 CFR Part 60, Subparts GG or KKKK that has used and continues to use performance testing to demonstrate compliance with either Subpart GG or KKKK, as applicable, may use those performance testing procedures to demonstrate continued compliance with an applicable limitation contained in Section XVI.D.4.b., thereby satisfying the requirements of this section XVI.D.5.a.(ii).

XVI.D.5.a.(ii)(B) Except as otherwise provided for in Section XVI.D.5.a.(ii)(A), the owner or operator of an affected unit subject to a NOx emission limitation contained in Section XVI.D.4.b. or e. that is not equipped with NOx CEMS or CERMS, must conduct an initial performance test and subsequent performance tests every 2 years thereafter, according to the following requirements, as applicable, to determine the affected unit's NOx emission rate for each fuel fired in the affected unit. A performance test is not required for a fuel used only for startup or for a fuel constituting less than 2% of the unit's annual heat input, as determined at the end of each calendar year.

XVI.D.5.a.(ii)(B)(1) Initial performance test must include a determination of the capacity load point of the unit's maximum NOx emissions rate based on one 30 minute test run at each capacity load point for which the unit is operated, other than for startup and shutdown, in the load ranges of 20 to 30%, 45 to 55%, and 70 to 100%. Subsequent performance tests must be performed within the capacity load range determined to result in the maximum NOx emissions rate.

XVI.D.5.a.(ii)(B)(2) Performance tests must determine compliance with Section XVI.D.4. based on the average of three 60-minute test runs performed at the capacity load determined in XVI.D.5.a.(ii)(A)(1).

XVI.D.5.a.(ii)(C) All performance tests must be conducted in accordance with EPA test methods and a test protocol submitted to the Division for review at least thirty (30) days prior to testing and in

accordance with AQCC Common Provisions Regulation Section II.C.

XVI.D.5.a.(iii) For affected units subject to a production-based or output based emission limit contained in Section XVI.D.4. (e.g. lb of NOx/ton of product), the owner or operator must install, operate, and maintain monitoring equipment for measuring and recording the affected unit's production or output, on an hourly basis, in units consistent with the applicable emission limitation.

XVI.D.5.a.(iv) Where measuring fuel use is necessary to calculate an emission rate in the units of the applicable standard, fuel flowmeters must be installed, calibrated, maintained, and operated according to manufacturer's instructions for measuring and recording heat input in terms of the applicable emission limitation. Alternatively, fuel flowmeters that meet the installation, certification, and quality assurance requirements of 40 CFR Part 75, Appendix D are acceptable for demonstrating compliance with this section. The installation of fuel-flowmeters is not required where emissions of NOx in terms of the applicable standard can be calculated in accordance with applicable provisions of EPA Method 19 or where the standard is concentration based (e.g. parts per million dry volume corrected for oxygen).

XVI.D.6. Combustion process adjustment

XVI.D.6.a.

~~XVI.D.1.~~ As of January 1, 2017, this Section XVI.D.6. applies to ~~the following combustion equipment with uncontrolled actual emissions of NOx equal to or greater than five (5) tons per year, and that are located at existing major sources of NOx, as listed in Section XIX.A~~boilers, duct burners, process heaters, stationary combustion turbines, and stationary internal combustion engines with uncontrolled actual emissions of NOx equal to or greater than five (5) tons per year that existed at major sources of NOx as of June 3, 2016.

~~XVI.D.1.a. Boiler: an enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water.~~

~~XVI.D.1.b. Duct burner: a device that combusts fuel and is placed in the exhaust duct from another source (e.g., stationary combustion turbine, internal combustion engine, or kiln) to allow the firing of additional fuel to heat the exhaust gases before the exhaust gases enter a heat recovery steam generating unit.~~

~~XVI.D.1.c. Process heater: an enclosed device using controlled flame and a primary purpose to transfer heat indirectly to a process material or to a heat transfer material for use in a process.~~

~~XVI.D.1.d. Stationary combustion turbine.~~

~~XVI.D.1.e. Stationary internal combustion engine.~~

XVI.D.~~2~~6.b. Combustion process adjustment

XVI.D.~~2~~6.a~~b~~.(i) When burning the fuel that provides the majority of the heat input since the last combustion process adjustment and when operating at a

firing rate typical of normal operation, the owner or operator must conduct the following inspections and adjustments of boilers and process heaters, as applicable:

XVI.D.~~2~~6.~~a~~b.(i)(A) Inspect the burner and combustion controls and clean or replace components as necessary.

XVI.D.~~2~~6.~~a~~b.(~~i~~i)(B) Inspect the flame pattern and adjust the burner or combustion controls as necessary to optimize the flame pattern.

XVI.D.~~2~~6.~~a~~b.(~~ii~~i)(C) Inspect the system controlling the air-to-fuel ratio and ensure that it is correctly calibrated and functioning properly.

XVI.D.~~2~~6.~~a~~b.(~~iv~~)(D) Measure the concentration in the effluent stream of carbon monoxide and nitrogen oxide in ppm, by volume, before and after the adjustments in Sections XVI.D.~~2~~6.a.(i)(A) through (~~iii~~C). Measurements may be taken using a portable analyzer.

XVI.D.~~2~~6.b.(ii) The owner or operator of a duct burner must inspect duct burner elements, baffles, support structures, and liners and clean, repair, or replace components as necessary.

XVI.D.~~2~~6.~~c~~b.(iii) The owner or operator of a stationary combustion turbine must conduct the following inspections and adjustments, as applicable:

XVI.D.~~2~~6.~~c~~b.(ii)(A) Inspect turbine inlet systems and align, repair, or replace components as necessary.

XVI.D.~~2~~6.~~c~~b.(ii)(B) Inspect the combustion chamber components, combustion liners, transition pieces, and fuel nozzle assemblies and clean, repair, or replace components as necessary.

XVI.D.~~2~~6.~~c~~b.(iii)(C) When burning the fuel that provides the majority of the heat input since the last combustion process adjustment and when operating at a firing rate typical of normal operation, confirm proper setting and calibration of the combustion controls.

XVI.D.~~2~~6.~~d~~b.(iv) The owner or operator of a stationary internal combustion engine must conduct the following inspections and adjustments, as applicable:

XVI.D.~~2~~6.~~d~~b.(iv)(A) Change oil and filters as necessary.

XVI.D.~~2~~6.~~d~~b.(~~ii~~iv)(B) Inspect air cleaners, fuel filters, hoses, and belts and clean or replace as necessary.

XVI.D.~~2~~6.~~d~~b.(~~iii~~iv)(C) Inspect spark plugs and replace as necessary.

XVI.D.~~2~~6.~~e~~b.(v) The owner or operator must operate and maintain the boiler, duct burner, process heater, stationary combustion turbine, or stationary internal combustion engine consistent with manufacturer's specifications, if available, or good engineering and maintenance practices.

XVI.D.~~2~~6.~~f~~b.(vi) Frequency

XVI.D.~~2~~6.~~f~~b.(vi)(A) The owner or operator must conduct the initial combustion process adjustment by April 1, 2017. An owner or operator may rely on a combustion process adjustment conducted in accordance with applicable requirements and schedule of a New Source Performance Standard in 40 CFR Part 60 or National Emission Standard for Hazardous Air Pollutants in 40 CFR Part 63 to satisfy the requirement to conduct an initial combustion process adjustment by April 1, 2017.

XVI.D.~~2~~6.~~f~~b.(~~i~~vi)(B) The owner or operator must conduct subsequent combustion process adjustments at least once every twelve (12) months after the initial combustion adjustment, or on the applicable schedule according to Sections XVI.D.~~4.a.~~6.c.(i) or XVI.D.~~4.b~~6.c.(ii).

~~XVI.D.3. Recordkeeping~~

~~XVI.D.3.a. The owner or operator must create a report once every calendar year identifying the combustion equipment at the subject to Section XVI.D. and including for each combustion equipment:~~

~~XVI.D.3.a.(i) The date of the adjustment;~~

~~XVI.D.3.a.(ii) Whether the combustion process adjustment under Sections XVI.D.2.a. through XVI.D.2.e. was followed, and what procedures were performed;~~

~~XVI.D.3.a.(iii) Whether a combustion process adjustment under XVI.D.4.a. and XVI.D.4.b. was followed, what procedures were performed, and what New Source Performance Standard or National Emission Standard for Hazardous Air Pollutants applied, if any; and~~

~~XVI.D.3.a.(iv) A description of any corrective action taken.~~

~~XVI.D.3.a.(v) If the owner or operator conducts the combustion process adjustment according to the manufacturer recommended procedures and schedule and the manufacturer specifies a combustion process adjustment on an operation time schedule, the hours of operation.~~

~~XVI.D.3.a.(vi) If multiple fuels are used, the type of fuel burned and heat input provided by each fuel.~~

~~XVI.D.3.b. The owner or operator must retain manufacturer recommended procedures, specifications, and maintenance schedule if utilized under Section XVI.D.4.a. for the life of the equipment, and make available to the Division upon request.~~

~~XVI.D.3.c. The owner or operator must retain annual reports for at least 5 years, and make available to the Division upon request.~~

XVI.D.~~4~~6.c. As an alternative to the requirements described in Sections XVI.D.~~2.a. through XVI.D.2.e~~6.b.(i) through XVI.D.6.b.(v)~~. and XVI.D.3.a.~~:

XVI.D.~~4~~6.~~a~~c.(i) The owner or operator may conduct the combustion process adjustment according to the manufacturer recommended procedures and schedule; or

XVI.D.~~4~~6.~~b~~c.(ii) The owner or operator of combustion equipment that is subject to and required to conduct a period tune-up or combustion adjustment by the applicable requirements of a New Source Performance Standard in 40 CFR Part 60 or National Emission Standard for Hazardous Air Pollutants in 40 CFR Part 63 may conduct tune-ups or adjustments according to the schedule and procedures of the applicable requirements of 40 CFR Part 60 or 40 CFR Part 63.

~~XVI.D.4.c. The owner or operator may comply with applicable recordkeeping requirements related to combustion process adjustments conducted according to a New Source Performance Standard in 40 CFR Part 60 or National Emission Standard for Hazardous Air Pollutants in 40 CFR Part 63.~~

XVI.D.7. Recordkeeping. The following records must be kept for a period of five years and made available to the Division upon request:

XVI.D.7.a. The applicable emission limit and calculated heat input weighted emission limit for stationary combustion equipment demonstrating compliance for multiple fuels.

XVI.D.7.b. The 30-day rolling average emission rate calculated on a daily basis for sources using CERMS to comply with Section XVI.D.

XVI.D.7.c. The type and amount of fuel used.

XVI.D.7.d. The stationary combustion equipment's annual capacity factor on a calendar year basis.

XVI.D.7.e. All records generated to comply with the reporting requirements contained in Section XVI.D.8.

XVI.D.7.f. For stationary combustion equipment subject to the combustion process adjustment requirements in Section XVI.D.6., the following recordkeeping requirements apply:

XVI.D.7.f.(i) The owner or operator must create a record once every calendar year identifying the combustion equipment at the source subject to Section XVI.D. and including for each combustion equipment:

XVI.D.7.f.(i)(A) The date of the adjustment;

XVI.D.7.f.(i)(B) Whether the combustion process adjustment under Sections XVI.D.6.b.(i) through XVI.D.6.b.(v) was followed, and what procedures were performed;

XVI.D.7.f.(i)(C) Whether a combustion process adjustment under Sections XVI.D.6.a. and XVI.D.6.b. was followed, what procedures were performed, and what New Source Performance or National Emission Standard for Hazardous Air Pollutants applied, if any; and

XVI.D.7.f.(i)(D) A description of any corrective action taken.

XVI.D.7.f.(i)(E) If the owner or operator conducts the combustion process adjustment according to the manufacturer recommended procedures and schedule and the manufacturer specifies a combustion process adjustment on an operation time schedule, the hours of operation.

XVI.D.7.f.(i)(F) If multiple fuels are used, the type of fuel burned and heat input provided by each fuel.

XVI.D.7.f.(ii) The owner or operator must retain manufacturer recommended procedures, specifications, and maintenance schedule if utilized under Section XVI.D.6.a. for the life of the equipment.

XVI.D.7.f.(iii) As an alternative to the requirements described in Section XVI.D.7.h.(i), the owner or operator may comply with applicable recordkeeping requirements related to combustion process adjustments conducted according to a New Source Performance Standard in 40 CFR Part 60 or National Emission Standard for Hazardous Air Pollutants in 40 CFR Part 63.

XVI.D.7.g. All sources qualifying for an exemption under Section XVI.D.2. must maintain all records necessary to demonstrate that an exemption applies.

XVI.D.8. Reporting

XVI.D.8.a. For affected units demonstrating compliance with Section XVI.D.4. using CEMS or CERMS in accordance with Section XVI.D.5.a.(i)(A), the owner or operator must submit to the Division the following information:

XVI.D.8.a.(i) Quarterly or semi-annual excess emissions reports no later than the 30th day following the end of each semi-annual or quarterly period, as applicable. Excess emissions means emissions that exceed the applicable limitations contained in Section XVI.D.4. Excess emission reports must include the information specified in 40 CFR Part 60, Section 60.7(c) (July 1, 2018).

XVI.D.8.b. For affected units demonstrating compliance with Section XVI.D.4 using performance testing pursuant to Section XVI.D.5.a.(ii)(C), the owner or operator must submit to the Division the following information:

XVI.D.8.b.(i) Performance test reports within 60 days after completion of the performance test program. All performance test reports must determine compliance with the applicable emission limitations set by Section XVI.D.4.

>>>>>>>

XIX. Control of Emissions from Specific Major Sources of VOC and/or NOx in the 8-hour Ozone Control Area

~~XIX.A. The following major sources, that emit or have the potential to emit 100 tons per year of VOC or NOx as of January 1, 2017, and are located in the 8-hour Ozone Control Area, were analyzed in Colorado's Moderate Area SIP for the 2008 8-Hour Ozone NAAQS.~~

~~Anheuser-Busch, Fort Collins Brewery (069-0060) and Nutri-Turf (123-0497) (major for VOC and NOx)~~

~~Ball Metal Beverage Container Corporation (059-0010 major for VOC)~~

~~Buckley Air Force Base (005-0028 major for NOx)~~

~~Carestream Health (123-6350 major for NOx)~~

~~Cemex Construction Materials (013-0003 major for VOC and NOx)~~

~~Colorado Interstate Gas, Latigo (005-0055 major for NOx)~~

~~Colorado Interstate Gas, Watkins (001-0036 major for VOC and NOx)~~

~~Colorado State University (069-0011 major for NOx)~~

~~Corden Pharma Colorado (013-0025 major for VOC)~~

~~DCP Midstream, Enterprise (123-0277 major for VOC and NOx)~~

~~DCP Midstream, Greeley (123-0099 major for VOC and NOx)~~

~~DCP Midstream, Kersey/Mewbourn (123-0090 major for VOC and NOx)~~

~~DCP Midstream, Lucerne (123-0107 major for VOC and NOx)~~

~~DCP Midstream, Marla (123-0243 major for VOC and NOx)~~

~~DCP Midstream, Platteville (123-0595 major for VOC and NOx)~~

~~DCP Midstream, Roggen (123-0049 major for VOC and NOx)~~

~~DCP Midstream, Spindle (123-0015 major for VOC and NOx)~~

~~Denver Regional Landfill, Front Range Landfill, Timberline Energy (123-0079 major for NOx)~~

~~Elkay Wood Products (001-1602 major for VOC)~~

~~IBM Corporation (013-0006 major for NOx)~~

~~Kerr-McGee Gathering, Frederick (123-0184 major for VOC and NOx)~~

~~Kerr-McGee Gathering, Hudson (123-0048 major for VOC and NOx)~~

~~Kerr-McGee Gathering, Fort Lupton/Platte Valley/Lancaster (123-0057 major for VOC and NOx)~~

~~Kodak Alaris (123-0003 major for VOC)~~

~~Metal Container Corporation (123-0134 major for VOC)~~

~~MillerCoors Golden Brewery, Rocky Mountain Metal Container (059-0006), MMI/EtOH (059-0828), and Colorado Energy Nations Company, LLC (059-0820) (major for VOC and NOx)~~

~~Owens-Brockway Glass (123-4406 major for NOx)~~

Phillips 66 Pipeline, Denver Terminal (001-0015 major for VOC)

Plains End (059-0864 major for VOC and NOx)

Public Service, Cherokee (001-0001 major for NOx)

Public Service, Denver Steam Plant (031-0041 major for NOx)

Public Service, Fort Lupton (123-0014 major for NOx)

Public Service, Fort Saint Vrain (123-0023 major for NOx)

Public Service, Rocky Mountain Energy Center (123-1342 major for NOx)

Public Service, Valmont (013-0001 major for NOx)

Public Service, Yosemite (123-0141 major for NOx)

Public Service, Zuni (031-0007 major for NOx)

Rocky Mountain Bottle Company (059-0008 major for NOx)

Sinclair Transportation Company, Denver Terminal (001-0019 major for VOC)

Spindle Hill Energy (123-5468 major for NOx)

Suncor Energy, Commerce City Refinery Plants 1, 2, and 3 (001-0003 major for VOC and NOx)

Thermo Cogeneration, JM Shafer (123-0250 major for NOx)

Tri-State Generation, Frank Knutson (001-1349 major for NOx)

TXI Operations (059-0409 major for NOx)

University of Colorado Boulder (013-0553 major for NOx)

WGR Asset Holding, Wattenberg (001-0025 major for VOC and NOx)

XIX.B. Owners or operators of the following major sources must submit a RACT analysis for the facility or specified emission points to the Division no later than December 31, 2017. Approved RACT determinations will be addressed in the relevant source permit or through rule revisions, as appropriate.

Anheuser-Busch (069-0060) – emission points equal to or greater than 2 tpy VOC or 5 tpy NOx

Buckley Air Force (005-0028) – engines and engine test cell (pt 102, 103, 104, 105, 101)

Carestream Health (123-6350) – boilers (pt 004)

Colorado State University (069-0011) – boilers (pt 003, 005, 007, 013)

IBM (013-0006) – engines and boilers (pt 088, 090, 001, 011, 095)

MillerCoors Golden Brewery (059-0006) – emission points with emissions equal to or greater than 2 tpy VOC or 5 tpy NOx

~~MMI/EtOH (059-0828) – emission points with emissions equal to or greater than 2 tpy VOC or 5 tpy NOx~~

~~Nutri-Turf (123-0497) – emission points with emissions equal to or greater than 2 tpy VOC or 5 tpy NOx~~

~~Owens-Brockway (123-4406) – emission points with emissions equal to or greater than 5 tpy NOx (pt 001-023, 025)~~

~~Public Service Company, Cherokee (001-0001) – turbines (pt 028, 029)~~

~~Public Service Company, Fort Saint Vrain (123-0023) – turbines (pt 010, 011, 001)~~

~~Rocky Mountain Bottle (059-0008) – glass melt furnaces (pt 001)~~

~~Suncor (001-0003) – boilers (pt 309, 019, 021, 023)~~

~~Tri-State Generation and Transmission, Frank Knutson (001-1349) – turbines (pt 001, 003)~~

~~TXI (059-0409) – shale kiln (pt 001)~~

~~University of Colorado (013-0553) – Power House and East District – boilers (pt 001, 002, 012, 013) and Williams Village– boilers (pt 016, 017)~~

~~XIX.C. Stationary combustion turbines at the following major sources must comply with the applicable NOx emission limits and associated monitoring, recordkeeping, and reporting requirements in either 40 CFR Part 60, Subpart GG (July 1, 2016) or 40 CFR Part 60, Subpart KKKK (July 1, 2016) as expeditiously as practicable, but no later than January 1, 2017:~~

~~XIX.C.1. DCP Midstream, Kersey/Mewbourn (123-0090) – turbines (pt 111, 112, 118).~~

~~XIX.C.2. DCP Midstream, Lucerne (123-0107) – turbines (pt 044, 045).~~

~~XIX.C.3. Kerr-McGee, Fort Lupton/Platte Valley/Lancaster (123-0057) – turbine (pt 052).~~

~~XIX.C.4. Public Service Company, Fort Saint Vrain (123-0023) – turbines (pt 004, 005, 008).~~

~~XIX.C.5. Public Service Company, Rocky Mountain Energy Center (123-1342) – turbines (pt 001, 002).~~

~~XIX.C.6. Spindle Hill (123-5468) – turbines (pt 001, 002).~~

~~XIX.C.7. Thermo Cogeneration, JM Shafer (123-0250) – turbines (pt 001-005).~~

~~XIX.C.8. University of Colorado (013-0553) – Powerhouse turbines (pt 003, 005).~~

~~XIX.C.9. WGR Wattenberg (001-0025) – turbines (pt 021).~~

XIX.~~D~~A. Stationary internal combustion engines at the following major sources must comply with applicable NOx emission limits and associated monitoring, recordkeeping, and reporting requirements in 40 CFR Part 60, Subpart IIII (July 1, 2016), 40 CFR Part 60, Subpart JJJJ (July 1, 2016), and/or 40 CFR Part 63, Subpart ZZZZ (July 1, 2016) as expeditiously as practicable, but no later than January 1, 2017:

XIX.~~D~~A.1. Buckley Air Force (005-0028) – engines (pt 120, 118, 119, 124, 128, 138, 139).

XIX.~~D~~A.2. Colorado State University (069-0011) – engines (pt 018).

XIX.~~D~~A.3. DCP Midstream, Greeley (123-0099) – engine (pt 102).

XIX.~~D~~A.4. DCP Midstream, Kersey/Mewbourn (123-0090) – engine (pt 101).

XIX.~~D~~A.5. DCP Midstream, Spindle (123-0015) – engines (pt 059, 075).

XIX.~~D~~A.6. IBM (013-0006) – engines (pt 092, 094).

XIX.~~D~~A.7. Owens-Brockway (123-4406) – engine (pt 024).

XIX.~~D~~A.8. Plains End (059-0864) – engine (pt 005).

XIX.~~D~~A.9. PSCo Cherokee (001-0001) – engine (pt 031).

XIX.~~D~~A.10. Spindle Hill (123-5468) – engine (pt 005).

XIX.~~D~~A.11. Suncor (001-0003) – engines (pt 150, 151).

XIX.~~D~~A.12. Timberline Energy (123-0079) – engines (pt 010, 011).

XIX.~~E~~B. Elkay Wood Products (001-1602) must comply with applicable requirements in 40 CFR Part 63, Subpart JJ (July 1, 2016) as expeditiously as practicable, but no later than January 1, 2017.

XIX.~~F~~C. Cemex Construction Materials (013-0003) must comply with applicable THC requirements and associated monitoring, recordkeeping, and reporting in 40 CFR Part 63, Subpart LLL (July 1, 2016) as expeditiously as practicable, but no later than January 1, 2017.

XIX.~~G~~D. Denver Regional Landfill and Front Range Landfill (123-0079) (pt 007, 013) must comply with applicable flare requirements in 40 CFR Part 60, Subpart WWW (July 1, 2016) as expeditiously as practicable, but no later than January 1, 2017.

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STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE

>>>>>>>>>>>>>>

XX.Q. July 19, 2018 (Sections XVI. and XIX.)

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

Basis

On May 21, 2012, the Denver Metro/North Front Range (ªDMNFRº) area was designated as Marginal nonattainment for the 2008 8-hour Ozone National Ambient Air Quality Standard (ªNAAQSº), effective July 20, 2012, with an attainment date of July 20, 2015 (77 Fed. Reg. 30088). On May 4, 2016, the U.S. Environmental Protection Agency (ªEPAº) published a final rule that determined that DMNFR area failed

to attain the 2008 8-hour Ozone NAAQS by the applicable Marginal attainment deadline and therefore reclassified the DMNFR area to Moderate, effective June 3, 2016, and required attainment of the NAAQS no later than July 20, 2018, based on 2015-2017 ozone season data.

Due to the reclassification, Colorado must submit revisions to its State Implementation Plan (ªSIPº) to address the Clean Air Act's (ªCAAº) Moderate nonattainment area requirements, as set forth in CAA § 182(b) and the final SIP Requirements Rule for the 2008 Ozone NAAQS (*See* 80 Fed. Reg. 12264 (March 6, 2015)). The SIP revision must include Reasonably Available Control Technology (ªRACTº) requirements for major sources of VOC and/or NOx (i.e. sources that emit or have the potential to emit 100 tons per year (ªtpyº) or more). The CAA does not define RACT. However, EPA has defined RACT as the ªlowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.º 57 Fed. Reg. 55620 (November 20, 1992). RACT can be adopted in the form of emissions limitations or work practice standards or other operation and maintenance requirements as appropriate.

Statutory Authority

The Colorado Air Pollution Prevention and Control Act, C.R.S. §§ 25-7-101, et seq., (ªActº), Section 25-7-105(1)(a) directs the Commission to promulgate such rules and regulations necessary for the proper implementation and administration of a comprehensive SIP that will assure attainment and maintenance of national ambient air quality standards. Section 25-7-301 directs the Commission to develop a program providing for the attainment and maintenance of each national ambient air quality standard in each nonattainment area of the state. Section 25-7-106 provides the Commission flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106(1)(c) and (2) also authorize the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution, and monitoring and recordkeeping requirements. Section 109(1)(a) authorizes the Commission to promulgate regulations requiring effective and practical air pollution controls for significant sources and categories of sources of air pollutants.

Purpose

The Regional Air Quality Council (ªRAQCº) and the Colorado Department of Public Health and Environment, Air Pollution Control Division (ªDivisionº) conducted a public process to develop the associated SIP and supporting rule revisions.

In response to the reclassification, the Commission revised Regulation Number 7 to satisfy RACT SIP requirements for Moderate nonattainment areas by establishing categorical RACT requirements for major sources of VOC and/or NOx in the DMNFR. Specifically, the Commission adopted RACT requirements in Section XVI.D. for boilers, stationary combustion turbines, lightweight aggregate kilns, glass melting furnaces, and compression ignition reciprocating internal combustion engines (ªRICEº) (collectively referred to as ªstationary combustion equipmentº) located at major sources of NOx in the DMNFR.

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

The following explanations provide further insight into the Commission's intention for certain revisions and, where appropriate, the technological or scientific rationale for the revision.

Major VOC and NOx source RACT

Colorado has major sources of VOC and/or NOx in the ozone nonattainment area. The following sources were known by the Commission to be major sources of VOC and/or NOx as of June 3, 2016 and were analyzed in Colorado's Moderate Area SIP for the 2008 8-Hour Ozone NAAQS:

Anheuser-Busch, Fort Collins Brewery (069-0060) and Nutri-Turf (123-0497) (major for VOC and NOx)

Ball Metal Beverage Container Corporation (059-0010 major for VOC)

Buckley Air Force Base (005-0028 major for NOx)

Carestream Health (123-6350 major for NOx)

Cemex Construction Materials (013-0003 major for VOC and NOx)

Colorado Interstate Gas, Latigo (005-0055 major for NOx)

Colorado Interstate Gas, Watkins (001-0036 major for VOC and NOx)

Colorado State University (069-0011 major for NOx)

Coors Tek (059-0066 major for VOC)

Corden Pharma Colorado (013-0025 major for VOC)

DCP Midstream, Enterprise (123-0277 major for VOC and NOx)

DCP Midstream, Greeley (123-0099 major for VOC and NOx)

DCP Midstream, Kersey/Mewbourn (123-0090 major for VOC and NOx)

DCP Midstream, Lucerne (123-0107 major for VOC and NOx)

DCP Midstream, Marla (123-0243 major for VOC and NOx)

DCP Midstream, Platteville (123-0595 major for VOC and NOx)

DCP Midstream, Roggen (123-0049 major for VOC and NOx)

DCP Midstream, Spindle (123-0015 major for VOC and NOx)

Denver Regional Landfill, Front Range Landfill, Timberline Energy (123-0079 major for NOx)

Elkay Wood Products (001-1602 major for VOC)

IBM Corporation (013-0006 major for NOx)

Kerr-McGee Gathering, Frederick (123-0184 major for VOC and NOx)

Kerr-McGee Gathering, Hudson (123-0048 major for VOC and NOx)

Kerr-McGee Gathering, Fort Lupton/Platte Valley/Lancaster (123-0057 major for VOC and NOx)

Kodak Alaris (123-0003 major for VOC)

Metal Container Corporation (123-0134 major for VOC)

Metro/Suez Waste Water Cogeneration Facility (001-0097 major for NOx)

MillerCoors Golden Brewery, Rocky Mountain Metal Container (059-0006), MMI/EtOH (059- 0828), and Colorado Energy Nations Company, LLC (059-0820) (major for VOC and NOx)

Owens-Brockway Glass (123-4406 major for NOx)

Phillips 66 Pipeline, Denver Terminal (001-0015 major for VOC)

Plains End (059-0864 major for VOC and NOx)

Public Service Company, Cherokee (001-0001 major for NOx)

Public Service Company, Denver Steam Plant (031-0041 major for NOx)

Public Service Company, Fort Lupton (123-0014 major for NOx)

Public Service Company, Fort Saint Vrain (123-0023 major for NOx)

Public Service Company, Rocky Mountain Energy Center (123-1342 major for NOx)

Public Service Company, Valmont (013-0001 major for NOx)

Public Service Company, Yosemite (123-0141 major for NOx)

Public Service Company, Zuni (031-0007 major for NOx)

Rocky Mountain Bottle Company (059-0008 major for NOx)

Sinclair Transportation Company, Denver Terminal (001-0019 major for VOC)

Spindle Hill Energy (123-5468 major for NOx)

Suncor Energy, Commerce City Refinery Plants 1, 2, and 3 (001-0003 major for VOC and NOx)

Thermo Cogeneration, JM Shafer (123-0250 major for NOx)

Tri-State Generation, Frank Knutson (001-1349 major for NOx)

TRNLWB, LLC (Trinity Construction Materials, Inc.) (059-0409 major for NOx)

University of Colorado Boulder (013-0553 major for NOx)

WGR Asset Holding, Wattenberg (001-0025 major for VOC and NOx)

While many of the major sources listed above are subject to regulatory RACT requirements, some of the sources or source emissions points are subject to regulatory RACT requirements in Colorado's SIP, other sources or source emissions points are subject to individual RACT requirements established in federally enforceable permits as a minor source RACT requirement of inclusion of an applicable federal New Source Performance Standards (ªNSPSº) or National Emission Standard for Hazardous Air Pollutants (ªNESHAPº). However, as a Moderate nonattainment area, Colorado must include in the SIP provisions to

implement RACT for Colorado's major sources. During the November 17, 2016 rulemaking, the Commission adopted source specific RACT for a number of major sources of VOC and/or NOx in the DMNFR. These were adopted as Sections XIX.C.-XIX.G. during the November 17, 2016 rulemaking and changed to Sections XVI.4.b. and XIX.A.-D. during this July 19, 2018 rulemaking. The original Section XIX.C.-XIX.G. RACT requirements became effective on January 1, 2017. However, during the November 17, 2016 rulemaking, the Commission determined that little, if any, additional controls could be implemented by certain major sources by January 1, 2017. The Commission also determined that not all major sources or major source emission points were subject to existing regulatory RACT requirements in Regulation Number 7 or federally enforceable emission limits in Regulation 3, Part F. Therefore, the Commission opted to adopt RACT for Colorado's existing major sources of NOx on a categorical basis in this July 19, 2018 rulemaking.

Establishing RACT on a categorical basis is a distinctly different process from Colorado's minor source RACT permitting requirement found in Regulation 3, Part B, Section III.D.2. Minor source RACT permitting is specific to new or modified sources (i.e. sources that have already committed to a capital expenditure to construct or modify a process), and the designs of which can more easily accommodate changes prior to construction. Categorical RACT applies much more broadly to source category, including both existing sources/equipment and new/modified sources/equipment. This inclusion of existing equipment significantly impacts costs, as those sources are not already committed to a capital expenditure and any associated shut down to add controls. This ultimately impacts the decision on what controls are determined to be reasonably available, technologically and economically feasible for the source category as a whole. Thus, categorical RACT may in some cases be different from any RACT established for a specific source or piece of equipment under the minor source permitting RACT requirement.

For those sources that were not subject to other, existing regulatory RACT requirements, the Commission required owners or operators to submit a RACT analysis for the facility or specific emission points to the Division by December 31, 2017. In these RACT analyses, sources were required to identify potential options to reduce VOC and/or NOx emissions from the facility or emission point(s), propose RACT for that facility or point(s), propose associated monitoring, propose a schedule for implementation, and include economic and technical information demonstrating why the proposal established RACT for the particular facility or emission point(s). The following major sources were required to submit RACT analyses:

Anheuser-Busch (069-0060) ± emission points equal to or greater than 2 tpy VOC or 5 tpy NOx

Buckley Air Force (005-0028) ± engines and engine test cell (pt 102, 103, 104, 105, 101)

Carestream Health (123-6350) ± boilers (pt 004)

Colorado Energy Nations Company, LLC (059-0820) ± boilers (pt 001, 002)

Colorado Interstate Gas, Latigo (005-0055) ± engines (001, 011)

Colorado Interstate Gas, Watkins (001-0036) ± engines (001, 002)

Colorado State University (069-0011) ± boilers (pt 003, 005, 007, 013)

IBM (013-0006) ± engines and boilers (pt 088, 090, 001, 011, 095)

Kerr-McGee Gathering, Fort Lupton/Platte Valley/Lancaster (123-0057) ± turbine (pt 052) and engines (pt 038 through 044, and 047 through 049)

Metro/Suez Waste Water Cogeneration Facility (001-0097 major for NOx)

MillerCoors Golden Brewery (059-0006) ± emission points with emissions equal to or greater than 2 tpy VOC or 5 tpy NOx

MMI/EtOH (059-0828) ± emission points with emissions equal to or greater than 2 tpy VOC or 5 tpy NOx

Nutri-Turf (123-0497) ± emission points with emissions equal to or greater than 2 tpy VOC or 5 tpy NOx

Owens-Brockway (123-4406) ± emission points with emissions equal to or greater than 5 tpy NOx (pt 001-023, 025)

Public Service Company, Cherokee (001-0001) ± turbines (pt 028, 029)

Public Service Company, Fort Saint Vrain (123-0023) ± turbines (pt 010, 011, 001)

Public Service Company, Denver Steam Plant (031-0041) ± boilers (pt 001, 002)

Public Service Company, Zuni (031-0007) ± boilers (pt 001, 002, 003)

Public Service Company, Fort Lupton (123-0014) ± turbines (pt 001, 002)

Public Service Company, Valmont (013-0001) ± turbine (pt 002)

Rocky Mountain Bottle (059-0008) ± glass melt furnaces (pt 001)

Suncor (001-0003) ± boilers (pt 309, 019, 021, 023)

Tri-State Generation and Transmission, Frank Knutson (001-1349) ± turbines (pt 001, 003)

TRNLWB, LLC (Trinity Construction Materials) (059-0409) ± shale kiln (pt 001)

University of Colorado (013-0553) ± Power House and East District ± boilers (pt 001, 002, 012, 013) and Williams Village± boilers (pt 016, 017)

WGR Asset Holding, Wattenberg (001-0025) ± boiler (pt 012), turbine and duct burner (pt 021) and engines (pt 004 and 018)

Based on the information provided in these RACT analyses as well as the Division's own in-depth review of rules adopted by Moderate nonattainment areas in other states and EPA guidance such as the RACT/BACT/LAER Clearinghouse, the Commission adopted RACT requirements in Section XVI.D. for stationary combustion equipment located at existing major sources of NOx in the DMNFR. The requirements of Section XVI.D. only apply to existing stationary combustion equipment located at sources in the DMNFR that were major for NOx as of June 3, 2016 (i.e. the effective date of the DMNFR's reclassification to Moderate nonattainment).

Definitions

The definition for ªstationary combustion equipmentº refers to individual emission points and not grouped emission points.

Emission limitations and operational requirements

The Commission adopted categorical, numeric emission limitations, which vary based on fuel type and size of the stationary combustion equipment, where applicable. Affected stationary combustion equipment is required to comply with these exemptions by [DATE; no later than 36 months after the effective date of this rule]. This compliance period is necessary in order to allow affected sources sufficient time to complete any capital expenditures, install any control or monitoring equipment, and/or satisfy any permitting requirements necessary to comply with the applicable emission limitation. The heat input size threshold for determining whether an emission limitation applies refers to the maximum design value of the stationary combustion equipment. De-rated heat input is not the equivalent of maximum design value heat input. Therefore, stationary combustion equipment cannot simply de-rate to fall below the size threshold. For certain categories of stationary combustion equipment, if the equipment's heat input is below the applicability threshold for the emission limitations, then the equipment would be required to comply with the combustion process adjustment requirements originally adopted by the Commission during the November 17, 2016 rulemaking. The combustion process adjustment requirements only apply to stationary combustion equipment with uncontrolled actual emissions of NOx equal to or greater than 5 tons per year located at major sources of NOx. For stationary combustion turbines, the heat input capacity threshold for the emission limitations takes into account to the heat input capacity of the stationary combustion turbine only and not the heat input capacity of the stationary combustion turbine and any duct burner that may be used.

Exemptions

Stationary combustion equipment that meets one of the exemptions contained in Section XVI.D.2. is not required to comply with the emission limitations, the compliance demonstration requirements and the related recordkeeping and reporting requirements contained. All stationary combustion equipment is subject to some level of recordkeeping and may also be subject to combustion process adjustment requirements.

The Commission intended that the exemption for stationary combustion equipment with total uncontrolled actual emissions less than 5 tpy NOx was based on the permitting threshold in Regulation 3. Similarly, this equipment was not exempted from having to undergo a RACT analysis. The owner or operator must use the most recent air pollution emission notice (ªAPENº) submitted to the Division to determine total uncontrolled actual emissions.

Once stationary combustion equipment no longer qualifies for any exemption, the owner or operator must comply with the applicable requirements of Section XVI.D. as expeditiously as practicable but no later than 36 months after the equipment is no longer exempt. Therefore, if any stationary combustion equipment has to undertake a capital expenditure, such as installing a CEMS, in order to comply with Section XVI.D., then they have up to a maximum of three years to come into compliance. However, if no such capital expenditure or change in operational practice is required, then the stationary combustion equipment should comply sooner than three years (i.e. as expeditiously as practicable.) Additionally, once stationary combustion equipment no longer qualifies for any exemption, the owner or operator must conduct a performance test using EPA test methods within 180 days and notify the Division of the results and whether emission controls will be required to comply with the emission limitations. This means that a source can fall into and out of having to comply with the emission limitation, monitoring, recordkeeping and reporting requirements of the rule if they satisfy the performance test requirements (i.e. the Division will not follow a ªonce in/always inº approach with respect to emission control requirements of exemptions.) Similarly, this 180 day period starts once the equipment is no longer exempt.

Monitoring, recordkeeping and reporting requirements

The Division is proposing that affected stationary combustion equipment comply with certain monitoring, recordkeeping and reporting requirements by [DATE; no later than 36 months after the effective date of

this rule]. In order to provide clarity and regulatory certainty, many of the monitoring requirements adopted by the Commission incorporate by reference existing federal requirements and are consistent with rules in Moderate nonattainment areas in other states establishing RACT for these source categories.

The Commission is requiring continuous emissions monitoring systems (ªCEMSº) or continuous emissions rate monitoring systems (ªCERMSº) for boilers with a maximum design heat input capacity equal to or greater than 100 MMBtu/hr, lightweight aggregate kilns with a maximum heat input design capacity equal to or greater than 50 MMBtu/hr, and glass melting furnaces with a maximum design heat input capacity equal to or greater than 50 MMBtu/hr. CERMS may require a stack gas flow rate monitor, where necessary, in order to measure volumetric flow rate and mass emissions. Where stack gas velocity is extremely low, as may be the case for a glass melting furnace, flow can be measured using a Division approved calculation methodology if flow cannot be accurately measured using traditional differential pressure or ultrasonic flow measuring devices. Moreover, where measuring emission rates in terms of emissions per unit of heat input (i.e. lb/MMBtu), EPA Method 19 calculations may be used using the appropriate F factor (i.e. the ratio of combustion gas volumes to heat inputs). Further, it is the Commission's intent to allow electric utility boilers and stationary combustion turbines subject to the Acid Rain Program to use the quality assurance/quality control and data validation procedures in 40 CFR Part 75 for monitoring emissions to satisfy monitoring, recordkeeping and reporting requirements in this rule. Affected units that are subject to a NOx emission limitation in an NSPS and use CEMS or CERMS to monitor compliance with that limit can use those monitoring, recordkeeping and reporting requirements to demonstrate compliance with this rule.

Similarly, owners or operators of stationary combustion turbines using performance testing to demonstrate compliance with NOx emission limitations of NSPS GG or KKKK may utilize those procedures for demonstrating compliance with the emission limitation in this rule. Where an initial performance test has already been conducted to determine compliance with NSPS GG or KKKK, it is not expected that another initial performance test must be performed for purposes of demonstrating compliance with Section XVI.D.

For each initial or periodic test, sources should calculate the backup fuel's heat input for the calendar year prior to the year in which the performance test is required to determine if a test is required for each fuel or only for the primary fuel. Moreover, periodic performance tests must be conducted no more than 24 months apart.

With respect to the fuel flowmeter requirements, the Division reserves the right to audit quality assurance procedures with respect to manufacturer's instructions. The heat input measured and recorded by the fuel flowmeter is to be in the same unit of measurement as the applicable emission limitation. With respect to the quarterly or semi-annual reporting requirement, the Commission intended to only require that reports be submitted no less than semi-annually, but a source may submit quarterly reports in order to be consistent with existing reporting frequencies established in a permit and/or applicable NSPS or NESHAP.

With respect to the performance test reports, all performance test reports must compare average emissions determined by the performance test with the applicable emission limitation using the same number of significant figures as the emission limitation.

Incorporation by Reference in Sections XIX. and XVI.

Section 24-4-103(12.5) of the Colorado Administrative Procedure Act allows the Commission to incorporate by reference federal regulations. The criteria of §24-4-103(12.5) are met by including specific information, making the regulations available and because repeating the full text of each of the federal

regulations incorporated would be unduly cumbersome and inexpedient. However, these regulations are included in the SIP in order to establish RACT, which must be included in the SIP to satisfy CAA Sections 172(c) and 182(b). Therefore, in order to comply with Part D of the CAA, the Commission has incorporated federal regulations in Sections XVI.D.5. and XIX.A. through D. by reference.

Additional Considerations

Colorado must revise its ozone SIP to address the ozone Moderate nonattainment area requirements. The CAA does not expressly address all of the provisions adopted by the Commission. Rather, federal law establishes the 8-hour ozone NAAQS and requires Colorado to develop a SIP adequate to attain the NAAQS. Therefore, the Commission adopted certain revisions to Regulation Number 7 to ensure attainment with the 2008 8-hour ozone NAAQS and satisfy Colorado's Moderate nonattainment area obligations, including those related to RACT. These revisions do not exceed or differ from the federal act due to state flexibility in developing nonattainment area SIPs; however, in accordance with C.R.S. § 25-7-110.5(5)(b), the Commission nonetheless determines:

(I) The revisions to Regulation Number 7 address RACT requirements for major sources of VOC and NOx in Colorado's ozone nonattainment area. Colorado's major sources of VOC and NOx are subject to various and numerous NSPS or NESHAP, Regulation Number 7 RACT requirements, or RACT/beyond RACT analyses. The Commission revised Regulation Number 7 to include regulatory RACT requirements for Colorado's major sources of VOC and NOx in the SIP. Specifically, the Commission adopted RACT requirements in Section XVI.D. for combustion equipment located at major sources of NOx in the DMNFR. MACT DDDDD, MACT JJJJJJ, MACT ZZZZ, MACT YYYY, NSPS Db, NSPS GG, NSPS KKKK, NSPS IIII, NSPS JJJJ, NSPS OOOO, NSPS OOOOa, and the compliance demonstration requirements in 40 CFR Parts 60 and 75 may apply to such stationary combustion equipment. However, the Regulation Number 7 revisions apply on a broader basis to specific existing stationary combustion equipment in the DMNFR.

(II) The federal rules discussed in (I) are primarily technology-based in that they largely prescribe the use of specific technologies in order to comply. EPA has provided some flexibility in certain NSPS and MACT. Certain stationary combustion equipment with a lower heat input may trigger the combustion process adjustment work practice requirements of this rule.

(III) The CAA establishes the 8-hour ozone NAAQS and requires Colorado to develop SIP revisions that will ensure attainment of the NAAQS. The ozone NAAQS was not determined taking into account concerns unique to Colorado. In addition, Colorado cannot rely exclusively on a federally enforceable permit or federally enforceable NSPS or NESHAP to satisfy Colorado's Moderate nonattainment area RACT obligations. Instead, Colorado must adopt applicable provisions into its SIP directly, as the Commission has done here.

(IV) Colorado will be required to comply with the lower 2015 ozone NAAQS. These current revisions may improve the ability of the regulated community to comply with new requirements needed to attain the lower NAAQS insofar as RACT analyses and efforts conducted to support the revisions adopted by the Commission may prevent or reduce the need to conduct additional RACT analyses for the more stringent NAAQS.

(V) EPA has established a January 1, 2017, deadline for this SIP submission. There is no timing issue that might justify changing the time frame for implementation of federal requirements.

(VI) The revisions to Regulation Number 7, Sections XVI. and XIX. establish categorical RACT for major sources of VOC and/or NOx, and thus are necessary to satisfy RACT SIP requirements for Moderate nonattainment areas and are specific to existing emission points at major sources of VOC and NOx, allowing for continued growth at Colorado's major sources.

(VII) The Revisions to Regulation Number 7, Sections XVI., and XIX. establish reasonable equity for major sources of VOC and/or NOx by providing the same categorical standards for similarly situated and sized sources.

(VIII) If Colorado does not attain the 2008 ozone NAAQS by July 20, 2019, EPA will likely reclassify Colorado as a serious ozone nonattainment area, which automatically reduces the major source thresholds from 100 tons per year of VOC and NOx to 50 tons per year; thus subjecting more sources to major source requirements. If EPA does not approve Colorado's SIP, EPA may promulgate a Federal Implementation Plan; thus potentially determining RACT for Colorado's sources. Either of these outcomes may subject others to increased costs.

(IX) Where necessary, the revisions to Regulation Number 7 include minimal additional monitoring, recordkeeping, and reporting requirements that correlate, where possible, to similar federal or state requirements.

(X) Demonstrated technology is available to comply with the revisions to Regulation Number 7. The revisions concerning major sources of VOC and/or NOx generally reflect current emission controls and work practices.

(XI) As set forth in the Economic Impact Analysis, the revisions to Regulation Number 7 contribute to the prevention of ozone in a cost-effective manner.

(XII) Although alternative rules could also provide reductions in ozone and help to attain the NAAQS, the Commission determined that the Division's proposal was reasonable and cost-effective. However, a no action alternative would very likely result in an unapprovable SIP and possibly an EPA FIP and/or sanctions.

As part of adopting the revisions to Regulation Number 7, the Commission has taken into consideration each of the factors set forth in C.R.S. § 25-7-109(1)(b).

Colorado must revise Colorado's ozone SIP to address the Moderate nonattainment area requirements. However, to the extent that C.R.S. § 25-7-110.8 requirements apply to this rulemaking, and after considering all the information in the record, the Commission hereby makes the determination that:

(I) These rules are based upon reasonably available, validated, reviewed, and sound scientific methodologies, and the Commission has considered all information submitted by interested parties.

(II) Evidence in the record supports the finding that the rules shall result in a demonstrable reduction of the ozone precursors VOC and NOx.

(III) Evidence in the record supports the finding that the rules shall bring about reductions in risks to human health and the environment that justify the costs to implement and comply with the rules.

(IV) The rules are the most cost-effective to achieve the necessary and desired results, provide the regulated community flexibility, and achieve the necessary reduction in air pollution.

(V) The rule will maximize the air quality benefits of regulation in the most cost-effective manner.

COLORADO
Air Quality Control Commission
Department of Public Health & Environment

NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

Regulation Number 7

SUBJECT:

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to Regulation Number 7 to satisfy Reasonably Available Control Technology (RACT) requirements for Moderate nonattainment areas by establishing categorical RACT requirements for major sources of nitrogen oxides (NOx) in the Denver Metro and North Front Range Nonattainment Area. Specifically, the proposed revisions include RACT requirements in Section XVI.D. for boilers, stationary combustion turbines, lightweight aggregate kilns, glass melting furnaces and compression ignition reciprocating internal combustion engines (collectively referred to as ªstationary combustion equipmentº) located at major sources of NOx.

The Commission may also make clarifying revisions and typographical, grammatical, and formatting corrections throughout Regulation Number 7.

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

HEARING SCHEDULE:

DATE: July 19, 2018
TIME: 9:00 AM
PLACE: Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South, Sabin Conference Room
Denver, CO 80246

PUBLIC COMMENT:

The Commission encourages all interested persons to provide their views either orally at the hearing or in writing prior to or at the hearing. The Commission encourages that written comments be submitted by **July 3, 2018** so that Commissioners have the opportunity to review the information prior to the hearing.

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

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

Written submissions should be mailed to:

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

Public testimony will be taken on July 19, 2018.

PARTY STATUS:

Any person may obtain party status for the purpose of this hearing by complying with the requirements of the Commission's Procedural Rules. A petition for party status must be filed by electronic mail with the Office of the Air Quality Control Commission no later than close of business on **May 18, 2018.** The petition must: *1) identify the applicant; 2) provide the name, address, telephone and facsimile numbers, and email address of the applicants representative; and 3) briefly summarize what, if any, policy, factual, and legal issues the applicant has with the proposal(s) as of the time of filing the application.* Electronically mailed copies must also be received, by this same date, by the Division staff person and the Assistant Attorneys General representing the Division and the Commission identified below.

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

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

ALTERNATE PROPOSAL:

The submittal of an alternate proposal must be accompanied by an electronic copy of the alternate proposed rule and all other associated documents as required by the Commission's Procedural Rules, and must be filed by electronic mail with the Office of the Commission by **close of business June 11, 2018**. Alternate proposals must also be filed by electronic mail with the Division staff person and with each of the Assistant Attorneys General.

STATUS CONFERENCE:

A status conference will be held **May 23, 2018 at 10:00 a.m.,** at the Department of Public Health and Environment, Carson Conference Room to ascertain and discuss the issues involved, and to ensure that parties are making all necessary efforts to discuss and resolve such issues prior to the submission of prehearing statements. Attendance at this status conference is mandatory for anyone who has requested party status.

PREHEARING CONFERENCE/PREHEARING STATEMENTS:

Attendance at the prehearing conference is mandatory for all parties to this hearing. A prehearing conference will be held **June 19, 2018 at 1:00 p.m.** at the Department of Public Health and Environment, Carson Conference Room. All parties must submit by electronic mail a prehearing statement to the Commission Office by close of business **June 11, 2018.** In addition, any exhibits to the prehearing statements or alternate proposals must be submitted in a separate electronic transmission to the Commission Office by close of business **June 11, 2018.** Electronically mailed copies of these documents must be delivered by that date to all persons who have been granted party status and to the Division point of contact and each of the Assistant Attorneys General identified above by close of business **June 11, 2018**. Rebuttals to the prehearing statement, and any exhibits thereto, may be submitted to the Commission Office and all other parties by close of business **June 26, 2018**.

EXCEPTIONS TO FILE DOCUMENTS BY ELECTRONIC MAIL:

The Commission's Procedural Rules provide for an exception to file documents by electronic mail. Any person may petition the Commission to file documents in paper copy format if they are unable for any reason to comply with the requirements of the Commission's Procedural Rules. If granted an exception to electronic filing pursuant to the provisions of Subsection III.I.3. of the Commissions Procedural Rules, the applicant for party status shall file an original and fifteen copies in the Office of the Air Quality Control Commission, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246., and shall also deliver copies to each party, the Assistant Attorneys General representing the Commission and Division, and the Division staff person for the proceedings by electronic mail or as otherwise provided by the exception granted under Subsection III.I.3.

STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:

The Colorado Air Pollution Prevention and Control Act, C.R.S. §§ 25-7-101, et seq., ("Act"), Section 25-7-105(1)(a) directs the Commission to promulgate such rules and regulations necessary for the proper implementation and administration of a comprehensive SIP that will assure attainment and maintenance of national ambient air quality standards. Section 25-7-301 directs the Commission to develop a program providing for the attainment and maintenance of each national ambient air quality standard in each nonattainment area of the state. Section 25-7-106 provides the Commission flexibility in developing an effective air quality program and promulgating such combination of regulations as may be necessary or desirable to carry out that program. Section 25-7-106(1)(c) and (2) also authorize the Commission to promulgate emission control regulations applicable to the entire state, specified areas or zones, or a specified class of pollution, and monitoring and recordkeeping requirements. Section 109(1)(a) authorizes the Commission to promulgate regulations requiring effective and practical air pollution controls for significant sources and categories of sources of air pollutants.

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

Dated this 20th day of April 2018 at Denver, Colorado

Colorado Air Quality Control Commission

Michael Silverstein, Administrator

Notice of Proposed Rulemaking

Tracking number

2018-00171

Department

1000 - Department of Public Health and Environment

Agency

1009 - Disease Control and Environmental Epidemiology Division

CCR number

6 CCR 1009-2

Rule title

THE INFANT IMMUNIZATION PROGRAM AND IMMUNIZATION OF STUDENTS ATTENDING SCHOOL

Rulemaking Hearing

Date

06/20/2018

Time

10:00 AM

Location

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

Subjects and issues involved

The proposed amendments are technical clarifications and do not represent changes to policy. The proposed changes will streamline language when referring to the Advisory Committee on Immunization Practices immunization schedule, clarify the acceptable documentation for positive titer tests in lieu of immunization for certain school-required vaccines, clarify that online only K-12th grade schools are not required to report aggregate data to the Department, and remove language referring to repealed portions of statute. Additionally, the Department proposes a minor reorganization of the rule that reverses the order of section IX (A) and IX (B).

Statutory authority

§ 25-4-903, C.R.S.
§ 25-4-904, C.R.S.

Contact information

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Title

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COLORADO
Department of Public Health & Environment

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

To: Members of the State Board of Health

From: Lynn Trefren, MSN, RN, Immunization Branch Chief, Disease Control and Environmental Epidemiology Division (DCEED) ***LT***

Through: Tony Cappello, PhD, DCEED Director ***TC***

Date: April 1, 2018

Subject: **Request for Rulemaking Hearing**
Proposed Amendments to 6 CCR 1009-2 - The Infant Immunization Program and Immunization of Students Attending School, with a request for a rulemaking hearing to be set for June 20, 2018

Please find copies of the following documents: Statement of Basis and Purpose and Specific Statutory Authority, Regulatory Analysis, Stakeholder Comment, and Proposed Amendments to 6 CCR 1009-2 with a request for the Board of health to set a rulemaking hearing to occur in June 2018.

The Colorado Department of Public Health and Environment has the legal authority, established in Colorado law, to protect students and the general population from vaccine preventable disease. Child care facilities, schools, and colleges/universities are bound by law to ensure students meet the vaccine requirements as established by the Board of Health. Colorado's vaccine requirements have contributed to higher vaccine coverage and lower levels of vaccine preventable disease.

The proposed amendments are technical clarifications and do not represent changes to policy. The proposed changes will streamline language when referring to the Advisory Committee on Immunization Practices immunization schedule, clarify the acceptable documentation for positive titer tests in lieu of immunization for certain school-required vaccines, clarify that online only K-12th grade schools are not required to report aggregate data to the Department, and remove language referring to repealed portions of statute. Additionally, the Department proposes a minor reorganization of the rule that reverses the order of section IX (A) and IX (B).

The Department has contacted a wide variety of stakeholders to solicit input on these proposed amendments. To date, all informal feedback received by the Department that is relevant to the proposed changes has been supportive. The Department remains committed to engaging its stakeholders during this rulemaking period. In total, the proposed amendments align our rules with statute, continue to bring clarity to the rules and minimize potential confusion among end-users of the rules.

Because the edits are very minor in some instances, yellow highlight has been used to assist the reader in reviewing the proposed changes.

STATEMENT OF BASIS AND PURPOSE AND SPECIFIC STATUTORY AUTHORITY
for Amendments to 6 CCR 1009-2
The Infant Immunization Program and Immunization of Students Attending School

Basis and Purpose.

Colorado requires all students to be immunized per the vaccine schedule established by Colorado Board of Health (BOH) rule 6 CCR 1009-2 upon school entry unless a medical or non-medical exemption is filed. The purpose of the immunization requirements for school entry is to protect students, staff, and the visiting public against vaccine-preventable diseases within schools.

The Department proposes technical changes to the rule that are intended to:

- Align our rule with statute;
- Continue to bring clarity to the rule;
- Minimize potential confusion among end-users of the rule; and
- Simplify the language of the existing rule.

In addition, the following noteworthy changes to the rule are proposed:

1. Per statute, vaccines required for school entry by the Board of Health are based on recommendations of the Advisory Committee on Immunization Practices. The Department proposes to simplify the language in section II (B) when indicating that, except where noted, school-required vaccines are to be administered according to the schedule established by the ACIP.
2. The Department proposes adding language to section II (E) and section IX (A)(1)(a) to clarify requirements when submitting documentation of a positive titer in lieu of immunization for certain school-required vaccines. The proposed language clarifies that laboratory confirmation of the positive titer must be submitted to the student's school in order for a student to be considered in compliance with minimum immunization requirements. This proposed change is responsive to stakeholder feedback indicating the rule was unclear about this issue and aligns with best practices from the Centers for Disease Control and Prevention (CDC).
3. The Department proposes adding language to section VII (B) to clarify that K-12th grade schools that are online only are not required to report aggregate immunization and exemption data to the Department. The Department believes that parents are less likely to seek and utilize immunization and exemption rates in their comparison of online only schools. Unless and until, the Department identifies an end-use for this aggregate data, the proposed changes remove the requirement to report aggregate immunization and exemption data for online only K-12 schools.
4. The Department proposes updating the statutory references in section X (B) to align with statute.
5. The Department proposes a minor reorganization within section IX "Requirements for college and university students, colleges and universities" such that section IX (A) "Exemptions from immunization" becomes section IX (B). Thus, current section IX (B) "Minimum Immunization Requirements" becomes section IX (A). This proposed change is intended to bring clarity to the rule; the Department feels this rule should list the vaccine requirements before describing how to exempt from these requirements. This proposed change is a non-substantive change; neither the vaccine requirements nor exemption procedures are changing.

Specific Statutory Authority.
Statutes that require or authorize rulemaking:
§ 25-4-903, C.R.S.
§ 25-4-904, C.R.S.

Is this rulemaking due to a change in state statute?

_____ Yes, the bill number is _____. Rules are ___ authorized ___ required.
___X___ No

Does this rulemaking incorporate materials by reference?

_____ Yes ___ URL or ___ Sent to State Publications Library
___X__ No

Does this rulemaking create or modify fines or fees?

_____ Yes
___X__ No

Does the proposed rule create (or increase) a state mandate on local government?

_X_ No. This rule does not require a local government to perform or increase a specific activity for which the local government will not be reimbursed. Though the rule does not contain a state mandate, the rule may apply to a local government if the local government has opted to perform an activity, or local government may be engaged as a stakeholder because the rule is important to other local government activities.

___ No. This rulemaking reduces or eliminates a state mandate on local government.

___ Yes. This rule includes a new state mandate or increases the level of service required to comply with an existing state mandate, and local government will not be reimbursed for the costs associated with the new mandate or increase in service.

The state mandate is categorized as:

___ Necessitated by federal law, state law, or a court order
___ Caused by the State's participation in an optional federal program
___ Imposed by the sole discretion of a Department
___ Other: _____

Has an elected official or other representatives of local governments disagreed with this categorization of the mandate? ___Yes ___No
If yes, please explain why there is disagreement in the categorization.

Please elaborate as to why a rule that contains a state mandate on local government is necessary.

REGULATORY ANALYSIS
for Amendments to 6 CCR 1009-2
The Infant Immunization Program and Immunization of Students Attending School

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

   A. Identify each group of individuals/entities that rely on the rule to maintain their own businesses, agencies or operation, and the size of the group:

      Approximately 2150 public and private schools, approximately 2100 licensed child cares, thousands of healthcare providers throughout the state, and 53 county, district or municipal public health agencies (LPHAs).

   B. Identify each group of individuals/entities interested in the outcomes the rule and those identified in #1.A achieve, and, if applicable, the size of the group:

      LPHAs, advocacy organizations such as the Colorado Children's Immunization Coalition, professional organizations such as the Colorado Chapter of the American Academy of Pediatrics or Colorado Academy of Family Physicians, federal agencies such as the Centers for Disease Control and Prevention, students and if applicable, their parents/guardians who are interested in submitting documentation of a positive titer in lieu of immunization, and health care providers.

      Though some individuals and entities disagree with immunization as a matter of public policy, this rulemaking is technical in nature. No changes are proposed to the list of required immunizations, or to medical and non-medical exemptions.

   C. Identify each group of individuals/entities that benefit from, may be harmed by or at-risk because of the rule, and, if applicable, the size of the group:

      Students enrolled in Colorado schools and, if under 18 years of age, their parents/guardians, school staff, child care staff and the public at large. While no individual or entity is harmed by the technical changes proposed, the Department recognizes that some individuals disagree with immunization policy.

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.

   A. For those that rely on the rule to maintain their own businesses, agencies or operations:

      Describe the anticipated favorable and unfavorable non-economic outcomes (short-term and long-term), and if known, the likelihood of the outcomes:

      Favorable non-economic outcomes: The proposed changes to this rule will result in clarification for consistent interpretation by end-users of the rule, more consistent terminology and simplification of language; all of which the Department expects will result in improved customer experience.

Unfavorable non-economic outcomes: N/A

B. For those that are affected by or interested in the outcomes the rule and those identified in #1.A achieve.

Describe the favorable or unfavorable outcomes (short-term and long-term), and if known, the likelihood of the outcomes:

The outcome is to reduce delays and technical assistance requests by simplifying and clarifying the rule. These technical edits are a process improvement for customers and stakeholders.

Unfavorable non-economic outcomes: N/A

Any anticipated financial costs monitored by these individuals/entities? N/A

Any anticipated financial benefits monitored by these individuals/entities? N/A

C. For those that benefit from, are harmed by or are at risk because of the rule, the services provided by individuals identified in #1.A, and if applicable, the stakeholders or partners identified in #1.B.

Describe the favorable or unfavorable outcomes (short-term and long-term), and if known, the likelihood of the outcomes:

Schools, licensed child cares and students and parents/guardians who are interested in school immunization and exemption rates will benefit from greater clarity about which schools are required to report aggregate data. The proposed changes are expected to positively impact end-users of the rule by making it easier to implement, potentially preventing the occurrence of vaccine-preventable diseases and potential outbreaks.

Financial costs to these individuals/entities: N/A

Financial benefits to or cost avoidance for these individuals/entities: N/A

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.

A. Anticipated CDPHE personal services, operating costs or other expenditures:

There is no anticipated cost associated with the proposed amendments to the rule. There is no anticipated effect on state revenues.

B. Anticipated personal services, operating costs or other expenditures by another state agency: N/A

Anticipated Revenues for another state agency: N/A

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

Check mark all that apply:

___ Inaction is not an option because the statute requires rules be promulgated.

XX The proposed revisions are necessary to comply with federal or state statutory mandates, federal or state regulations, and department funding obligations.

XX The proposed revisions appropriately maintain alignment with other state or national standards.

___ The proposed revisions implement a Regulatory Efficiency Review (rule review) result, or improve public and environmental health practice.

XX The proposed revisions implement stakeholder feedback.

XX The proposed revisions advance the following CDPHE Strategic Plan priorities:

Goal 1, Implement public health and environmental priorities
Goal 2, Increase Efficiency, Effectiveness and Elegance
Goal 3, Improve Employee Engagement
Goal 4, Promote health equity and environmental justice
Goal 5, Prepare and respond to emerging issues, and
Comply with statutory mandates and funding obligations

Strategies to support these goals:

___ Substance Abuse (Goal 1)
___ Mental Health (Goal 1, 2, 3 and 4)
___ Obesity (Goal 1)
XX Immunization (Goal 1)
___ Air Quality (Goal 1)
___ Water Quality (Goal 1)
___ Data collection and dissemination (Goal 1, 2, 3, 4 and 5)
___ Implements quality improvement or a quality improvement project (Goal 1, 2, 3 and 5)
___ Employee Engagement (career growth, recognition, worksite wellness) (Goal 1, 2 and 3)
___ Incorporate health equity and environmental justice into decision-making (Goal 1, 3 and 4)
___ Establish infrastructure to detect, prepare and respond to emerging issues and respond to emerging issues (Goal 1, 2, 3, 4, and 5)

___ Other favorable and unfavorable consequences of inaction: NA

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

Rulemaking is proposed when it is the least costly method or the only statutorily allowable method for achieving the purpose of the statute. For this rule, both apply. As there is no anticipated cost of compliance with the proposed amendments to the rule, there is no less costly method to achieving the purpose of the rule. Additionally, the Board of Health is required by section 25-4-904, C.R.S. to "establish rules and regulations for administering this part 9." Furthermore, the proposed amendments should strengthen the department's partnership with community stakeholders in schools, childcares and colleges and universities as the proposed amendments clarify or simplify existing requirements, or align requirements with statute.

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

   The only alternative considered was to leave the rule as adopted. This was rejected because stakeholders requested clarity about acceptable documentation for positive titer tests, and which schools are required to submit aggregate data to the Department.

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 ACIP develops recommendations on how to use vaccines to prevent disease in the United States. The recommendations include the age(s) when the vaccines should be given, the number of doses needed, the amount of time between doses, considerations for persons with high risk conditions, and precautions and contraindications. Professional organizations that work with the ACIP to develop the annual childhood and adult schedules include the American Academy of Pediatrics (AAP), the American Academy of Family Physicians (AAFP), the American College of Obstetricians and Gynecologists (ACOG), and the American College of Physicians (ACP).[1]

   Per section 25-4-902, C.R.S., the Board of Health is authorized is require vaccines for school entry that are based upon the ACIP recommended immunization schedule. State and local vaccination requirements for daycare and school entry are important tools for maintaining high vaccination coverage rates, and in turn, lower rates of vaccine-preventable diseases (VPDs).[2] The Community Preventive Services Task Force recommends vaccination requirements for child care, school, and college attendance based on strong evidence of effectiveness in increasing vaccination rates and in decreasing rates of VPD and associated morbidity and mortality. These findings are based on studies demonstrating effectiveness of vaccination requirements for attendance in a variety of settings, for an array of recommended vaccines, and in populations ranging in age from early childhood to late adolescence.[3]

   Additionally, the Department has noticed a pattern of requests for technical assistance from stakeholders asking the Department to clarify the acceptable documentation for positive titer tests and which schools must submit aggregate immunization and exemption data.

[1]CDC. ACIP Recommendations. https://www.cdc.gov/vaccines/acip/recs/index.html. Accessed: Mar, 20 2018.

[2]CDC. State Vaccination Requirements. https://www.cdc.gov/vaccines/imz-managers/laws/state-reqs.html. Accessed Mar. 19, 2018

[3]Community Preventive Services Task Force. Increasing Appropriate Vaccination: Vaccination Requirements for Child Care, School, and College Attendance. https://www.thecommunityguide.org/sites/default/files/assets/Vaccination-Requirements-for-Attendance_1.pdf. Oct. 31, 2016

STAKEHOLDER ENGAGEMENT
for Amendments to 6 CCR 1009-2
The Infant Immunization Program and Immunization of Students Attending School

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 Department developed the proposed rules and has sought feedback through an early stakeholder engagement process. These early efforts included email notification of upcoming rule changes, summarization of draft changes, and a dedicated online survey where staff could collect feedback from stakeholders. Feedback was solicited from approximately 25,000 individuals representing: members of the public, parents/students, LPHAs, Federally Qualified Health Centers, Community Health Clinics, Rural Health Centers, Hospitals, Colorado colleges and universities, Vaccines for Children providers, Colorado Immunization Information System (CIIS) users, Colorado Association of Physician Assistants, local immunization coalitions, school nurses, child care health consultants, Colorado schools and child care facilities, Children's Campaign, Colorado Academy of Family Physicians, the Colorado Medical Society, Colorado Chapter of the American Academy of Pediatrics, Colorado Children's Immunization Coalition, Colorado Coalition for Vaccine Choice, Colorado Student Health Services Consortium, National Vaccine Information Center, Colorado Parents for Vaccinated Communities, the Weston A. Price Foundation, Voices for Vaccines, the Colorado Department of Education and the Colorado Department of Human Services.

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).

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

____ Yes.

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

The Department's outreach to stakeholders has been ongoing with open communication among all stakeholder groups. To date, the Department has received feedback from 19 stakeholders out of approximately 25,000 stakeholders contacted. All of the feedback that addressed the proposed changes was supportive and indicated the proposed changes were helpful, and/or added clarity. While the Department will continue to engage stakeholders throughout the development of the proposed rules, to date, there have been no major factual or policy issues with the proposed changes encountered. Comments that were outside the scope of this rulemaking were not incorporated.

Please identify the determinants of health or other health equity and environmental justice considerations, values or outcomes related to this rulemaking. Overall, after considering the benefits, risks and costs, the proposed rule:

Select all that apply.

	Improves behavioral health and mental health; or, reduces substance abuse or suicide risk.		Reduces or eliminates health care costs, improves access to health care or the system of care; stabilizes individual participation; or, improves the quality of care for unserved or underserved populations.
	Improves housing, land use, neighborhoods, local infrastructure, community services, built environment, safe physical spaces or transportation.		Reduces occupational hazards; improves an individual's ability to secure or maintain employment; or, increases stability in an employer's workforce.
	Improves access to food and healthy food options.		Reduces exposure to toxins, pollutants, contaminants or hazardous substances; or ensures the safe application of radioactive material or chemicals.
X	Improves access to public and environmental health information; improves the readability of the rule; or, increases the shared understanding of roles and responsibilities, or what occurs under a rule.		Supports community partnerships; community planning efforts; community needs for data to inform decisions; community needs to evaluate the effectiveness of its efforts and outcomes.
X	Increases a child's ability to participate in early education and educational opportunities through prevention efforts that increase protective factors and decrease risk factors, or stabilizes individual participation in the opportunity.		Considers the value of different lived experiences and the increased opportunity to be effective when services are culturally responsive.
	Monitors, diagnoses and investigates health problems, and health or environmental hazards in the community.		Ensures a competent public and environmental health workforce or health care workforce.
	Other:		Other:

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Disease Control and Environmental Epidemiology Division

THE INFANT IMMUNIZATION PROGRAM AND IMMUNIZATION OF STUDENTS ATTENDING SCHOOL

6 CCR 1009-2

I. Definitions

A. Advisory Committee on Immunization Practices (ACIP) - a group of medical and public health experts that develops recommendations on how to use vaccines to control diseases in the United States. ACIP was established under Section 222 of the Public Health Service Act (42 U.S.C. §217a).

B. Child - any student less than 18 years of age.

C. College or university student - any student who is enrolled for one or more classes at a college or university and who is physically present at the institution. This includes students who are auditing classes but does not include persons taking classes online or by correspondence only.

D. Delegated physician assistant – a licensed physician assistant authorized under Section 12-36-106(5), C.R.S., to execute Certificates of Immunization, medical exemptions and/or supervise a public health or school nurse as authorized by part 9 of article 4 of title 25, C.R.S.

E. DEPARTMENT (THE) - REFERS TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

~~E~~F. Dose - a measured quantity of an immunizing agent; quantity and frequency of administration determined by recognized health authorities and the manufacturer of each agent.

~~F~~G. Emancipated student - any student who has reached ~~age~~ 18 YEARS OF AGE; a lawfully married child of any age; a child 15 years of age or older who is managing his/her own financial affairs and who is living separate and apart from his/her parent.

~~G~~H. Immunization tracking system - a comprehensive immunization tracking system established by the Department ~~of Public Health and Environment~~ pursuant to Section 25-4-2403(2), C.R.S., that enables the gathering of epidemiological information from the sources delineated in ~~s~~Section 25-4-2403(2), C.R.S. and the investigation and control of communicable diseases. Individuals, parents and legal guardians may provide information to the immunization tracking system; however, pursuant to ~~s~~Section 25-4-2403(7), C.R.S., they have the option to exclude their or their student's immunization information from the immunization tracking system at any time.

~~H~~I. Indigent child - any child whose parent cannot afford to have the child immunized or if emancipated, who cannot himself/herself afford immunization and who has not been exempted.

~~I~~J. Infant - any child up to twenty four months of age or any child eligible for vaccination and enrolled under the Colorado Medical Assistance Act, Articles 4, 5, and 6 of Title 25.5, C.R.S.

~~J~~K. In-process student - a student may be considered in-process if:

1. Within fourteen days after receiving direct personal notification that the ~~c~~Certificate of ~~i~~Immunization is not up-to-date according to the requirements of the ~~state~~ Bboard of Hhealth , the parent or emancipated student submits documentation that the next required immunization has been given and a signed written plan for obtaining the remaining required immunizations. The scheduling of immunizations in the written plan shall follow medically recommended minimum intervals consistent with the ACIP. If the student does not fulfill the plan, the student shall be suspended or expelled from school for noncompliance ~~as noted in~~ PER Section 25-4-907, C.R.S. If the next dose is not medically indicated within fourteen days, then the medically approved minimum intervals would apply.

2. ~~With regard to c~~College or university students, as defined in ~~S~~section I (C), ~~the student must~~ present to the appropriate SCHOOL official ~~of the school~~ either (I) a signed written authorization requesting local health officials to administer required immunizations or (II) a plan for receipt of the required immunization or the next required immunization in a series within either 30 days or the medically approved minimum interval. If this does not occur, the college or university student will not be allowed to enroll, remain enrolled, or audit for the current term or session. Such written authorizations and plans must be signed by one parent or guardian or the emancipated student or the student ~~eighteen~~ 18 years of age or older.

~~K~~L. Parent - the person or persons with parental or decision-making responsibilities for a child.

~~L~~M. Practitioner - a duly licensed physician, advanced practice nurse, or other person who is permitted and otherwise qualified to administer vaccines under ~~the~~ COLORADO law~~s of this state~~.

~~M~~N. School - all child care facilities licensed by the Colorado Department of Human Services including: child care centers, school-age child care center, preschools, day camps, resident camps, day treatment centers, family child care homes, foster care homes, and head start programs; public, private, or parochial kindergarten, elementary or secondary schools through grade twelve, or a college or university. Schools do not include a public services short-term child care facility as defined in Section 26-6-102(30), C.R.S., a guest child care facility as defined in Section 26-6-102(16), C.R.S., a ski school as defined in Section 26-6-103.5 (6), C.R.S., or college or university classes which are: offered off-campus; offered to nontraditional adult students as defined by the governing board of the institution; offered at colleges or universities which do not have residence hall facilities, or; online only.

~~N~~O. School health authority - an individual working for or on behalf of the child care facility or school who is knowledgeable about child care/school immunizations.

~~O~~P. School official - the school's chief executive officer or any person designated by him/her as his/her representative.

~~P~~Q. Student - any person enrolled in a Colorado school as defined in s~~S~~ection I (M), except:

1. a child who enrolls and attends a licensed child care center, as defined in ~~s~~Section 26-6-102(5), C.R.S., which is located at a ski area, for up to fifteen days or less in a fifteen-consecutive-day period, no more than twice in a calendar year, with each fifteen-consecutive-day period separated by at least sixty days, and

2. college and university students as defined in s~~S~~ection I (C).

QR. Titer – ~~a titer is~~ a laboratory test that measures the presence and amount of antibodies in blood. Antibody titers can be used to show that a person is immune to some diseases.

II. Minimum Immunization Requirements

A. To attend school, a student must have an age appropriate Certificate of Immunization. Meeting the initial immunization requirements does not exempt a student from meeting subsequent age requirements. This certificate must demonstrate immunization against the following diseases:

1. Hepatitis B
2. Pertussis
3. Tetanus
4. Diphtheria
5. Haemophilus Influenzae Type B (HIB)
6. Pneumococcal disease
7. Polio
8. Measles
9. Mumps
10. Rubella
11. Varicella

B. EXCEPT AS REQUIRED IN SECTIONS II (C) AND II (D), WHEN HEALTHCARE PROVIDERS ADMINISTER THE IMMUNIZATIONS IDENTIFIED IN SECTION II (A), THE IMMUNIZATIONS WILL BE ADMINISTERED ACCORDING TO THE SCHEDULE ESTABLISHED BY THE ACIP. ~~The minimum number of doses required by age of the student is set forth in the 2017 ACIP Birth – 18 Years Recommended Immunization Schedule or the 2017 ACIP Catch-Up Immunization Schedule.~~

~~1. The 2017 ACIP Birth-18 Years Recommended Immunization Schedule (Schedule) is incorporated by reference for only those vaccines required to prevent the diseases listed in Section II (A). Other immunizations included in the ACIP recommendations are not required. This schedule is posted on the Centers for Disease Control and Prevention website at: https://www.cdc.gov/vaccines/schedules/downloads/child/0-18yrs-child-combined-schedule.pdf or on the Colorado Department of Public Health and Environment website at: [www.coloradoimmunizations.com], and is available for public inspection during regular business hours at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246. Copies of the recommended schedules are available from the Colorado Department of Public Health and Environment for a reasonable charge that comports with the Department's record request practices. This rule does not include any later amendments or editions of the ACIP Schedule.~~

2. In addition, the 2017 ACIP Catch-Up Immunization Schedule is incorporated by reference for those children not fully immunized and only for those vaccines required to prevent the diseases listed in Section III (A). Other immunizations included in the ACIP recommendations are not required. This recommended schedule is posted on the Centers for Disease Control and Prevention website at: https://www.cdc.gov/vaccines/schedules/downloads/child/0-18yrs-child-combined-schedule.pdf or on the Colorado Department of Public Health and Environment website at [www.coloradoimmunizations.com], and is available for public inspection during regular business hours at the Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246. Copies of the recommended schedules are available from the Colorado Department of Public Health and Environment for a reasonable charge that comports with the department's record request practices. This rule does not include any later amendments or editions of the ACIP Catch-Up Schedule.

C. Students between the ages of 4 through 6 years are required to receive their final doses of Diphtheria, Tetanus, and Pertussis (DTaP), Inactivated Polio Vaccine (IPV), Measles, Mumps, and Rubella (MMR) and Varicella prior to kindergarten entry.

D. Students are required to RECEIVE have administered Tetanus, Diphtheria, Pertussis (Tdap) prior to entry into 6th grade ENTRY. One dose of Tdap is a requireDment for 6th through 12th grades.

E. LABORATORY CONFIRMATION OF Positive titers are an acceptable alternative to the following vaccines WHEN SUBMITTED TO THE STUDENT'S SCHOOL: DTaP, Hepatitis B, Varicella and MMR. For DTaP substitution, both the diphtheria and tetanus titers must be positive. For MMR substitution, titers for measles, mumps, and rubella must be positive. A titer is not an acceptable replacement for *Haemophilus Influenzae* type b, Pneumococcal, IPV, or Tdap vaccines.

III. Exemptions from Immunization

It is the responsibility of the parent(s) to have his or her student immunized unless the student is exempted. A student may be exempted from receiving the required immunizations in the following manner:

A. Medical exemption - By submitting a medical exemption form with the statement of medical exemption signed by an advanced practice nurse, a delegated physician assistant, or physician licensed to practice medicine or osteopathic medicine in any state or territory of the United States indicating that the physical condition of the student is such that immunizations would endanger his/her life or health or is medically contraindicated due to other medical conditions. This form is to be submitted once, and must be maintained on file at each new school the student attends.

B. Religious exemption - By submitting a nonmedical exemption form signed by the parent(s) or the emancipated student indicating that the parent(s) or emancipated student is an adherent to a religious belief whose teachings are opposed to immunizations.

Beginning July 1, 2016,

1. Prior to kindergarten entry, a nonmedical exemption form must be submitted at each interval in the ACIP Birth-18 years immunization schedule at which immunizations are due. The ACIP immunization schedule is incorporated in Section II (B). This documentation is required only for those vaccines required to prevent the diseases listed in sSection II (A). Exemptions will expire at the time next immunizations are due according to the ACIP birth-18 years immunization schedule or when the student is enrolled to attend kindergarten.

2. From kindergarten through twelfth grade, a nonmedical exemption form must be submitted once per school year. Exemptions will expire annually on June 30th, the last official day of the school year.

C. Personal belief exemption - By submitting a nonmedical exemption form signed by the parent(s) or the emancipated student indicating that the parent(s) or emancipated student has a personal belief that is opposed to immunizations.

Beginning July 1, 2016,

1. Prior to kindergarten entry, a nonmedical exemption form must be submitted at each interval in the ACIP Birth-18 years immunization schedule at which immunizations are due. ~~The ACIP immunization schedule is incorporated in Section II (B).~~ This documentation is required only for those vaccines required to prevent the diseases listed in s~~S~~ection II (A). Exemptions will expire at the time next immunizations are due according to the ACIP birth-18 years immunization schedule or when the student is enrolled to attend kindergarten.

2. From kindergarten through twelfth grade, a nonmedical exemption form must be submitted once per school year. Exemptions will expire annually on June 30th, the last official day of the school year.

D. In the event of an outbreak of disease against which immunization is required, no exemption or exception from immunization shall be recognized and exempted persons may be subject to exclusion from school and quarantine.

E. All information distributed to the parent(s) by school districts regarding immunization shall inform them of their rights under s~~S~~ection III (A-D).

IV. Examination and audit of official school immunization records

The Department ~~of Public Health and Environment~~'s representative shall have the right to audit and verify records to determine compliance with the law. Discrepancies found through audits shall be corrected by school officials, and any student not in full compliance shall be suspended or expelled from school according to the following rules:

A. If the parent(s) or emancipated student was informed of the deficiencies in the student's official school immunization records pursuant to s~~S~~ection I (J) (1) of the rules, the student shall be suspended or expelled pursuant to Section 25-4-907, C.R.S.

B. If the parent(s) or emancipated student was not informed by a direct personal notification of the immunizations required and alternatives for compliance with the law, the school shall notify the parent(s) or emancipated student within 7 calendar days of the finding and the student shall: a) provide proof of immunization within 14 ~~fourteen~~ days, b) continue as an in-process student, c) verify that the student is exempt, or d) the student shall be suspended or expelled pursuant to Section 25-4-907, C.R.S.

V. Denial of attendance

A. A student who is: not in-process, not appropriately vaccinated for his/her age, or not exempt shall be denied attendance in accordance with the law.

B. If the student is attending a school THAT ~~which~~ is not subject to the School Attendance Law, Section 22-33-101 et seq., C.R.S., ~~the~~ school officials shall take appropriate action to deny attendance to the student in accordance with that school's procedures or contract with the

student. No indigent child shall be excluded, suspended, or expelled from school unless the immunizations have been available and readily accessible to the indigent child at public expense.

VI. Official school immunization records

A. Official school immunization records shall include:

1. An official Certificate of Immunization or an Alternate Certificate of Immunization approved by the Department ~~of Public Health and Environment~~, which ~~shall~~ includeS one of the following forms of documentation with the dates and types of immunizations administered to a student:

   a. A paper or electronic document that includes information transferred from the records of a licensed physician, registered nurse, a delegated physician assistant, or public health official, or

   b. An electronic file or hard copy of an electronic file provided to the school directly from the immunization tracking system established pursuant to Section 25-4-2403, C.R.S., or from a software program approved by the Department ~~of Public Health and Environment~~, or

2. An official medical exemption form with the date and vaccines exempted from, or

3. A nonmedical exemption form with the date, type of exemption taken and the vaccines exempted from.

B. Any immunization record (original or copy) provided by a physician licensed to practice medicine or osteopathic medicine in any state or territory of the United States, registered nurse, ~~a~~ delegated physician assistant, or public health official may be accepted by the school official as proof of immunization. The information is to be verified by the school official and transferred to an official Certificate of Immunization.

C. Schools shall have on file an official school immunization record for every student enrolled. The official school immunization record will be kept apart from other school records. When a student withdraws, transfers, or is promoted to a new school, the school official shall return the Certificate of Immunization to the parent(s) or emancipated student upon request or transfer it with the student's school records to the new school. Upon a college or university student's request, the Certificate of Immunization shall be forwarded as specified by the student.

VII. Reporting of Statistical Information

A. On December 1, 2016, and each year thereafter, any child care center, preschool or head start program that is licensed by the Colorado Department of Human Services to provide care to ten or more children and are not exempt from reporting pursuant to ~~Paragraph B of this S~~section VII (B), and; public, private, or parochial schools with kindergarten, elementary or secondary schools through grade twelve, shall send aggregate immunization and exemption data, by antigen, to the Department ~~of Public Health and Environment~~.

Required data shall include:

1. Total number of students and total number of kindergarten students enrolled in the school;

2. Total number of students and total number of kindergarten students who are up-to-date with immunizations as required in ~~s~~Section II;

3. Total number of students and total number of kindergarten students who have a medical exemption for all immunizations as required in ~~s~~Section II;

4. Total number of students and total number of kindergarten students who have a medical exemption for one or more but not all immunizations as required in ~~s~~Section II;

5. Total number of students and total number of kindergarten students who have a religious exemption for all immunizations as required in ~~s~~Section II;

6. Total number of students and total number of kindergarten students who have a religious exemption for one or more but not all immunizations as required in ~~s~~Section II;

7. Total number of students and total number of kindergarten students who have a personal belief exemption for all immunizations as required in ~~s~~Section II;

8. Total number of students and total number of kindergarten students who have a personal belief exemption for one or more but not all immunizations as required in ~~s~~Section II;

9. Total number of in-process students and total number of in-process kindergarten students;

10. Total number of students and total number of kindergarten students not up-to-date for immunizations as required in ~~part III~~ ~~s~~Section II, with no exemption on file, and not in-process; and

11. Total number of students and total number of kindergarten students with no immunization records.

B. Schools not required to send aggregate immunization and exemption data to the Department ~~of Public Health and Environment~~ include: ONLINE ONLY K - 12TH GRADE SCHOOLS, school-age child care centers, family child care homes, drop-in centers, day treatment centers, foster care homes, day camps, and resident camps.

VIII. Notification of noncompliance

A. Section 25-4-907, C.R.S. requires that if a student is suspended or expelled from school for failure to comply with the immunization law, the school official shall notify the ~~state or local department of health~~ DEPARTMENT OR COUNTY, DISTRICT, OR MUNICIPAL PUBLIC HEALTH AGENCY ~~or public health nurse~~ who shall then contact the parent(s) or emancipated student in an effort to secure compliance so that the student may be re-enrolled in school.

B. Upon receipt of an immunization referral from the school, the DEPARTMENT OR COUNTY, DISTRICT, OR MUNICIPAL PUBLIC HEALTH AGENCY ~~public health department or public health nurse~~ shall contact the parent(s) of the referred student or the emancipated student himself/herself to offer immunization and to secure compliance with the school immunization law in order that the student may provide a completed Certificate of Immunization to the school and in the case of an expelled or suspended student, be re-enrolled in school.

IX. Requirements for college and university students, colleges and universities.

The provisions below apply only to colleges or universities, or students enrolled in a college or university.

A. Minimum immunization requirements

1. Two valid doses of the MMR ~~measles, mumps and rubella~~ vaccine are required for all college or university students, unless the college or university student was born before

1957~~, or the college or university student can provide laboratory confirmation of disease as a criterion for acceptable evidence of immunity for measles, rubella, and mumps~~.

a. LABORATORY CONFIRMATION OF POSITIVE TITERS ARE AN ACCEPTABLE ALTERNATIVE TO THE MMR VACCINE WHEN SUBMITTED TO THE STUDENT'S SCHOOL. FOR MMR SUBSTITUTION, TITERS FOR MEASLES, MUMPS, AND RUBELLA MUST BE POSITIVE.

2. Pursuant to Section 25-4-901, C.R.S. et. seq., and Section 23-5-128 (3), C.R.S., each college and university shall provide information concerning meningococcal disease and meningococcal vaccine to each new college or university student residing in student housing, or if the college or university student is under 18 years, to the college or university student's parent or guardian. College and university students residing in student housing who have not received a meningococcal vaccine within the last five years shall review the information concerning meningococcal disease and meningococcal vaccine. If the college or university student does not obtain a vaccine, a signature must be obtained from the college or university student or if the college or university student is under 18 years, the college or university student's parent or guardian indicating that the information was reviewed and the college or university student or college or university student's parent or guardian has declined the vaccine.

B~~A~~. Exemptions from immunization

A college or university student may be exempted from receiving required immunizations in the following manner:

1. Medical exemption - By submitting a medical exemption form with the statement of medical exemption signed by an advanced practice nurse, a delegated physician assistant, or physician licensed to practice medicine or osteopathic medicine in any state or territory of the United States indicating that the physical condition of the college or university student is such that immunizations would endanger his/her life or health or is medically contraindicated due to other medical conditions. This form is to be submitted once, and must be maintained on file at each new school the college or university student attends.

2. Religious exemption - By submitting a nonmedical exemption form signed by the college or university student 18 years of age or older, the parent if the college or university student is under 18 years of age, or the emancipated college or university student indicating that the college or university student, parent or emancipated college or university student is adherent to a religious belief whose teachings are opposed to immunizations. As of July 1, 2016, beginning with college or university entry, a nonmedical exemption form must be submitted at enrollment.

3. Personal belief exemption - By submitting a nonmedical exemption form signed by the college or university student 18 years of age or older, the parent if the college or university student is under 18 years of age, or the emancipated college or university student indicating that the college or university student, parent or emancipated college or university student has a personal belief that is opposed to immunizations. As of July 1, 2016, beginning with college or university entry, a nonmedical exemption form must be submitted at enrollment.

4. In the event of an outbreak of disease against which immunization is required, no exemption or exception from immunization shall be recognized and exempted persons may be subject to exclusion from school and quarantine.

~~B. Minimum immunization requirements~~

~~1. Two valid doses of the Measles, Mumps and Rubella vaccine are required for all college or university students, unless the college or university student was born before 1957, or the college or university student can provide laboratory confirmation of disease as a criterion for acceptable evidence of immunity for Measles, Rubella, and Mumps.~~

~~2. Pursuant to Section 25-4-901, C.R.S. et. seq., and Section 23-5-128 (3), C.R.S., each college and university shall provide information concerning Meningococcal disease and Meningococcal vaccine to each new college or university student residing in student housing, or if the college or university student is under 18 years, to the college or university student's parent or guardian. College and university students residing in student housing who have not received a Meningococcal vaccine within the last five years shall review the information concerning Meningococcal disease and Meningococcal vaccine. If the college or university student does not obtain a vaccine, a signature must be obtained from the college or university student or if the college or university student is under 18 years, the college or university student's parent or guardian indicating that the information was reviewed and the college or university student or college or university student's parent or guardian has declined the vaccine.~~

C. Examination and audit of official school immunization records

The Department ~~of Public Health and Environment~~'s representative shall have the right to audit and verify records to determine compliance with the law. Discrepancies found through audits shall be corrected by school officials, and any college or university student not in full compliance shall be denied attendance from school according to the rules in s~~S~~ection IX (D).

D. Denial of attendance

1. A college or university student who is: not in-process, not appropriately vaccinated for his/her age, or not exempt shall be denied attendance in accordance with the law.

2. A school official shall deny attendance from school, pursuant to the provisions established by the school, any college or university student not in-process, not appropriately immunized for his/her age, or not exempt per Section 25-4-903, C.R.S. N~~n~~o college or university student shall be denied attendance for failure to comply unless there has been a direct personal notification of noncompliance by the appropriate school authority to the college or university student's parent or guardian, the emancipated college or university student or the college or university student 18 years of age or older.

E. Official school immunization records

1. Official school immunization records shall include one of the following:

A. An official Certificate of Immunization or an Alternate Certificate of Immunization approved by the Department ~~of Public Health and Environment~~, which shall include one of the following forms of documentation with the dates and types of immunizations administered to a college or university student:

1. A paper or electronic document that includes information transferred from the records of a licensed physician, registered nurse, ~~a~~ delegated physician assistant, or public health official, or

2. An electronic file or hard copy of an electronic file provided to the school directly from the immunization tracking system established pursuant to Section 25-4-2403 C.R.S. or from a software program approved by the Department ~~of Public Health and Environment~~, or

B. An official medical exemption form with the date and vaccines exempted from, or

C. A nonmedical exemption form with the date, type of exemption taken and the vaccines exempted from.

2. Any immunization record (original or copy) provided by a physician licensed to practice medicine or osteopathic medicine in any state or territory of the United States, registered nurse, ~~a~~ delegated physician assistant, or public health official may be accepted by the school official as proof of immunization.

3. Schools shall have on file an official school immunization record for every college or university student enrolled.

F. Reporting of statistical information – on December 1, 2016, and each year thereafter, any college or university that constitutes a school as defined by ~~s~~Section I (M) shall send aggregate immunization and exemption data, by antigen, to the Department ~~of Public Health and Environment~~:

Required data shall include:

1. Total number of college or university students enrolled in the school;

2. Total number of college or university students who are up-to-date with immunizations as required in this ~~s~~Section (IX);

3. Total number of college or university students who have a medical exemption for the MMR vaccine;

4. Total number of college or university students who have a religious exemption for the MMR vaccine;

5. Total number of college or university students who have a personal belief exemption for the MMR vaccine;

6. Total number of in-process college or university students;

7. Total number of college or university students who have a signed waiver for the Meningococcal vaccine;

8. Total number of college or university students not up-to-date for the MMR vaccine, with no exemption on file, no Meningococcal vaccine waiver on file, and not in-process; and

9. Total number of college or university students with no immunization records.

X. Contract Requirements for Providers, Hospitals, and Health Care Clinics to be an Agent of the Department ~~of Public Health and Environment~~ for the Purposes of the Immunization Program

A. To be an agent of the Department ~~of Public Health and Environment~~ for the purposes of administering immunizations to infants, children, and students, a provider, hospital, or health care clinic must agree to provide each patient receiving a vaccine, or the parent or legal guardian if such patient is an unemancipated minor, a copy of the currently approved ~~v~~Vaccine ~~i~~Information ~~s~~Statement.

B. The Department of Public Health and Environment shall make such requirements as are necessary to assure the confidentiality and security of information in immunization tracking

system operated pursuant to Section 25-4-~~1705(5)(e)(I)(H)~~2403(3), ~~C.R.S and Section 25-4-1705(7),~~ C.R.S.

XI. Fee for the Administration, Reporting, and Tracking of Vaccine

This section ~~rule~~ applies to immunizations PROVIDED ~~purchased~~ by THE DEPARTMENT ~~CDPHE~~ that are recommended by the ACIP ~~Advisory Committee on Immunization Practices of the U.S. Department of Health and Human Services~~ and AVAILABLE ~~provided~~ to Colorado practitioners.

A. Practitioners may charge up to the Centers for Medicare and Medicaid ~~s~~Services maximum regional fee for the administration of vaccine. These fees apply to all vaccines ~~purchased~~ PROVIDED by THE DEPARTMENT ~~CDPHE~~, ~~including but not limited to the Infant Immunization Program, and Immunization of Children Attending School~~.

B. A vaccine recipient may not be denied vaccine provided by THE DEPARTMENT ~~CDPHE~~ because of inability to pay the administration fee.

C. If a practitioner's vaccine administration costs are less than the Centers for Medicare and Medicaid Services maximum regional fee for the administration of vaccine, then they may only charge up to that lesser amount.

XII. On-line educational module

~~As necessary To comply with~~ PER ~~s~~Section 25-4-903 (2.5), C.R.S., the Department ~~of Public Health and Environment~~ shall provide immunization information to the public. The immunization information and contents of this module shall include, but are not limited to:

A. Exemption rates in Colorado that are available to the public through the Department,

B. Evidence-based research,

C. Resources and information from credible scientific and public health organizations, and

D. Peer-reviewed studies.

COLORADO
Board of Health
Department of Public Health & Environment

Notice of Public Rule-Making Hearing

June 20, 2018

ID #: 117

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: June 20, 2018

Time: 10:00 AM

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

To consider the promulgation/amendments or repeal of:

CCR Number(s)
6 CCR 1009-2, Infant Immunization Program and Immunization of Students Attending School

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

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

Statute(s)
§25-4-903, C.R.S
§25-4-904, C.R.S.

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

For specific questions regarding the proposed rules, contact the division below:
Disease Control and Environmental Epidemiology Division, A3-3620, 4300 Cherry Creek Drive S., Denver, CO 80246, (303) 692-2358.

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

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

Persons wishing to submit written comments should submit them to: Colorado Board of Health, ATTN: Board of Health Unit, 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, June 14, 2018.

Deborah Nelson, Board of Health Administrator
Date: 2018-04-19T12:54:58

Notice of Proposed Rulemaking

Tracking number

2018-00193

Department

500,1008,2500 - Department of Human Services

Agency

2503 - Income Maintenance (Volume 3)

CCR number

9 CCR 2503-6

Rule title

COLORADO WORKS PROGRAM

Rulemaking Hearing

Date

06/01/2018

Time

10:00 AM

Location

Fremont County Public Health and Environment, 201 N. 6th St., Canon City, CO 81212

Subjects and issues involved

See attachment for detailed description.

CDHS holds two public hearings, an initial and final, for each proposed rule packet.

The initial hearing allows the public an opportunity to submit written data, views, or arguments and to testify for or against the proposed rules. The Board does not vote on the proposed rule at the initial hearing, but asks CDHS to consider all public comment and discussion and, if needed, submit revisions to the proposed rule.

The final hearing, usually the month following the initial hearing, allows the same opportunity for public comment, after which the Board votes on final adoption of the proposed rule.

Please visit CDHS State Board website for meeting dates.

Statutory authority

26-1-107, C.R.S. (2017)
26-1-109, C.R.S. (2017)
26-1-111, C.R.S. (2017)
26-2-706.6, C.R.S. (2017)

Contact information

Name

Sarah Leopold

Title

Rule Author

Telephone

303-866-5762

Email

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Title of Proposed Rule:	**Basic Cash Assistance Increase**	
CDHS Tracking #:	**18-01-03-01**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-2882
OES, EBD, CoWorks	Katie Griego	E-Mail: Katie.griego@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.

Colorado Works is the State's Temporary Assistance for Needy Families (TANF) program. It provides cash assistance and employment and stabilization services to Colorado's neediest families. The value of the cash assistance benefits has eroded over time, as it is not adjusted for inflation or cost of living increases. Since its establishment in 1997, the purchasing power of Colorado's Basic Cash Assistance (BCA) grant has decreased 35%. The benefit amount was last modified slightly in 2009.

The purpose of this change is to ensure BCA is increased to more closely align with inflation and cost of living increases.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2017)	State Board to promulgate rules
26-1-109, C.R.S. (2017)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2017)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
26-2-706.6, C.R.S. (2017)	Payments and services under Colorado works - rules - repeal

Does the rule incorporate material by reference? [ ] Yes [X] No

Does this rule repeat language found in statute? [ ] Yes [X] No

If yes, please explain.

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

The most vulnerable, impoverished Colorado families will benefit from this rule. Currently, a single parent household with two children enrolled in the Colorado Works program receives a maximum monthly payment of $462. The payment is intended to cover: shelter, utilities, household goods, food, clothing, personal care items, general incidental expenses, and other necessary expenses. This provides very limited resources for families striving to achieve economic stability and exit poverty permanently.

The benefits increases are within the existing appropriation and available funding to counties. There is no additional administrative burden or requirements as a result of the increases. The impact to counties will be through increased expenditures using their existing county allocations and County TANF Reserves.

2. Describe the qualitative and quantitative impact.

The Colorado Works Basic Cash Assistance payment will increase an average of $46 per case per month. Based on the FY 2016-17 caseload data, the statewide fiscal impact will be an increase of approximately $8,100,286 in Basic Cash Assistance paid to participants. This estimate is based on caseload trends.

The increase will benefit approximately 17,000 families monthly, about 34,500 annually, who receive Colorado Works Basic Cash Assistance. The value of the current benefit is approximately 28.6% of the current Federal Poverty Threshold and will increase to approximately 31.5%. There is no proposed change to the Need Standard, so the grant increase is unlikely to result in any caseload increase.

Many years of accumulated evidence supports the notion that alleviating childhood deprivation has long-term benefits on their academic achievement, health, and adult earning power.[1] With increased income, parents can better support their children and themselves while continuing to work towards sustainable employment.

3. Fiscal Impact

State Fiscal Impact

There will be CBMS costs required to make changes. The changes will be accomplished within the existing CBMS resources/appropriation.

There are no additional State fiscal impacts as a result of this rule change. The changes do not require an increase to the County Block Grant. Benefits increases will be within the existing Block Grant appropriation.

[1] Sherman, Arloc and Mitchell, Tazra. Economic Security Programs Health Low-Income Children Succeed Over Long Term, Many Studies Find. Center on Budget and Policy Priorities. Published July 17,2017. Accessed August 1, 2017.

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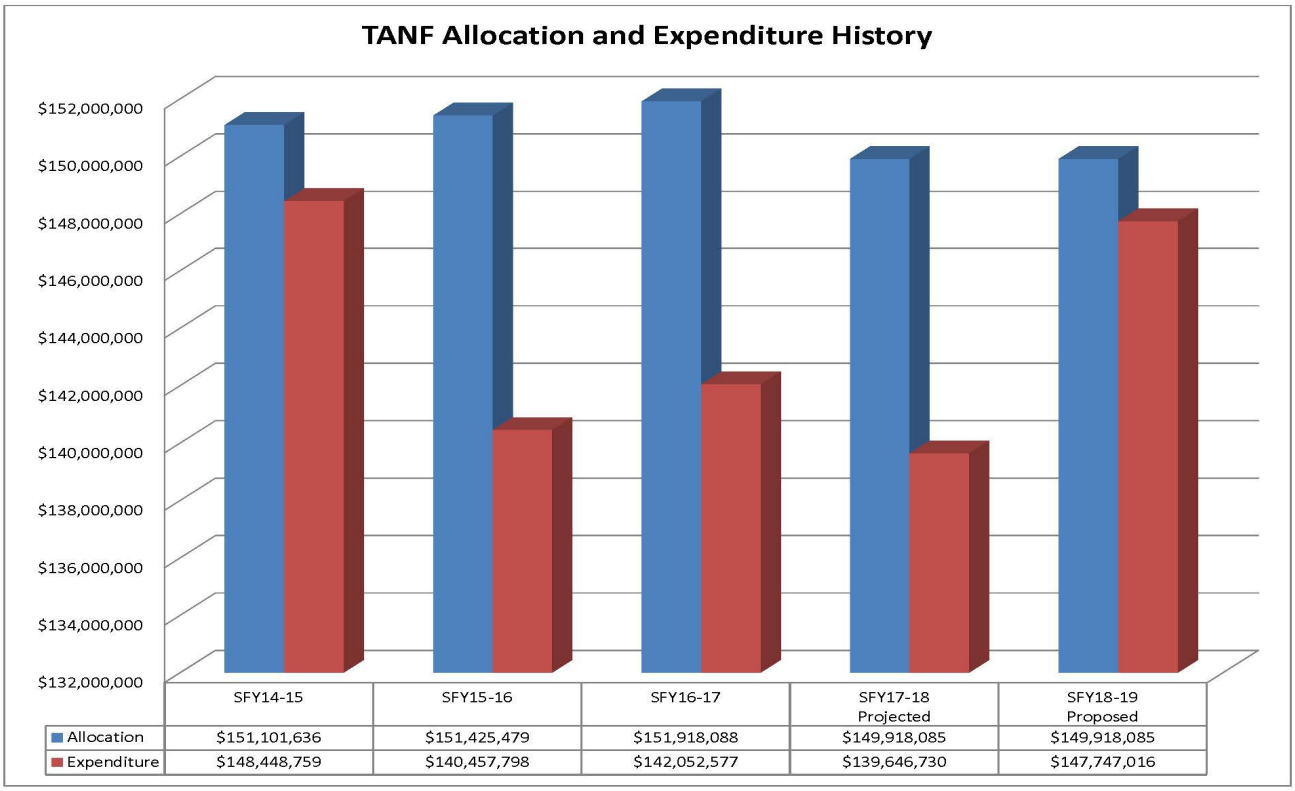
County Fiscal Impact

Expenditure increases are projected to be approximately $8,100,286 statewide and will be funded with the existing Colorado Works County Block Grant. The current Block Grant allocation gives some priority to Basic Cash Assistance spending; counties spending more on BCA are more likely to receive increased allocations in subsequent years. Also, balance-of-state counties with high BCA spending may be eligible for additional funding from the Works Allocation Committee Mitigation Pool.

Collectively, counties have underspent their Colorado Works appropriation in each of the last four years – by $10.3 million in FY 2016-17. As a result, the County Colorado Works/TANF Reserves have increased from $30.6 million at the end of FY 2013-14 to $51.0 million at the end of FY 2016-17 (about one third of the annual block grant appropriation). This benefit increase is projected to have minimal impact on County TANF Reserves assuming consistent caseload and expenditures.



	SFY14-15	SFY15-16	SFY16-17	SFY17-18 Projected	SFY18-19 Proposed
Allocation	$151,101,636	$151,425,479	$151,918,088	$149,918,085	$149,918,085
Expenditure	$148,448,759	$140,457,798	$142,052,577	$139,646,730	$147,747,016

The Department will continuously monitor caseload, expenditures, and County Colorado Works/TANF Reserve levels to ensure counties have sufficient resources to operate the program.

There is no additional or increased county Maintenance of Effort requirement. The County MOE amount is outlined in the Annual Long Bill.

Federal Fiscal Impact

There is no federal fiscal impact. All expenditures will be within existing federal funds.

Other Fiscal Impact

There is no additional fiscal impact to any other provider or local governments. All benefits increases will be paid within the existing County TANF Block Grant and County TANF Reserve.

4. Data Description

The Employment and Benefits Division relied on the following data from the Administration for Children and Families (ACF) and internal resources when developing this rule:

Since 1997 Colorado's Basic Cash Assistance amount has decreased by 35% (14.9% since 2009 when the last benefit amount adjustment occurred) in inflation-adjusted dollars due to a lack of regular increases and or adjustments relative to the cost of living.

The caseload has declined about 8% to 17,166 from its recession peak of 18,659 in October 2013. It has remained below 18,000 since January 2015.

5. Alternatives to this Rule-making

Various alternatives and options were considered before finalizing the decisions proposed in this change. See options A-C below:

A. **Increase BCA Relative to the Federal Poverty Level.** Colorado ranks 23rd out of the 50 states in terms of cash grant amount as a percentage of the Federal Poverty Level (FPL). While Colorado is roughly in the middle of the 50 states, BCA grant amount are drastically different, even when compared to Colorado. For example, New York's BCA is 47% of FPL. To match that, Colorado would need to increase the grant for a family of three by $327.60 or 71%. Another example of a state with a higher percentage of FPL is Montana, where a family of three receives an additional $126 compared to a same-sized family in Colorado.

B. **Increase BCA Relative to the Housing and Urban Development (HUD) Fair Market Rent (FMR).** Colorado ranks 28th out of the 50 states in terms of cash grant amount as a percentage of HUD FMR. Top-ranked South Dakota issues a BCA of $943 while Minnesota (14th ranked) issues $632. To match either of these amounts, Colorado would need to increase by $480 or $170, respectively.

C. **Increase BCA Relative to Minimum Wage Increases.** From 1996 to 2017, the hourly minimum wage in Colorado has more than doubled, from $4.25 to $9.30, a 119% increase. In contrast, the monthly benefit amount for a family of three has increased from $356 to $462 in that same time period, an increase of 30%. To match minimum wage, Colorado would need to increase its monthly BCA grant amount for a family of three to $779, a difference of 69% or $317.

The recommended increase was intended to be sufficient to have an impact on benefits received and be within existing available TANF resources.

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OVERVIEW OF PROPOSED RULE

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
3.606.2 (F)	Grant amounts do not account for inflation	Determining Eligibility for Basic Cash Assistance Grant Based on the Standard of Need The basic cash assistance grant shall be determined based upon income using the following need standard. If the participant has zero income the following cash payment shall be received based upon those included in the assistance unit: COLORADO WORKS STANDARDS OF ASSISTANCE CHART	Standards of assistance chart with new grant amounts updated to account for inflation.	Increase grant amount to a more livable amount	No

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

None

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

County Human Services Directors Association; Colorado Legal Services; Disability Law Colorado; All Families Deserve a Chance (AFDC) Coalition; Policy Advisory Committee; Economic Security Sub-PAC; Legal Aid of Metropolitan Denver; Colorado Center on Law and Policy; Colorado Counties, Inc.; and the Food and Energy Assistance Division.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[X] Yes [ ] No

If yes, who was contacted and what was their input?

Marivel Klueckman with Health Care Policy and Financing-no input received.

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Economic Security
Date presented	03/08/2018
What issues were raised?	The following reflects feedback garnered on the BCA rule package through a variety of forums (e.g., Finance and OES sub-PACs, CCI, open State-wide phone calls, and one-on-one conversations). The majority of counties have indicated that they are philosophically aligned with increasing the BCA grant amount given that it has not increased in roughly ten years, has not kept pace with inflation, and that the current amount is not sufficient for families in dire poverty. At the same time, counties have expressed concern regarding the financial feasibility of the proposal when considering the TANF, Child Welfare, and Child Care funding simultaneously. a) At the time of the original proposal (Fall 2017), Child Care was projected to have an over-expenditure. The department worked alongside counties to secure supplemental funding for the program and what is likely future enhanced funding from the General Assembly. In addition, the projected over-expenditure has decreased over time. More recently, counties have expressed less concern about Child Care funding in relation to this proposal. b) Also, at the time of the original proposal, Child Welfare was projected to have an over-expenditure. Supplemental funding has also been secured for Child Welfare and there are current discussions regarding mechanisms to enhance future funding. Counties have continued to express concerns about Child Welfare funding.

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There are a few counties that have expressed that they are not philosophically aligned with the current rule package, in that they believe this will encourage greater government dependency.

Vote Count	*For*	*Against*	*Abstain*
	N/A	N/A	N/A

If not presented, explain why.: No vote was taken given that Colorado Counties, Inc. (CCI) indicated through a vote that they would not be supportive of the proposed increase due to financial concerns in the Colorado Child Care Assistance and Child Welfare Programs. However, several counties indicated that they are in alignment philosophically with the Department's desire to increase BCA. Due to many county commissioners desire, Sub-PAC was notified that the Department is interested in hearing their input and would be discussing this in greater detail during the 04/05/2018 PAC.

PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented: 04/05/2018

What issues were raised?

The following reflects feedback garnered on the BCA rule package through a variety of forums (e.g., Finance and OES sub-PACs, CCI, open State-wide phone calls, and one-on-one conversations).

The majority of counties have indicated that they are philosophically aligned with increasing the BCA grant amount given that it has not increased in roughly ten years, has not kept pace with inflation, and that the current amount is not sufficient for families in dire poverty.

At the same time, counties have expressed concern regarding the financial feasibility of the proposal when considering the TANF, Child Welfare, and Child Care funding simultaneously.

a) At the time of the original proposal (Fall 2017), Child Care was projected to have an over-expenditure. The department worked alongside counties to secure supplemental funding for the program and what is likely future enhanced funding from the General Assembly. In addition, the projected over-expenditure has decreased over time. More recently, counties have expressed less concern about Child Care funding in relation to this proposal.

b) Also, at the time of the original proposal, Child Welfare was projected to have an over-expenditure. Supplemental funding has also been secured for Child Welfare and there are current discussions regarding mechanisms to enhance future funding. Counties have continued to express concerns about Child Welfare funding.

There are a few counties that have expressed that they are not philosophically aligned with the current rule package, in that they

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	believe this will encourage greater government dependency.

Vote Count	*For*	*Against*	*Abstain*
	N/A	N/A	N/A

If not presented, explain why.

A formal vote was not necessary due to the unanimous vote CCI took in January of 2018 to not support the BCA increase. Due to CCI counties indicating that they would not support a BCA increase, the Department chose to engage with the counties in a dialogue to more fully understand county positions and concerns related to the proposed rules. This dialogue occurred through the Sub-PAC process and a variety of other forums over several months. The rules were discussed at PAC on April 5, 2018. Counties expressed concerns in two main areas:

1. County allocations have not increased since the inception of the program.
2. Current county allocations cannot cover a 10% increase due to overspending in Child Welfare and CCCAP. These over expenditures have been covered by TANF transfers to these programs.

The Department, while respecting the county opinion, expressed the strong belief that an increase to BCA is long overdue given the needs of the population, and collectively the program has available funds to support this request, therefore the Department has determined to take this proposal to the State Board of Human Services. The State further recognizes that there is adequate funding in the Colorado Works program to support Colorado Works participants however recognizes and is committed to find solutions in both the Child Care Assistance and Child Welfare programs. Waiting for a solution in these programs would further disservice Colorado Works participants. Counties further agreed that if the funding issues in CCCAP and Child Welfare could be fixed, their support for this change would be different. Counties philosophy is in alignment with the Department and some counties are in favor of this change.

Last, counties that are not a part of CCI have been contacted and the matter discussed extensively with them as well and the Department recognizes while the vote at CCI was unanimous, it may not have been fully representative. An example is the expressed request made by the San Luis Valley region that are in favor of the BCA increase and wanted the Board to consider that they do not oppose the increase. Counties were encouraged to attend State Board and present their perspective.

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Other Comments
Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

From the Colorado Center on Law and Policy:

The Colorado Center on Law and Policy strongly supports the proposed rule, "Basic Cash Assistance Increase." This rule would bolster economic security for Colorado's most vulnerable families and children, by adjusting the Basic Cash Assistance ("BCA") grant amounts to reflect inflation.

Many residents who receive BCA rely on this program as their sole source of income. This resource enables greater food security, prevents homelessness, and allows families to meet their basic needs during the time when household members are acquiring the tools to gain employment in the workforce. Unfortunately, the rising cost of living in Colorado has steadily eroded the value of this resource. For example, in 1996, BCA represented 62.3% of fair market rents in Colorado. By 2000, BCA only reflected 55.5% of fair market rents, and as of 2017, this has declined further to 40.4%. This proposed increase will help restore the value of this vital public program and will enable cost-of-living adjustments in order to prevent future erosion of the monthly grant.

This proposed rule is also in accordance with national trends. As noted in a report by the Center on Budget and Policy Priorities: "Nine states plus Washington, D.C., raised TANF benefits between July 2016 (the start of fiscal year 2017 in most states) and July 2017; two others enacted legislation that will raise benefit levels after July 2017." Moreover, as noted in the proposal, this increase is relatively modest compared to the amount of cash assistance provided in other states, and it would be sustained by the existing financial resources that are allocated for the program.

This proposed increase to BCA will offer much needed support to more than ten thousand low-income families in Colorado. It would increase food security, access to utilities, and housing stability. We commend the Colorado Department of Human Services for offering this proposal, and we urge the members of the State Human Services Board to support this important effort.

Sincerely,

Jack Regenbogen, Esq.

Colorado Center on Law and Policy
789 Sherman St. Suite #300
Denver, CO 80203

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Fact sheet from the All Families Deserve a Chance (AFDC) Coalition (with list of specific community support):

AFDC
ALL FAMILIES DESERVE A CHANCE COALITION

Increase Basic Cash Assistance

What is Colorado Works?
Colorado Works is Colorado's Temporary Assistance for Needy Families (TANF) program. The program aims to strengthen families' economic and social stability by providing basic cash assistance, connecting families with resources, and attaching those with the ability to work to employment opportunities. On average, a family participates in Colorado Works for eight months.

What is basic cash assistance (BCA)?
BCA works directly to break down barriers to family stability and employment by helping participants pay for transportation, housing, childcare, food, and other necessities. The average BCA amount is currently $462/month for a household with one adult and two children.

What is the proposal to increase BCA?
The State Department of Human Services has proposed increasing BCA for Colorado Works Participants by 10 percent, or an average of $46 per month. The Colorado Human Services Board will consider this proposal in June 2018.

Why increase BCA?
The BCA amount has been stagnant since 2009. It has not kept pace with inflation or increases in the minimum wage. The proposed increase will help the most vulnerable Coloradans avoid falling even further behind. Research shows that when families' income increases, children's education and health outcomes and future earning capacity improve dramatically.

Did you know?
12.5 percent of Colorado Works participants are experiencing homelessness.

Think about what a 10 percent increase in your income would mean to your family. For Colorado Works participants, an extra $46 each month means:

- One month of diapers
- One week of infant formula
- Nine meals for family of four
- Two weeks' worth of gasoline
- RTD discount fare monthly pass
- Four 6-packs of socks
- Kids waterproof winter boots
- Internet access for one month
- Period products for three months
- Cellular service for a month

Support for Increasing BCA

9to5 Colorado
All Families Deserve a Chance Coalition
Asian Pacific Development Center
Bayaud Enterprises
Bright Future Foundation of Eagle County
Children's Hospital Colorado
Center for Health Progress
Colorado Center on Law and Policy
Colorado Coalition for the Homeless
Colorado Community Health Network
Colorado Cross Disability Coalition
Colorado Fiscal Institute
Colorado Social Legislation Committee
Colorado Springs Food Rescue
COLOR
The Consortium
CWEE
Denver Food Rescue
Emergency Family Assistance Association (EFAA)
Energy Outreach Colorado
Housing Solutions for the Southwest
Human Services Network
Hunger Free Colorado
Interfaith Alliance of Colorado
La Plata County Thrive! Living Wage Coalition
LiveWell Colorado
Lutheran Advocacy Ministries
NARAL Pro-Choice Colorado
People's Advocacy Council
Posada of Pueblo
Rodfei Tzedek of Congregation Rodef Shalom
S.H.A.R.E., Inc.
St. Francis Center
The Denver Foundation
Tri-County Health Network
UNE
Women's Lobby of Colorado

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Letter from Denver Department of Human Services:

April 2, 2018

The Denver Department of Human Services recognizes that the level of Basic Cash Assistance payments made to eligible Colorado Works recipients has not been increased in a number of years and is overdue one. Generally speaking, we are in agreement with the Colorado Department of Human Services' proposal to increase the grant amounts by ten percent. However, there are a few lingering concerns that we want to share with the Board:

- Statutory Guidance: CRS 26-2-709(c) states that "An increase in the amount of the basic cash assistance grant approved by the state department shall not take effect unless the funding for the increase is included in the annual general appropriation act of a supplemental appropriation act." There was no specific appropriation request or supplemental appropriation request made to support the proposed increase. The State believes that the current funding level is sufficient to support the increase without needing any additional appropriation. Given some of the uncertainties as explained above, Denver would counsel the Board to request a State Attorney General's opinion regarding the applicability of the statutory provision cited above. Denver has been assured that such an opinion was already secured, and with that, the State should be able to provide the Board with that opinion.
- Sustainability: While it's generally acknowledged that the counties and the State, collectively, have adequate levels of TANF funding in reserve to currently support the proposed increase, we also know that the longer term prospects are less certain. Some factors to take into account include:
  - Reliability of federal TANF Contingency funds, which are not guaranteed from year to year, and have repeatedly been considered for elimination at the federal level. The loss of the Contingency funding would reduce the federal funding by roughly $11 million per year, which approximates the level of funding needed to support the proposed increase.
  - Counties' planned use for their annual TANF allocations and reserves: The CDHS Audit Division surveyed counties to determine the extent to which the counties had developed plans for the use of the TANF funds. The compilation and results of that survey have not been shared with the counties, but may reveal a planned use of the funds that might not be recognized and factored into the State's analysis of the viability of the increase.
- Impacts of basic cash assistance grant increase on other program benefits: Program staff analysis has illustrated that increases in the basic cash assistance grant amounts can result in reductions to households' SNAP benefits allotments, as well as a household's public housing assistance. The Board needs to understand these impacts, and ask whether there are options that can be considered that would avoid the offsetting impact that would otherwise occur. For example, counties might be encouraged to use "other assistance," as defined in CRS 26-2-709(c)(2), as an alternative approach.

As the Board is aware, when considering a policy change with the level of impact such as is being considered, CDHS typically would follow a standardized process through the State and County Policy Advisory Committee structure to socialize and discuss a policy change with the magnitude and reach of the proposed increase to TANF basic cash assistance. Had the State opted to follow its conventional practice, the issues Denver is sharing directly with the Board would have been discussed with our county colleagues and State partners in advance of the

proposal reaching the Board for its decision. In the absence of this more interactive process, Denver wanted to share its perspective directly with Board members.

9 CCR 2503-6

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3.606.2 Basic Cash Assistance

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F. Determining Eligibility for Basic Cash Assistance Grant Based on the Standard of Need The basic cash assistance grant shall be determined based upon income using the following need standard. If the participant has zero income the following cash payment shall be received based upon those included in the assistance unit:

COLORADO WORKS STANDARDS OF ASSISTANCE CHART

Specified Caretaker(s) of Children **Number of Dependent Children**

	0	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**Ea. Add.**
No Specified Caretaker												
Need Std.	0	117	245	368	490	587	678	755	830	904	977	67
~~Grant Amt.~~	~~0~~	~~128~~	~~269~~	~~404~~	~~539~~	~~646~~	~~746~~	~~832~~	~~913~~	~~995~~	~~1086~~	~~72~~
Grant Amt.	0	141	296	444	593	711	821	915	1004	1095	1075	74
One Specified Caretaker												
Need Std.	253	331	421	510	605	697	770	844	920	992	1065	67
~~Grant Amt.~~	~~278~~	~~364~~	~~462~~	~~561~~	~~665~~	~~767~~	~~847~~	~~929~~	~~1012~~	~~1092~~	~~1172~~	~~72~~
Grant Amt.	306	400	508	617	732	844	932	1022	1113	1201	1289	74
Two Specified Caretakers												
Need Std.	357	439	533	628	716	787	861	937	1009	1082	1155	67
~~Grant Amt.~~	~~392~~	~~483~~	~~586~~	~~691~~	~~787~~	~~865~~	~~947~~	~~1032~~	~~1111~~	~~1190~~	~~1271~~	~~72~~
Grant Amt.	431	531	645	760	866	952	1042	1135	1222	1309	1398	74

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Many years of accumulated evidence supports the notion that alleviating childhood deprivation has long-term benefits on their academic achievement, health, and adult earning power.[1] With increased income, parents can better support their children and themselves while continuing to work towards sustainable employment.

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State Fiscal Impact

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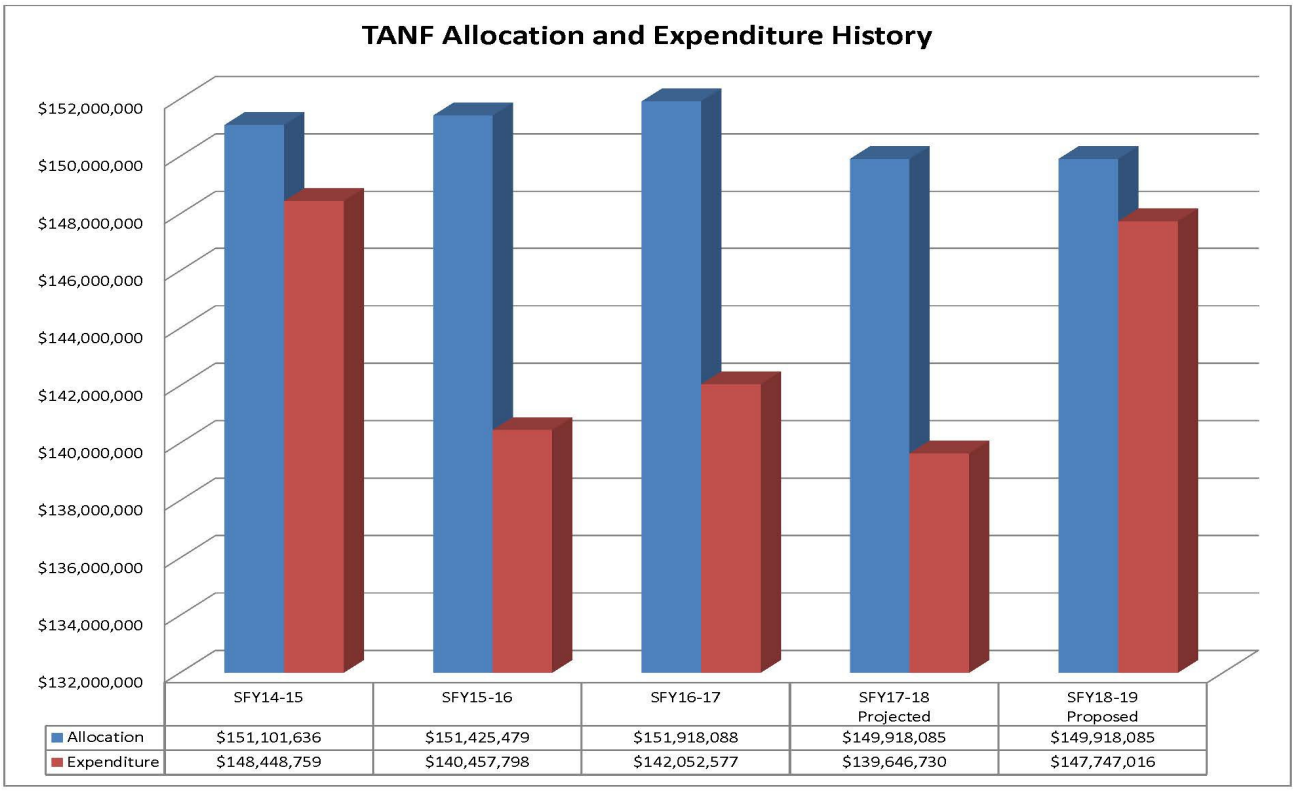
OES, EBD, CoWorks	Katie Griego	E-Mail: Katie.griego@state.co.us

County Fiscal Impact

Expenditure increases are projected to be approximately $8,100,286 statewide and will be funded with the existing Colorado Works County Block Grant. The current Block Grant allocation gives some priority to Basic Cash Assistance spending; counties spending more on BCA are more likely to receive increased allocations in subsequent years. Also, balance-of-state counties with high BCA spending may be eligible for additional funding from the Works Allocation Committee Mitigation Pool.

Collectively, counties have underspent their Colorado Works appropriation in each of the last four years – by $10.3 million in FY 2016-17. As a result, the County Colorado Works/TANF Reserves have increased from $30.6 million at the end of FY 2013-14 to $51.0 million at the end of FY 2016-17 (about one third of the annual block grant appropriation). This benefit increase is projected to have minimal impact on County TANF Reserves assuming consistent caseload and expenditures.



	SFY14-15	SFY15-16	SFY16-17	SFY17-18 Projected	SFY18-19 Proposed
Allocation	$151,101,636	$151,425,479	$151,918,088	$149,918,085	$149,918,085
Expenditure	$148,448,759	$140,457,798	$142,052,577	$139,646,730	$147,747,016

The Department will continuously monitor caseload, expenditures, and County Colorado Works/TANF Reserve levels to ensure counties have sufficient resources to operate the program.

There is no additional or increased county Maintenance of Effort requirement. The County MOE amount is outlined in the Annual Long Bill.

Federal Fiscal Impact

There is no federal fiscal impact. All expenditures will be within existing federal funds.

Other Fiscal Impact

There is no additional fiscal impact to any other provider or local governments. All benefits increases will be paid within the existing County TANF Block Grant and County TANF Reserve.

4. Data Description

The Employment and Benefits Division relied on the following data from the Administration for Children and Families (ACF) and internal resources when developing this rule:

Since 1997 Colorado's Basic Cash Assistance amount has decreased by 35% (14.9% since 2009 when the last benefit amount adjustment occurred) in inflation-adjusted dollars due to a lack of regular increases and or adjustments relative to the cost of living.

The caseload has declined about 8% to 17,166 from its recession peak of 18,659 in October 2013. It has remained below 18,000 since January 2015.

5. Alternatives to this Rule-making

Various alternatives and options were considered before finalizing the decisions proposed in this change. See options A-C below:

A. **Increase BCA Relative to the Federal Poverty Level.** Colorado ranks 23rd out of the 50 states in terms of cash grant amount as a percentage of the Federal Poverty Level (FPL). While Colorado is roughly in the middle of the 50 states, BCA grant amount are drastically different, even when compared to Colorado. For example, New York's BCA is 47% of FPL. To match that, Colorado would need to increase the grant for a family of three by $327.60 or 71%. Another example of a state with a higher percentage of FPL is Montana, where a family of three receives an additional $126 compared to a same-sized family in Colorado.

B. **Increase BCA Relative to the Housing and Urban Development (HUD) Fair Market Rent (FMR).** Colorado ranks 28th out of the 50 states in terms of cash grant amount as a percentage of HUD FMR. Top-ranked South Dakota issues a BCA of $943 while Minnesota (14th ranked) issues $632. To match either of these amounts, Colorado would need to increase by $480 or $170, respectively.

C. **Increase BCA Relative to Minimum Wage Increases.** From 1996 to 2017, the hourly minimum wage in Colorado has more than doubled, from $4.25 to $9.30, a 119% increase. In contrast, the monthly benefit amount for a family of three has increased from $356 to $462 in that same time period, an increase of 30%. To match minimum wage, Colorado would need to increase its monthly BCA grant amount for a family of three to $779, a difference of 69% or $317.

The recommended increase was intended to be sufficient to have an impact on benefits received and be within existing available TANF resources.

Title of Proposed Rule: **Basic Cash Assistance Increase**

CDHS Tracking #: **18-01-03-01**

Office, Division, & Program:	Rule Author:	Phone: 303-866-2882
OES, EBD, CoWorks	Katie Griego	E-Mail: Katie.griego@state.co.us

OVERVIEW OF PROPOSED RULE

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
3.606.2 (F)	Grant amounts do not account for inflation	Determining Eligibility for Basic Cash Assistance Grant Based on the Standard of Need The basic cash assistance grant shall be determined based upon income using the following need standard. If the participant has zero income the following cash payment shall be received based upon those included in the assistance unit: COLORADO WORKS STANDARDS OF ASSISTANCE CHART	Standards of assistance chart with new grant amounts updated to account for inflation.	Increase grant amount to a more livable amount	No

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

None

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

County Human Services Directors Association; Colorado Legal Services; Disability Law Colorado; All Families Deserve a Chance (AFDC) Coalition; Policy Advisory Committee; Economic Security Sub-PAC; Legal Aid of Metropolitan Denver; Colorado Center on Law and Policy; Colorado Counties, Inc.; and the Food and Energy Assistance Division.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[X] Yes [ ] No

If yes, who was contacted and what was their input?

Marivel Klueckman with Health Care Policy and Financing-no input received.

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[X] Yes [ ] No

Name of Sub-PAC	Economic Security
Date presented	03/08/2018
What issues were raised?	The following reflects feedback garnered on the BCA rule package through a variety of forums (e.g., Finance and OES sub-PACs, CCI, open State-wide phone calls, and one-on-one conversations). The majority of counties have indicated that they are philosophically aligned with increasing the BCA grant amount given that it has not increased in roughly ten years, has not kept pace with inflation, and that the current amount is not sufficient for families in dire poverty. At the same time, counties have expressed concern regarding the financial feasibility of the proposal when considering the TANF, Child Welfare, and Child Care funding simultaneously. a) At the time of the original proposal (Fall 2017), Child Care was projected to have an over-expenditure. The department worked alongside counties to secure supplemental funding for the program and what is likely future enhanced funding from the General Assembly. In addition, the projected over-expenditure has decreased over time. More recently, counties have expressed less concern about Child Care funding in relation to this proposal. b) Also, at the time of the original proposal, Child Welfare was projected to have an over-expenditure. Supplemental funding has also been secured for Child Welfare and there are current discussions regarding mechanisms to enhance future funding. Counties have continued to express concerns about Child Welfare funding.

Office, Division, & Program: OES, EBD, CoWorks
Rule Author: Katie Griego
Phone: 303-866-2882
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There are a few counties that have expressed that they are not philosophically aligned with the current rule package, in that they believe this will encourage greater government dependency.

Vote Count	*For*	*Against*	*Abstain*
	N/A	N/A	N/A

If not presented, explain why.: No vote was taken given that Colorado Counties, Inc. (CCI) indicated through a vote that they would not be supportive of the proposed increase due to financial concerns in the Colorado Child Care Assistance and Child Welfare Programs. However, several counties indicated that they are in alignment philosophically with the Department's desire to increase BCA. Due to many county commissioners desire, Sub-PAC was notified that the Department is interested in hearing their input and would be discussing this in greater detail during the 04/05/2018 PAC.

PAC

Have these rules been approved by PAC?

[ ] Yes [X] No

Date presented: 04/05/2018

What issues were raised?

The following reflects feedback garnered on the BCA rule package through a variety of forums (e.g., Finance and OES sub-PACs, CCI, open State-wide phone calls, and one-on-one conversations).

The majority of counties have indicated that they are philosophically aligned with increasing the BCA grant amount given that it has not increased in roughly ten years, has not kept pace with inflation, and that the current amount is not sufficient for families in dire poverty.

At the same time, counties have expressed concern regarding the financial feasibility of the proposal when considering the TANF, Child Welfare, and Child Care funding simultaneously.

a) At the time of the original proposal (Fall 2017), Child Care was projected to have an over-expenditure. The department worked alongside counties to secure supplemental funding for the program and what is likely future enhanced funding from the General Assembly. In addition, the projected over-expenditure has decreased over time. More recently, counties have expressed less concern about Child Care funding in relation to this proposal.

b) Also, at the time of the original proposal, Child Welfare was projected to have an over-expenditure. Supplemental funding has also been secured for Child Welfare and there are current discussions regarding mechanisms to enhance future funding. Counties have continued to express concerns about Child Welfare funding.

There are a few counties that have expressed that they are not philosophically aligned with the current rule package, in that they

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	believe this will encourage greater government dependency.

Vote Count	*For*	*Against*	*Abstain*
	N/A	N/A	N/A

If not presented, explain why.

A formal vote was not necessary due to the unanimous vote CCI took in January of 2018 to not support the BCA increase. Due to CCI counties indicating that they would not support a BCA increase, the Department chose to engage with the counties in a dialogue to more fully understand county positions and concerns related to the proposed rules. This dialogue occurred through the Sub-PAC process and a variety of other forums over several months. The rules were discussed at PAC on April 5, 2018. Counties expressed concerns in two main areas:

1. County allocations have not increased since the inception of the program.
2. Current county allocations cannot cover a 10% increase due to overspending in Child Welfare and CCCAP. These over expenditures have been covered by TANF transfers to these programs.

The Department, while respecting the county opinion, expressed the strong belief that an increase to BCA is long overdue given the needs of the population, and collectively the program has available funds to support this request, therefore the Department has determined to take this proposal to the State Board of Human Services. The State further recognizes that there is adequate funding in the Colorado Works program to support Colorado Works participants however recognizes and is committed to find solutions in both the Child Care Assistance and Child Welfare programs. Waiting for a solution in these programs would further disservice Colorado Works participants. Counties further agreed that if the funding issues in CCCAP and Child Welfare could be fixed, their support for this change would be different. Counties philosophy is in alignment with the Department and some counties are in favor of this change.

Last, counties that are not a part of CCI have been contacted and the matter discussed extensively with them as well and the Department recognizes while the vote at CCI was unanimous, it may not have been fully representative. An example is the expressed request made by the San Luis Valley region that are in favor of the BCA increase and wanted the Board to consider that they do not oppose the increase. Counties were encouraged to attend State Board and present their perspective.

Title of Proposed Rule:	**Basic Cash Assistance Increase**	
CDHS Tracking #:	**18-01-03-01**	
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Other Comments
Comments were received from stakeholders on the proposed rules:

[X] Yes [ ] No

From the Colorado Center on Law and Policy:

The Colorado Center on Law and Policy strongly supports the proposed rule, "Basic Cash Assistance Increase." This rule would bolster economic security for Colorado's most vulnerable families and children, by adjusting the Basic Cash Assistance ("BCA") grant amounts to reflect inflation.

Many residents who receive BCA rely on this program as their sole source of income. This resource enables greater food security, prevents homelessness, and allows families to meet their basic needs during the time when household members are acquiring the tools to gain employment in the workforce. Unfortunately, the rising cost of living in Colorado has steadily eroded the value of this resource. For example, in 1996, BCA represented 62.3% of fair market rents in Colorado. By 2000, BCA only reflected 55.5% of fair market rents, and as of 2017, this has declined further to 40.4%. This proposed increase will help restore the value of this vital public program and will enable cost-of-living adjustments in order to prevent future erosion of the monthly grant.

This proposed rule is also in accordance with national trends. As noted in a report by the Center on Budget and Policy Priorities: "Nine states plus Washington, D.C., raised TANF benefits between July 2016 (the start of fiscal year 2017 in most states) and July 2017; two others enacted legislation that will raise benefit levels after July 2017." Moreover, as noted in the proposal, this increase is relatively modest compared to the amount of cash assistance provided in other states, and it would be sustained by the existing financial resources that are allocated for the program.

This proposed increase to BCA will offer much needed support to more than ten thousand low-income families in Colorado. It would increase food security, access to utilities, and housing stability. We commend the Colorado Department of Human Services for offering this proposal, and we urge the members of the State Human Services Board to support this important effort.

Sincerely,

Jack Regenbogen, Esq.

Colorado Center on Law and Policy
789 Sherman St. Suite #300
Denver, CO 80203

Title of Proposed Rule:	**Basic Cash Assistance Increase**	
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Fact sheet from the All Families Deserve a Chance (AFDC) Coalition (with list of specific community support):

AFDC
ALL FAMILIES DESERVE A CHANCE COALITION

Increase Basic Cash Assistance

What is Colorado Works?
Colorado Works is Colorado's Temporary Assistance for Needy Families (TANF) program. The program aims to strengthen families' economic and social stability by providing basic cash assistance, connecting families with resources, and attaching those with the ability to work to employment opportunities. On average, a family participates in Colorado Works for eight months.

What is basic cash assistance (BCA)?
BCA works directly to break down barriers to family stability and employment by helping participants pay for transportation, housing, childcare, food, and other necessities. The average BCA amount is currently $462/month for a household with one adult and two children.

What is the proposal to increase BCA?
The State Department of Human Services has proposed increasing BCA for Colorado Works Participants by 10 percent, or an average of $46 per month. The Colorado Human Services Board will consider this proposal in June 2018.

Why increase BCA?
The BCA amount has been stagnant since 2009. It has not kept pace with inflation or increases in the minimum wage. The proposed increase will help the most vulnerable Coloradans avoid falling even further behind. Research shows that when families' income increases, children's education and health outcomes and future earning capacity improve dramatically.

Did you know?
12.5 percent of Colorado Works participants are experiencing homelessness.

Think about what a 10 percent increase in your income would mean to your family. For Colorado Works participants, an extra $46 each month means:

- One month of diapers
- One week of infant formula
- Nine meals for family of four
- Two weeks' worth of gasoline
- RTD discount fare monthly pass
- Four 6-packs of socks
- Kids waterproof winter boots
- Internet access for one month
- Period products for three months
- Cellular service for a month

Support for Increasing BCA

9to5 Colorado
All Families Deserve a Chance Coalition
Asian Pacific Development Center
Bayaud Enterprises
Bright Future Foundation of Eagle County
Children's Hospital Colorado
Center for Health Progress
Colorado Center on Law and Policy
Colorado Coalition for the Homeless
Colorado Community Health Network
Colorado Cross Disability Coalition
Colorado Fiscal Institute
Colorado Social Legislation Committee
Colorado Springs Food Rescue
COLOR
The Consortium
CWEE
Denver Food Rescue
Emergency Family Assistance Association (EFAA)
Energy Outreach Colorado
Housing Solutions for the Southwest
Human Services Network
Hunger Free Colorado
Interfaith Alliance of Colorado
La Plata County Thrive! Living Wage Coalition
LiveWell Colorado
Lutheran Advocacy Ministries
NARAL Pro-Choice Colorado
People's Advocacy Council
Posada of Pueblo
Rodfei Tzedek of Congregation Rodef Shalom
S.H.A.R.E., Inc.
St. Francis Center
The Denver Foundation
Tri-County Health Network
UNE
Women's Lobby of Colorado

Title of Proposed Rule:	**Basic Cash Assistance Increase**	
CDHS Tracking #:	**18-01-03-01**	
Office, Division, & Program:	Rule Author:	Phone: 303-866-2882
OES, EBD, CoWorks	Katie Griego	E-Mail: Katie.griego@state.co.us

Letter from Denver Department of Human Services:

April 2, 2018

The Denver Department of Human Services recognizes that the level of Basic Cash Assistance payments made to eligible Colorado Works recipients has not been increased in a number of years and is overdue one. Generally speaking, we are in agreement with the Colorado Department of Human Services' proposal to increase the grant amounts by ten percent. However, there are a few lingering concerns that we want to share with the Board:

- Statutory Guidance: CRS 26-2-709(c) states that "An increase in the amount of the basic cash assistance grant approved by the state department shall not take effect unless the funding for the increase is included in the annual general appropriation act of a supplemental appropriation act." There was no specific appropriation request or supplemental appropriation request made to support the proposed increase. The State believes that the current funding level is sufficient to support the increase without needing any additional appropriation. Given some of the uncertainties as explained above, Denver would counsel the Board to request a State Attorney General's opinion regarding the applicability of the statutory provision cited above. Denver has been assured that such an opinion was already secured, and with that, the State should be able to provide the Board with that opinion.
- Sustainability: While it's generally acknowledged that the counties and the State, collectively, have adequate levels of TANF funding in reserve to currently support the proposed increase, we also know that the longer term prospects are less certain. Some factors to take into account include:
  - Reliability of federal TANF Contingency funds, which are not guaranteed from year to year, and have repeatedly been considered for elimination at the federal level. The loss of the Contingency funding would reduce the federal funding by roughly $11 million per year, which approximates the level of funding needed to support the proposed increase.
  - Counties' planned use for their annual TANF allocations and reserves: The CDHS Audit Division surveyed counties to determine the extent to which the counties had developed plans for the use of the TANF funds. The compilation and results of that survey have not been shared with the counties, but may reveal a planned use of the funds that might not be recognized and factored into the State's analysis of the viability of the increase.
- Impacts of basic cash assistance grant increase on other program benefits: Program staff analysis has illustrated that increases in the basic cash assistance grant amounts can result in reductions to households' SNAP benefits allotments, as well as a household's public housing assistance. The Board needs to understand these impacts, and ask whether there are options that can be considered that would avoid the offsetting impact that would otherwise occur. For example, counties might be encouraged to use "other assistance," as defined in CRS 26-2-709(c)(2), as an alternative approach.

As the Board is aware, when considering a policy change with the level of impact such as is being considered, CDHS typically would follow a standardized process through the State and County Policy Advisory Committee structure to socialize and discuss a policy change with the magnitude and reach of the proposed increase to TANF basic cash assistance. Had the State opted to follow its conventional practice, the issues Denver is sharing directly with the Board would have been discussed with our county colleagues and State partners in advance of the

proposal reaching the Board for its decision. In the absence of this more interactive process, Denver wanted to share its perspective directly with Board members.

9 CCR 2503-6

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3.606.2 Basic Cash Assistance

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F. Determining Eligibility for Basic Cash Assistance Grant Based on the Standard of Need The basic cash assistance grant shall be determined based upon income using the following need standard. If the participant has zero income the following cash payment shall be received based upon those included in the assistance unit:

COLORADO WORKS STANDARDS OF ASSISTANCE CHART

Specified Caretaker(s) of Children **Number of Dependent Children**

	0	**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**Ea. Add.**
No Specified Caretaker												
Need Std.	0	117	245	368	490	587	678	755	830	904	977	67
~~Grant Amt.~~	~~0~~	~~128~~	~~269~~	~~404~~	~~539~~	~~646~~	~~746~~	~~832~~	~~913~~	~~995~~	~~1086~~	~~72~~
Grant Amt.	0	141	296	444	593	711	821	915	1004	1095	1075	74
One Specified Caretaker												
Need Std.	253	331	421	510	605	697	770	844	920	992	1065	67
~~Grant Amt.~~	~~278~~	~~364~~	~~462~~	~~561~~	~~665~~	~~767~~	~~847~~	~~929~~	~~1012~~	~~1092~~	~~1172~~	~~72~~
Grant Amt.	306	400	508	617	732	844	932	1022	1113	1201	1289	74
Two Specified Caretakers												
Need Std.	357	439	533	628	716	787	861	937	1009	1082	1155	67
~~Grant Amt.~~	~~392~~	~~483~~	~~586~~	~~691~~	~~787~~	~~865~~	~~947~~	~~1032~~	~~1111~~	~~1190~~	~~1271~~	~~72~~
Grant Amt.	431	531	645	760	866	952	1042	1135	1222	1309	1398	74

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Notice of Proposed Rulemaking

Tracking number

2018-00180

Department

2505,1305 - Department of Health Care Policy and Financing

Agency

2505 - Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

CCR number

10 CCR 2505-10

Rule title

MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY

Rulemaking Hearing

Date

06/08/2018

Time

09:00 AM

Location

303 East 17th Ave, 11th Floor, Denver, CO 80203

Subjects and issues involved

See attached

Statutory authority

25.5-1-301 through 25.5-1-303, C.R.S. (2017)

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, June 8, 2018, 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 pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

MSB 18-03-01-B, Revision to the Medical Assistance Rule concerning the Pharmacy Prior Authorization Timeline, Section 8.800.7.B

Medical Assistance. The rules at, 10 C.C.R. 2505-10, Sections 8.800.7.B, are being revised to increase the amount of time prescribers and Department staff have to obtain additional information concerning pharmaceutical prior authorization requests.

The authority for this rule is contained in Section 1927(d)(2) of the Social Security Act; 25.5-1-301 through 25.5-1-303, C.R.S. (2017) and 25.5-5-506, C.R.S. (2017).

MSB 18-02-01-A, Revision to the Healthcare Affordability and Sustainability Fee Collection and Disbursement, Section 8.300

Medical Assistance. Update healthcare affordability and sustainability fee amounts and payments amounts in accordance with the CHASE Board's recommendations. Make necessary changes for FFY 17-18 time frame.

The Healthcare Affordability and Sustainability fee revenue serves as the state share to fund health coverage for more than 500,000 Coloradans currently enrolled in Medicaid and the CHP+. To comply with the State Plan provided to the Centers for Medicare and Medicaid Services, rules must be established on an emergency basis in order to assess fees on hospitals to ensure continuing health care coverage for these Medicaid and CHP+ members and to make required payments to hospitals.

The authority for this rule is contained in 42 CFR 433.68; 25.5-1-301 through 25.5-1-303, C.R.S. (2017) and 25.5-4-402.4(4)(g), C.R.S. (2017)

Notice of Proposed Rulemaking

Tracking number

2018-00192

Department

500,1008,2500 - Department of Human Services

Agency

2509 - Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

CCR number

12 CCR 2509-2

Rule title

REFERRAL AND ASSESSMENT

Rulemaking Hearing

Date

06/01/2018

Time

10:00 AM

Location

Fremont County Public Health and Environment, 201 N. 6th St., Canon City, CO 81212

Subjects and issues involved

See attachment for detailed description.

CDHS holds two public hearings, an initial and final, for each proposed rule packet.

The initial hearing allows the public an opportunity to submit written data, views, or arguments and to testify for or against the proposed rules. The Board does not vote on the proposed rule at the initial hearing, but asks CDHS to consider all public comment and discussion and, if needed, submit revisions to the proposed rule.

The final hearing, usually the month following the initial hearing, allows the same opportunity for public comment, after which the Board votes on final adoption of the proposed rule.

Please visit CDHS State Board website for meeting dates.

Statutory authority

26-1-107, C.R.S. (2015)
26-1-109, C.R.S. (2015)
26-1-111, C.R.S. (2015)
C.R.S. 26-1-139

Contact information

Name

Allison Gonzales

Title

Rule Author

Telephone

303-866-7102

Email

allison.gonzales@state.co.us

Title of Proposed Rule:	**Additional Actions when a County Department has had Prior/Current Involvement**	
CDHS Tracking #:	**18-02-05-01**	
Office, Division, & Program:	Rule Author:	Phone: 303.866.7102
OPSO	Allison Gonzales	E-Mail: Allison.gonzales@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

A county department's internal review process is an integral part of the overall review process, as it is intended to include: an assessment/evaluation of the county departments prior child welfare services delivery, identified strengths and areas needing improvement in practice and service delivery, case coordination with other community agencies, as well as recommendations for staff training and/or recommendations for changes in the system that may help mitigate future situations from occurring.

Through the review team process, it has been determined that the current timeframes set forth by Volume 7 for completing the internal review and written report pose challenges to county departments, as the timeframes coincide with the completion of the assessment of the egregious, near fatal, and/or fatal incident. Oftentimes, when county departments are assessing these complex assessments, county departments will not have necessary or complete information in order to make a determination of a substantiated finding until they are well into their sixty (60) day timeframe for completing their assessment. The county has sixty (60) days to complete their assessment of the incident of egregious abuse and/or neglect, near fatality or fatality of a child.

Additionally, 7.106.121 (B) states that the actions and/or said requirements of sections (A-C) shall occur upon initial notification of the egregious incident of abuse and/or neglect, near fatality, or fatality; however, the county department(s) internal review process and written report submission to the State Department, outlined in 7.106.121 (B) (2) and (3) are only required once a county department has determined the alleged incident will be substantiated for abuse and/or neglect at the fatal, near fatal, and/or egregious severity level. The rule change in this section would serve as a technical clean-up to provide clarification that a county department need not complete an internal review for those incidents of egregious, near fatal, and/or fatal allegations that were not substantiated for child maltreatment fatal, near fatal, and/or egregious severity level.

Allowing county departments an additional thirty (30) days to hold the internal review would help alleviate the competing challenges aforementioned, as well as ensure that county departments are not unnecessarily completing internal reviews on assessments that are not substantiated for abuse and/or neglect at the egregious, near fatal, and/or fatal severity level.

Title of Proposed Rule:	**Additional Actions when a County Department has had Prior/Current Involvement**	
CDHS Tracking #:	**18-02-05-01**	
Office, Division, & Program:	Rule Author:	Phone: 303.866.7102
OPSO	Allison Gonzales	E-Mail: Allison.gonzales@state.co.us

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
C.R.S. 26-1-139	C.R.S. 26-1-139 mandates many components of the CFRT process (e.g., membership, timelines, incidents to be reviewed, etc.). Statute (26-1-139 (7)) also provides that "The state department shall promulgate additional rules, as necessary, for the implementation of this section, including but not limited to the confidentiality of information in incidents of egregious abuse or neglect against a child, near fatalities, or child fatalities."

Does the rule incorporate material by reference? [ ] Yes [x] No

Does this rule repeat language found in statute? [ ] Yes [x] No

If yes, please explain.

Title of Proposed Rule:	**Additional Actions when a County Department has had Prior/Current Involvement**	
CDHS Tracking #:	**18-02-05-01**	
Office, Division, & Program:	Rule Author:	Phone: 303.866.7102
OPSO	Allison Gonzales	E-Mail: Allison.gonzales@state.co.us

REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

County departments will be the primary beneficiaries of this rule change. Through the Child Fatality Review Team process, county departments have identified and articulated the need to have additional time in order to complete their internal review process and written report.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Allowing county departments an additional thirty (30) days to hold the internal review would help alleviate the competing challenges of actively assessing an incident of egregious, near fatal, and/or fatal abuse and neglect, while simultaneously holding an internal review. Additionally, the extended timeframe would help ensure county departments are not unnecessarily completing internal reviews on assessments that are not substantiated for abuse and/or neglect at the egregious, near fatal, and/or fatal severity level.

3. Fiscal Impact

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

There is no identified fiscal impact associated with this proposed rule change as it would allow counties additional time to complete already existing requirements.

County Fiscal Impact

There is no identified fiscal impact associated with this proposed rule change. County departments are currently required to complete an internal review and written report for those substantiated incidents of egregious, near fatal, or fatal abuse or neglect when they have had prior history with the child, family, and/or alleged perpetrator within the last three years.

Federal Fiscal Impact

There is no identified fiscal impact associated with this proposed rule change.

Other Fiscal Impact *(such as providers, local governments, etc.)*

There is no identified fiscal impact associated with this proposed rule change.

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4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The request to expand the timeframe for completing internal reviews and written reports came directly form the county departments whom are responsible for completing such reviews and reports. Through the review team process, it has been determined that the current timeframes set forth by Volume 7 for completing the internal review and written report pose challenges to county departments, as the timeframes coincide with the completion of the assessment of the egregious, near fatal, and/or fatal incident. Oftentimes, when county departments are assessing these complex assessments, county departments will not have necessary or complete information in order to make a determination of a substantiated finding until they are well into their sixty (60) day timeframe for completing their assessment. The county has sixty (60) days to complete their assessment of the incident of egregious abuse and/or neglect, near fatality or fatality of a child.

The county's internal review process is a critical component of the overall review process as they are intended for the county to evaluate the following: an assessment/evaluation of the county departments prior child welfare services delivery, identified strengths and areas needing improvement in practice and service delivery, case coordination with other community agencies, as well as recommendations for staff training and/or recommendations for changes in the system that may help mitigate future situations from occurring.

5. Alternatives to this Rule-making

The Administrative Review Division agrees with the recommendation that the timeframes associated with the internal review process and written report be extended by 30 days.

Title of Proposed Rule:	**Additional Actions when a County Department has had Prior/Current Involvement**	
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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.106.121		2. Ensure that the county department conducts a complete internal administrative review of any child welfare involvement in the case prior to the egregious incident of abuse and/or neglect, near fatality or fatality. This review shall be referred to as the county department's internal review and shall be completed whenever the county department has had current or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect, within the last three (3) years. The review shall include, at a minimum: a. Assessment of the interventions made by the county department. b. Evaluation of the case plan. c. Identified areas of strengths and/or weaknesses in the casework process. d. Analysis of any systemic issues that may have led to delays or oversights. e. Evaluation of the role played by other community agencies and the overall case coordination. f. Recommendations for staff training or changes in the system that would avoid other similar occurrences.	Add "WHEN A COUNTY DEPARTMENT DETERMINES THAT AN INCIDENT OF EGREGIOUS ABUSE AND/OR NEGLECT, NEAR FATALITY, OR FATALITY OF A CHILD IS FOUNDED FOR CHILD ABUSE AND/OR NEGLECT, THE DIRECTOR SHALL"	A county is not required to complete an internal review unless the egregious, near fatal, and/or fatal incident is determined to be the result of abuse and/or neglect, AND the county holds prior child welfare involvement with the child, family and/or alleged perpetrator within the last three years.	
		3. Submit a written report of the county department's internal review within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality to the State Department.	Change "sixty (60)" to "NINETY (90)"	THE PURPOSE OF THE PROPOSED RULE IS TO EXTEND THE TIMEFRAME IN WHICH COUNTY DEPARTMENTS HAVE TO COMPLETE AND SUBMIT THEIR INTERNAL REVIEW REPORT. THE TIMEFRAME IS BEING EXTENDED BY THIRTY CALENDAR DAYS, WHICH CHANGES 60 TO 90 DAYS.	

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.106.13		C. The county department shall provide the following information to the State Department within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality, to the extent possible, and no longer than sixty (60) calendar days without a written request from the county department for an extension and subsequent State Department approval granting an extension: 1. The completed referral/assessment summary in the state automated case management system; 2. Copies of any pertinent social, medical, and mental health evaluations of all involved subjects (child(ren), family, caregivers, etc.); 3. Coroner's records, including autopsy report; 4. Police reports of present investigation as well as any prior criminal history of all subjects; 5. A copy of any of the case record not obtainable in the state automated case management system; 6. When applicable, a written report of the county department internal review; 7. A statement of any human services and Medicaid assistance or services that were being provided to the child and are recorded in the state automated case management system, the Colorado Benefits Management System, or the Colorado child care automated tracking system, any member of the child's family, or the person alleged to be responsible for the abuse and/or neglect; and, 8. The age, income level, and education of the legal caregiver at the time of the fatality.	Delete "6. When applicable, a written report of the county department internal review;" Change "7." to "6." Change "8." to "7."	7.106.121 (3) ALREADY PROVIDES GUIDANCE RELATED TO THE PROCESS AND TIMEFRAME IN WHICH COUNTIES NEED TO SUBMIT THEIR WRITTEN INTERNAL REPORT, WHEN APPLICABLE. THE COUNTIES INTERNAL REVIEW AND WRITTEN REPORT IS NOT BEYOND THEIR CONTROL AND THEREFORE SHOULD NOT BE GRANTED AN EXTENSION, SO THIS SHOULD BE REMOVED FROM THIS SECTION, AND ONLY CAPTURED IN 7.106.121. TECHNICAL CLEAN UP OF NUMBERING, SINCE # 6 WILL BE DELETED FROM THE RULE.	

Title of Proposed Rule:	**Additional Actions when a County Department has had Prior/Current Involvement**	
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STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

This rule change was precipitated by county department's requests and recommendations through the Child Fatality Review Team Process. As a result, the recommendation and proposal to extend the internal review timeframes were discussed at the Administrative Review Division Steering Committee and Child Protection Task Group. The Department presented the draft rules to Sub-Pac in February 2018.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

This rule change was precipitated by county department's requests and recommendations through the Child Fatality Review Team Process. As a result, the recommendation and proposal to extend the internal review timeframes were discussed at the Administrative Review Division Steering Committee and Child Protection Task Group. Child Welfare Sub-PAC and PAC groups have also been notified of the proposed rule change.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [x] No

If yes, who was contacted and what was their input?

N/A

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[x] Yes [ ] No

Name of Sub-PAC	Child Welfare Sub-PAC
Date presented	April 5, 2018
What issues were raised?	A county department staff raised a concern regarding having to track two different sets of due dates/deadlines for submission of documents to the State Department (ARD), when an incident of egregious abuse or neglect, near fatality, or fatality of a child is substantiated for abuse or neglect. For example, before the proposed rule change, all documents had an initial due date of 60 days from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect. Now, given the CFRT recommendation and proposed rule change, the county department's internal review and written report will be due 90 days from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect. All other required documents will continue to have a sixty day deadline from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was

	suspicious for abuse or neglect, and the county department may request thirty day extensions, for those documents which are outside of their direct control (i.e. coroners reports, autopsy, law enforcement). Based upon the ARD's current customer service model, we project and provide due dates and deadlines to county departments via email, phone calls, and friendly reminders after receipt of the initial notification of the of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect.		
Vote Count	*For*	*Against*	*Abstain*
	x		
If not presented, explain why.	NA		

PAC

Have these rules been approved by PAC?

[x] Yes [ ] No

Date presented	April 5, 2018		
What issues were raised?	NA		
Vote Count	*For*	*Against*	*Abstain*
	X		
If not presented, explain why.	NA		

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [x] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

(12 CCR 2509-2)

7.106.121 Additional Actions When County Department has had Prior/Current Involvement

A. When a county department has custody of the child and/or protective supervision, it shall immediately take the following actions:

1. Notify the parents, guardians, and/or legal custodians of the incident. If the parents, guardians, and/or legal custodians reside in another county or state, the county department shall coordinate with the county department of residence for the parents, guardians, and/or legal custodians to provide personal notification, whenever possible.

2. Notify the director of the county department of the incident. The county director shall also be immediately notified if the department has had prior child welfare involvement within the last three (3) years that was directly related to the egregious incident of abuse and/or neglect, near fatality or fatality to include referrals that have been screened out. A complete copy of the child's case record shall be made available to the director of the county department.

3. Notify the court, the attorney for the county department, and the Guardian Ad Litem (when one has been assigned) of the incident involving any child who is under the court's jurisdiction.

B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality in which the county department has had prior child welfare involvement within the last three (3) years with the child, family, or person alleged to be responsible for abuse and/or neglect, the director of the county department shall take the following actions:

1. Designate an individual(s) who will be responsible for assessing the egregious incident of abuse and/or neglect, near fatality or fatality. The assigned individual(s) shall not have had prior involvement with the family during a referral, assessment, case or other services with the county department. In the event of a conflict of interest, the county department shall arrange for the assessment to be conducted by another county department with personnel having appropriate training and skill.

2. WHEN A COUNTY DEPARTMENT DETERMINES THAT AN INCIDENT OF EGREGIOUS ABUSE AND/OR NEGLECT, NEAR FATALITY, OR FATALITY OF A CHILD IS FOUNDED FOR CHILD ABUSE AND/OR NEGLECT, THE DIRECTOR SHALL Ensure that the county department conducts a complete internal administrative review of any child welfare involvement in the case prior to the egregious incident of abuse and/or neglect, near fatality or fatality. This review shall be referred to as the county department’s internal review and shall be completed whenever the county department has had current or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect, within the last three (3) years. The review shall include, at a minimum:

a. Assessment of the interventions made by the county department.

b. Evaluation of the case plan.

c. Identified areas of strengths and/or weaknesses in the casework process.

d. Analysis of any systemic issues that may have led to delays or oversights.

e. Evaluation of the role played by other community agencies and the overall case coordination.

f. Recommendations for staff training or changes in the system that would avoid other similar occurrences.

3. Submit a written report of the county department's internal review ~~within sixty (60)~~ NINETY (90) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality to the State Department.

C. If another county department also has current and/or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect within the three (3) year period of the incident of egregious abuse and/or neglect, near fatality or fatality (including referrals that were screened out), the State Department shall decide whether a county department internal review report will be required.

****

7.106.13 Reporting to the State

A. Within twenty-four (24) hours (excluding weekends and holidays) of a county department becoming aware of an egregious incident of abuse and/or neglect, or near fatality or fatality of any child, which is suspicious for abuse and/or neglect, the county department shall call or email the following known information to the State Department which shall also be documented on the state prescribed form:

1. Name and age of victim;

2. The referral identification number generated by the state automated case management system;

3. Known circumstances around the egregious incident of abuse and/or neglect, near fatality or fatality;

4. A description of physical injuries or medical condition of the child(ren) at the time of receipt of the information;

5. The names and ages of surviving or non-injured child(ren) who may be at risk;

6. A brief description of family/caregiver's prior involvement with child welfare, if any;

7. The actions taken by the county department to date and future actions to be taken;

8. The involvement of other professionals in the case;

9. Whether the child was in out-of-home placement at the time of the incident; and,

10. For fatal incidents, the county shall enter the child's date of death in the state automated case management system.

B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality, the county department shall take the required steps to restrict access to the state automated case management system to the current assessment of the egregious incident of abuse and/or neglect, near fatality or fatality, and any prior involvement in the state automated case management system regarding this child, the child's family members, and the person(s) suspected of the abuse and/or neglect. Access shall remain restricted until the conclusion of the state child fatality review, at such time the county department shall determine whether the records shall be unrestricted.

C. The county department shall provide the following information to the State Department within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality, to the extent possible, and no longer than sixty (60) calendar days without a written request from the county department for an extension and subsequent State Department approval granting an extension:

1. The completed referral/assessment summary in the state automated case management system;

2. Copies of any pertinent social, medical, and mental health evaluations of all involved subjects (child(ren), family, caregivers, etc.);

3. Coroner's records, including autopsy report;

4. Police reports of present investigation as well as any prior criminal history of all subjects;

5. A copy of any of the case record not obtainable in the state automated case management system;

~~6. When applicable, a written report of the county department internal review;~~

7. A statement of any human services and Medicaid assistance or services that were being provided to the child and are recorded in the state automated case management system, the Colorado Benefits Management System, or the Colorado child care automated tracking system, any member of the child's family, or the person alleged to be responsible for the abuse and/or neglect; and,

8. The age, income level, and education of the legal caregiver at the time of the fatality.

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OPSO	Allison Gonzales	E-Mail: Allison.gonzales@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

A county department's internal review process is an integral part of the overall review process, as it is intended to include: an assessment/evaluation of the county departments prior child welfare services delivery, identified strengths and areas needing improvement in practice and service delivery, case coordination with other community agencies, as well as recommendations for staff training and/or recommendations for changes in the system that may help mitigate future situations from occurring.

Through the review team process, it has been determined that the current timeframes set forth by Volume 7 for completing the internal review and written report pose challenges to county departments, as the timeframes coincide with the completion of the assessment of the egregious, near fatal, and/or fatal incident. Oftentimes, when county departments are assessing these complex assessments, county departments will not have necessary or complete information in order to make a determination of a substantiated finding until they are well into their sixty (60) day timeframe for completing their assessment. The county has sixty (60) days to complete their assessment of the incident of egregious abuse and/or neglect, near fatality or fatality of a child.

Additionally, 7.106.121 (B) states that the actions and/or said requirements of sections (A-C) shall occur upon initial notification of the egregious incident of abuse and/or neglect, near fatality, or fatality; however, the county department(s) internal review process and written report submission to the State Department, outlined in 7.106.121 (B) (2) and (3) are only required once a county department has determined the alleged incident will be substantiated for abuse and/or neglect at the fatal, near fatal, and/or egregious severity level. The rule change in this section would serve as a technical clean-up to provide clarification that a county department need not complete an internal review for those incidents of egregious, near fatal, and/or fatal allegations that were not substantiated for child maltreatment fatal, near fatal, and/or egregious severity level.

Allowing county departments an additional thirty (30) days to hold the internal review would help alleviate the competing challenges aforementioned, as well as ensure that county departments are not unnecessarily completing internal reviews on assessments that are not substantiated for abuse and/or neglect at the egregious, near fatal, and/or fatal severity level.

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State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
C.R.S. 26-1-139	C.R.S. 26-1-139 mandates many components of the CFRT process (e.g., membership, timelines, incidents to be reviewed, etc.). Statute (26-1-139 (7)) also provides that "The state department shall promulgate additional rules, as necessary, for the implementation of this section, including but not limited to the confidentiality of information in incidents of egregious abuse or neglect against a child, near fatalities, or child fatalities."

Does the rule incorporate material by reference? [ ] Yes [x] No

Does this rule repeat language found in statute? [ ] Yes [x] No

If yes, please explain.

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

County departments will be the primary beneficiaries of this rule change. Through the Child Fatality Review Team process, county departments have identified and articulated the need to have additional time in order to complete their internal review process and written report.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

Allowing county departments an additional thirty (30) days to hold the internal review would help alleviate the competing challenges of actively assessing an incident of egregious, near fatal, and/or fatal abuse and neglect, while simultaneously holding an internal review. Additionally, the extended timeframe would help ensure county departments are not unnecessarily completing internal reviews on assessments that are not substantiated for abuse and/or neglect at the egregious, near fatal, and/or fatal severity level.

3. Fiscal Impact

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

There is no identified fiscal impact associated with this proposed rule change as it would allow counties additional time to complete already existing requirements.

County Fiscal Impact

There is no identified fiscal impact associated with this proposed rule change. County departments are currently required to complete an internal review and written report for those substantiated incidents of egregious, near fatal, or fatal abuse or neglect when they have had prior history with the child, family, and/or alleged perpetrator within the last three years.

Federal Fiscal Impact

There is no identified fiscal impact associated with this proposed rule change.

Other Fiscal Impact *(such as providers, local governments, etc.)*

There is no identified fiscal impact associated with this proposed rule change.

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4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

The request to expand the timeframe for completing internal reviews and written reports came directly form the county departments whom are responsible for completing such reviews and reports. Through the review team process, it has been determined that the current timeframes set forth by Volume 7 for completing the internal review and written report pose challenges to county departments, as the timeframes coincide with the completion of the assessment of the egregious, near fatal, and/or fatal incident. Oftentimes, when county departments are assessing these complex assessments, county departments will not have necessary or complete information in order to make a determination of a substantiated finding until they are well into their sixty (60) day timeframe for completing their assessment. The county has sixty (60) days to complete their assessment of the incident of egregious abuse and/or neglect, near fatality or fatality of a child.

The county's internal review process is a critical component of the overall review process as they are intended for the county to evaluate the following: an assessment/evaluation of the county departments prior child welfare services delivery, identified strengths and areas needing improvement in practice and service delivery, case coordination with other community agencies, as well as recommendations for staff training and/or recommendations for changes in the system that may help mitigate future situations from occurring.

5. Alternatives to this Rule-making

The Administrative Review Division agrees with the recommendation that the timeframes associated with the internal review process and written report be extended by 30 days.

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Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.106.121		2. Ensure that the county department conducts a complete internal administrative review of any child welfare involvement in the case prior to the egregious incident of abuse and/or neglect, near fatality or fatality. This review shall be referred to as the county department's internal review and shall be completed whenever the county department has had current or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect, within the last three (3) years. The review shall include, at a minimum: a. Assessment of the interventions made by the county department. b. Evaluation of the case plan. c. Identified areas of strengths and/or weaknesses in the casework process. d. Analysis of any systemic issues that may have led to delays or oversights. e. Evaluation of the role played by other community agencies and the overall case coordination. f. Recommendations for staff training or changes in the system that would avoid other similar occurrences.	Add "WHEN A COUNTY DEPARTMENT DETERMINES THAT AN INCIDENT OF EGREGIOUS ABUSE AND/OR NEGLECT, NEAR FATALITY, OR FATALITY OF A CHILD IS FOUNDED FOR CHILD ABUSE AND/OR NEGLECT, THE DIRECTOR SHALL"	A county is not required to complete an internal review unless the egregious, near fatal, and/or fatal incident is determined to be the result of abuse and/or neglect, AND the county holds prior child welfare involvement with the child, family and/or alleged perpetrator within the last three years.	
		3. Submit a written report of the county department's internal review within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality to the State Department.	Change "sixty (60)" to "NINETY (90)"	THE PURPOSE OF THE PROPOSED RULE IS TO EXTEND THE TIMEFRAME IN WHICH COUNTY DEPARTMENTS HAVE TO COMPLETE AND SUBMIT THEIR INTERNAL REVIEW REPORT. THE TIMEFRAME IS BEING EXTENDED BY THIRTY CALENDAR DAYS, WHICH CHANGES 60 TO 90 DAYS.	

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
7.106.13		C. The county department shall provide the following information to the State Department within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality, to the extent possible, and no longer than sixty (60) calendar days without a written request from the county department for an extension and subsequent State Department approval granting an extension: 1. The completed referral/assessment summary in the state automated case management system; 2. Copies of any pertinent social, medical, and mental health evaluations of all involved subjects (child(ren), family, caregivers, etc.); 3. Coroner's records, including autopsy report; 4. Police reports of present investigation as well as any prior criminal history of all subjects; 5. A copy of any of the case record not obtainable in the state automated case management system; 6. When applicable, a written report of the county department internal review; 7. A statement of any human services and Medicaid assistance or services that were being provided to the child and are recorded in the state automated case management system, the Colorado Benefits Management System, or the Colorado child care automated tracking system, any member of the child's family, or the person alleged to be responsible for the abuse and/or neglect; and, 8. The age, income level, and education of the legal caregiver at the time of the fatality.	Delete "6. When applicable, a written report of the county department internal review;" Change "7." to "6." Change "8." to "7."	7.106.121 (3) ALREADY PROVIDES GUIDANCE RELATED TO THE PROCESS AND TIMEFRAME IN WHICH COUNTIES NEED TO SUBMIT THEIR WRITTEN INTERNAL REPORT, WHEN APPLICABLE. THE COUNTIES INTERNAL REVIEW AND WRITTEN REPORT IS NOT BEYOND THEIR CONTROL AND THEREFORE SHOULD NOT BE GRANTED AN EXTENSION, SO THIS SHOULD BE REMOVED FROM THIS SECTION, AND ONLY CAPTURED IN 7.106.121. TECHNICAL CLEAN UP OF NUMBERING, SINCE # 6 WILL BE DELETED FROM THE RULE.	

Title of Proposed Rule:	**Additional Actions when a County Department has had Prior/Current Involvement**	
CDHS Tracking #:	**18-02-05-01**	
Office, Division, & Program:	Rule Author:	Phone: 303.866.7102
OPSO	Allison Gonzales	E-Mail: Allison.gonzales@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

This rule change was precipitated by county department's requests and recommendations through the Child Fatality Review Team Process. As a result, the recommendation and proposal to extend the internal review timeframes were discussed at the Administrative Review Division Steering Committee and Child Protection Task Group. The Department presented the draft rules to Sub-Pac in February 2018.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

This rule change was precipitated by county department's requests and recommendations through the Child Fatality Review Team Process. As a result, the recommendation and proposal to extend the internal review timeframes were discussed at the Administrative Review Division Steering Committee and Child Protection Task Group. Child Welfare Sub-PAC and PAC groups have also been notified of the proposed rule change.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [x] No

If yes, who was contacted and what was their input?

N/A

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[x] Yes [ ] No

Name of Sub-PAC	Child Welfare Sub-PAC
Date presented	April 5, 2018
What issues were raised?	A county department staff raised a concern regarding having to track two different sets of due dates/deadlines for submission of documents to the State Department (ARD), when an incident of egregious abuse or neglect, near fatality, or fatality of a child is substantiated for abuse or neglect. For example, before the proposed rule change, all documents had an initial due date of 60 days from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect. Now, given the CFRT recommendation and proposed rule change, the county department's internal review and written report will be due 90 days from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect. All other required documents will continue to have a sixty day deadline from the date of the initial notification of the egregious, near fatal, and/or fatal incident which was

	suspicious for abuse or neglect, and the county department may request thirty day extensions, for those documents which are outside of their direct control (i.e. coroners reports, autopsy, law enforcement). Based upon the ARD's current customer service model, we project and provide due dates and deadlines to county departments via email, phone calls, and friendly reminders after receipt of the initial notification of the of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or of the egregious, near fatal, and/or fatal incident which was suspicious for abuse or neglect.		
Vote Count	*For*	*Against*	*Abstain*
	x		
If not presented, explain why.	NA		

PAC

Have these rules been approved by PAC?

[x] Yes [ ] No

Date presented	April 5, 2018		
What issues were raised?	NA		
Vote Count	*For*	*Against*	*Abstain*
	X		
If not presented, explain why.	NA		

Other Comments

Comments were received from stakeholders on the proposed rules:

[ ] Yes [x] No

If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

(12 CCR 2509-2)

7.106.121 Additional Actions When County Department has had Prior/Current Involvement

A. When a county department has custody of the child and/or protective supervision, it shall immediately take the following actions:

1. Notify the parents, guardians, and/or legal custodians of the incident. If the parents, guardians, and/or legal custodians reside in another county or state, the county department shall coordinate with the county department of residence for the parents, guardians, and/or legal custodians to provide personal notification, whenever possible.

2. Notify the director of the county department of the incident. The county director shall also be immediately notified if the department has had prior child welfare involvement within the last three (3) years that was directly related to the egregious incident of abuse and/or neglect, near fatality or fatality to include referrals that have been screened out. A complete copy of the child's case record shall be made available to the director of the county department.

3. Notify the court, the attorney for the county department, and the Guardian Ad Litem (when one has been assigned) of the incident involving any child who is under the court's jurisdiction.

B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality in which the county department has had prior child welfare involvement within the last three (3) years with the child, family, or person alleged to be responsible for abuse and/or neglect, the director of the county department shall take the following actions:

1. Designate an individual(s) who will be responsible for assessing the egregious incident of abuse and/or neglect, near fatality or fatality. The assigned individual(s) shall not have had prior involvement with the family during a referral, assessment, case or other services with the county department. In the event of a conflict of interest, the county department shall arrange for the assessment to be conducted by another county department with personnel having appropriate training and skill.

2. WHEN A COUNTY DEPARTMENT DETERMINES THAT AN INCIDENT OF EGREGIOUS ABUSE AND/OR NEGLECT, NEAR FATALITY, OR FATALITY OF A CHILD IS FOUNDED FOR CHILD ABUSE AND/OR NEGLECT, THE DIRECTOR SHALL Ensure that the county department conducts a complete internal administrative review of any child welfare involvement in the case prior to the egregious incident of abuse and/or neglect, near fatality or fatality. This review shall be referred to as the county department’s internal review and shall be completed whenever the county department has had current or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect, within the last three (3) years. The review shall include, at a minimum:

a. Assessment of the interventions made by the county department.

b. Evaluation of the case plan.

c. Identified areas of strengths and/or weaknesses in the casework process.

d. Analysis of any systemic issues that may have led to delays or oversights.

e. Evaluation of the role played by other community agencies and the overall case coordination.

f. Recommendations for staff training or changes in the system that would avoid other similar occurrences.

3. Submit a written report of the county department's internal review ~~within sixty (60)~~ NINETY (90) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality to the State Department.

C. If another county department also has current and/or prior involvement with the child, family or person alleged to be responsible for the abuse and/or neglect within the three (3) year period of the incident of egregious abuse and/or neglect, near fatality or fatality (including referrals that were screened out), the State Department shall decide whether a county department internal review report will be required.

****

7.106.13 Reporting to the State

A. Within twenty-four (24) hours (excluding weekends and holidays) of a county department becoming aware of an egregious incident of abuse and/or neglect, or near fatality or fatality of any child, which is suspicious for abuse and/or neglect, the county department shall call or email the following known information to the State Department which shall also be documented on the state prescribed form:

1. Name and age of victim;

2. The referral identification number generated by the state automated case management system;

3. Known circumstances around the egregious incident of abuse and/or neglect, near fatality or fatality;

4. A description of physical injuries or medical condition of the child(ren) at the time of receipt of the information;

5. The names and ages of surviving or non-injured child(ren) who may be at risk;

6. A brief description of family/caregiver's prior involvement with child welfare, if any;

7. The actions taken by the county department to date and future actions to be taken;

8. The involvement of other professionals in the case;

9. Whether the child was in out-of-home placement at the time of the incident; and,

10. For fatal incidents, the county shall enter the child's date of death in the state automated case management system.

B. Upon notification of an egregious incident of abuse and/or neglect, near fatality or fatality, the county department shall take the required steps to restrict access to the state automated case management system to the current assessment of the egregious incident of abuse and/or neglect, near fatality or fatality, and any prior involvement in the state automated case management system regarding this child, the child's family members, and the person(s) suspected of the abuse and/or neglect. Access shall remain restricted until the conclusion of the state child fatality review, at such time the county department shall determine whether the records shall be unrestricted.

C. The county department shall provide the following information to the State Department within sixty (60) calendar days of the initial notification of the egregious incident of abuse and/or neglect, near fatality or fatality, to the extent possible, and no longer than sixty (60) calendar days without a written request from the county department for an extension and subsequent State Department approval granting an extension:

1. The completed referral/assessment summary in the state automated case management system;

2. Copies of any pertinent social, medical, and mental health evaluations of all involved subjects (child(ren), family, caregivers, etc.);

3. Coroner's records, including autopsy report;

4. Police reports of present investigation as well as any prior criminal history of all subjects;

5. A copy of any of the case record not obtainable in the state automated case management system;

~~6. When applicable, a written report of the county department internal review;~~

7. A statement of any human services and Medicaid assistance or services that were being provided to the child and are recorded in the state automated case management system, the Colorado Benefits Management System, or the Colorado child care automated tracking system, any member of the child's family, or the person alleged to be responsible for the abuse and/or neglect; and,

8. The age, income level, and education of the legal caregiver at the time of the fatality.

Notice of Proposed Rulemaking

Tracking number

2018-00194

Department

500,1008,2500 - Department of Human Services

Agency

2512 - State Board of Human Services (Volume 12; Special Projects)

CCR number

12 CCR 2512-2

Rule title

RULE MANUAL VOLUME 12, SPECIAL PROJECTS

Rulemaking Hearing

Date

06/01/2018

Time

10:00 AM

Location

Fremont County Public Health and Environment, 201 N. 6th St., Canon City, CO 81212

Subjects and issues involved

See attachment for detailed description.

CDHS holds two public hearings, an initial and final, for each proposed rule packet.

The initial hearing allows the public an opportunity to submit written data, views, or arguments and to testify for or against the proposed rules. The Board does not vote on the proposed rule at the initial hearing, but asks CDHS to consider all public comment and discussion and, if needed, submit revisions to the proposed rule.

The final hearing, usually the month following the initial hearing, allows the same opportunity for public comment, after which the Board votes on final adoption of the proposed rule.

Please visit CDHS State Board website for meeting dates.

Statutory authority

"26-1-107, C.R.S. (2015)
26-1-109, C.R.S. (2015)
26-1-111, C.R.S. (2015)
24-7.5-104, C.R.S (2017)"

Contact information

Name

Brooke Ely-Milen

Title

Rule Author

Telephone

303-866-3321

Email

brooke.elymilen@state.co.us

Title of Proposed Rule:	**Administering Funds and Standards for Domestic Violence Advocacy Services**	
CDHS Tracking #:	**18-02-22-01**	
Office, Division, & Program:	Rule Author:	Phone: (303) 866-3321
OCYF, DVP	Brooke Ely-Milen	E-Mail: Brooke.ElyMilen@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

As part of an internal rule review process, the Domestic Violence Program (DVP) is ensuring that rules clarify requirements, reflect current best practices in the domestic violence field, and align with new federal rules.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
24-7.5-104, C.R.S (2017)	State department shall establish and enforce rules for all domestic abuse programs established pursuant to this article

Does the rule incorporate material by reference? ☐ Yes ☒ No
Does this rule repeat language found in statute? ☐ Yes ☒ No

If yes, please explain.

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Two groups are impacted by these rules:

Community-based organizations that receive funding from DVP and provide services to victims of domestic violence and their families will be impacted.

Victims of domestic violence and their families who receive domestic violence services will be impacted.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

DVP currently funds 45 community-based organizations that provide domestic violence services. There are minimal burdens on these organizations, such as resources and personnel needed to comply with monitoring requirements. However, DVP funding offsets the minimal burden. There are no anticipated short-term or long-term consequences of these rules.

Victims of domestic violence and their families who receive services from these organizations will benefit from these rules because they will have assurances that services meet minimum standards and there is a level of consistency among the organizations. There are no anticipated burdens or adverse impacts to victims. During the period of October 1, 2016 – September 30, 2017, 22,625 adult and child victims of domestic violence received services from DVP-funded programs.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

None

County Fiscal Impact

None

Federal Fiscal Impact

None

Other Fiscal Impact *(such as providers, local governments, etc.)*

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None

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

DVP administers funding from the federal Family Violence Prevention and Services Act and reviewed 45 CFR Part 1370.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

DVP maximizes use of the statement of work in each contract for services with a funded program to ensure compliance with standards in addition to rules. DVP also provides funded programs with an Administrative Guide and a Data Reporting Requirement Guide with additional requirements for the contract.

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OCYF, DVP	Brooke Ely-Milen	E-Mail: Brooke.ElyMilen@state.co.us

OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
12.200.2 (new number)	Definitions needed	None	Add definitions of several terms relevant to the DVP rules.	The terms were previously undefined and new definitions will ensure the intent of the rules is clear.	Not yet.
12.200.3 (new number)	Conflict of interest	An Advisory Committee will be established to provide feedback regarding the DVP's direction, which may include establishing priorities for making awards for funding.	Remove wording regarding establishing priorities for making awards for funding.	The Advisory Committee membership consists of at least two representatives for programs that receive funding from DVP. It is a conflict of interest for them to establish priorities for awards for funding. Awards for funding must be made through the state procurement code. DVP maintains a funding committee that establishes the priorities for funding awards.	The DVP Advisory Committee discussed this conflict of interest at their retreat in September 2017. No concerns were noted at the retreat.
12.200.4 (new number)	Repeated procurement code	The rules listed the requirements of the announcement for funding.	Remove announcement criteria	DVP abides by the requirements in the state procurement code.	This change was reviewed by the Rules Review Task Group on 2/27/18. No concerns were noted at the meeting.
12.200.4 (original number)	Repeated language in statute	Repeated 26-7.5-104, authorizing CDHS to enter into contracts and requiring contractors to comply with rules	Delete entire section	Not necessary to repeat statute; compliance with rule can be attained with contracts	Not yet.
12.200.5 (original number)	Clarifications needed	Used term action plan Strict process to request a timeline extension Timelines could potentially be extended indefinitely by Advisory Committee	Replace action plan with "report"' Informal process to request a timeline extension Compliance must be attained in six months Advisory Committee can only hear appeals of restrictions placed on funding	Simplifies and clarifies the process	This change was reviewed by the Rules Review Task Group on 2/27/18. No concerns were noted at the meeting.
12.200.6 (original number)	Modifications requested by DVP staff	Rule requires DVP staff to bring all complaints to the Advisory Committee.	Advisory Committee shall advise DVP staff how to proceed with reviewing complaints and shall hear complaints pertaining only to violations of rule.	Not all complaints rise to the level of a potential rule violation. It is not a good use of the Advisory Committee's resources to review complaints that are not related to rule violations. DVP staff can screen	Not yet.

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OCYF, DVP	Brooke Ely-Milen	E-Mail: Brooke.ElyMilen@state.co.us

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
				complaints and resolve non-rule violations through other means.	
12.200.7 (original number)	Concerns raised regarding definition of critical incident	Critical incidents included legal actions and death notifications.	Critical incidents are limited to issues that impact a funded program's ability to comply with DVP requirements.	Changes are better aligned with appropriate role for DVP as a funding agency	A stakeholder requested the change, but has not yet seen the proposed revisions.
12.201 (original number)	Title change to reflect intent	Programmatic and Administrative Rules for Funded Entities	Operations and Administrative Rules	Term programmatic was misleading – rules did not apply to services for clients	Not yet.
12.201.1 (original number)	Title change to reflect intent and clarify that these are operation rules	Provided definitions.	Remove definitions and relocated to definitions section in 12.200	More efficient to put all definitions in one section.	Not yet.
12.201.2 (original number)	Confidentiality requirements	Prescriptive policy requirements	Clarify record keeping requirements and written policies needed.	Aligns with federal and state confidentiality requirements.	Not yet.
12.201.3 (original number)	Clarifications need for data requirements	Establishes data and reporting requirements	Remove section	Data management is better handled through RFP and contracting	Not yet.
12.201.3 (new number)	Clarifications need for fiscal requirements	References CFR	Remove reference to outdated CFR	Compliance with federal financial management requirements can be obtained via contracting	Not yet.
12.201.3, B., 1. And 2.	Clarifications need for fiscal requirements	Establishes thresholds for when a fund program must submit an audit	Establish a revised threshold	Revised language aligns with original intent and will not have to be updated.	Stakeholders requested revision, but have not yet seen proposed language.
12.201.5 (new number)	Clarifications need for general operations and administrative requirements	Establishes minimum requirements for general operations and administration	Clarify that written policies must be approved by a board of directors or other governing body Remove reference to insurance requirement Clarify that fire safety inspections are only required for residential facilities operated by a funded program	Ensure that the board of directors or other governing body has oversight of safe operations Insurance can be required through contracting It is burdensome to require fire safety inspections for all locations where advocacy is provided due to mobile advocates and co-located staff programs may have more than 20 sites in a given month	Not yet.
12.201.6	Clarifications need for personnel requirements	Establishes minimum requirements for personnel and volunteers	Removes references to volunteers and establishes specific requirements for personnel records.	Ensure that organizations maintain separate policies for paid employees and volunteers, as certain policies	Not yet.

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
				such legal employment rights only apply to paid employees. Ensure that funded programs are maintaining personnel records that can be verified.	
12.201.7	Clarifications need for volunteer requirements	New section	New section	See above	Not yet.
12.202.1	Clarifications need for purpose of victim advocacy requirements	New section	New section	Aligns with 12.201	Not yet.
12.202.2 (new number)	Clarifications need for crisis Response Services Requirements	Outdated references	Updated references to statute	Correct errors and omissions	Not yet.
12.202.3 (new number)	Clarifications need for advocacy Requirements	Omitted certain federal requirements and requirement of programs to inform clients of their rights when accessing services	Clarify federal requirements Require programs to inform clients of their rights	Best practices and federal requirements and ensure that these requirements apply to both residential and nonresidential services	Not yet.
12.202.4 (new number)	Clarifications need for residential advocacy requirements	Certain requirements that apply only to programs with residential services	Services for underserved populations applied only to residential services	Ensure that underserved populations are served appropriately in residential and non-residential services.	Not yet.
12.202.5 (new number)	Clarifications need for advocacy services for children and youth	Requirements only applied to programs that served children	Require all residential programs to have certain requirements for children and youth Clarify requirements for teen advocacy	Ensure that minors are served with best practices	Not yet.

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STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

DVP worked with our Advisory Committee and a Rules Review Task Group to obtain stakeholder feedback and input.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

DVP contacted all of the programs that currently receive funding from DVP.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [X] No

Name of Sub-PAC			
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.	Per communication from Chantalle Hanschu on 3/7/18, DVP rules should go directly to PAC instead of going through any sub-PAC because DVP does not have an official sub-PAC.		

PAC

Have these rules been approved by PAC?

[x] Yes [ ] No

Date presented	presented on 4/5/18		
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[x] Yes [ ] No

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If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

Comments	DVP Response
Re: 12.200.6, "Does there need to be more clarification as to how the complaints will be handled?"	DVP is proposing a revision to this rule to clarify that the Advisory Committee will advise DVP regarding the complaint process and may hear complaints that rise to the level of a rule violation. Additional clarification regarding the complaint process is available on the DVP website as well as the DVP Administrative Guide.
Re: 12.200.7, "What happens if attorneys are involved and they prevent such information [critical incident] from being shared? If a client, employ yee, volunteer, or BOD have an attorney, they may request that such information is not released."	DVP is proposing a revision to clarify that reporting of critical incidents is limited to activities that impact the funded program's ability to comply with the contract. For example, a funded program would be expected to report that there is an interim executive director at the organization to ensure that DVP is aware who is responsible for complying with the contract, but the program does not have to disclose why previous staff may have left the organization.
Re: 12.200.7, "I still am not in agreement with this requirement. Is there another entity that is requiring DVP to request this information? No other funder requires this. Again, I have concerns about sharing information about an employee, board, volunteer, client, etc. that they may not want shared."	See notes above. DVP is the only funder of domestic violence advocacy programs that is required by state statute to establish standards that pertain to these programs. No other state agency has this type of quasi-regulatory authority. DVP believes it is the best interest of limited funding resources that this requirement, among others, continue to ensure that resources are allocated to programs that comply with these minimal standards.
Re: 12.201.2, "Should we also add a statement regarding mandatory reporting for elder abuse and at-risk adults?"	No. Domestic violence advocates are not required to report abuse toward elderly or at-risk adults. This rule aligns with current state statute.
Re: 12.201.5, "It still feels like overkill in terms of all you require to see and mandate – especially when it comes to NPO [nonprofit organization] best practices versus DV-service related compliance. FVPSA [Family Violence Prevention and Services Act] requirement should lead and DVP should not be in the business of assessing our Boards nor our NPO practices."	See notes above. DVP believes NPO best practices are well-suited for standards for domestic violence advocacy organizations to ensure organizations that receive funding are well-positioned to fulfill their missions and excel as stewards of public resources."
Re: 12.202.3, "[working with county child protection officials] would this not apply to children receiving services in non-residential programs as well? For example, children receiving therapy?"	Yes – it should apply. DVP is proposing changes to rule that align this requirement as applicable to the entire program services, not just residential services.
Re: 12.202.3, "[locked storage of medication] we moved away from [staff] dispensing medication a few years ago. Highly recommend all programs do this."	DVP agrees and will continue this rule to monitor programs to ensure compliance.
Re: 12.202.3, "[safety protocols] with client turnover in shelter, I am concerned that programs would have to be doing safety drill weekly to ensure that all clients participate in drills or is this more directed for staff so they know what to do in the event of an emergency?"	This rule does not establish the frequency with which a program would be required to conduct a safety drill. Safety protocols should be accessible to advocates and clients and the program would determine how often to conduct them given the size and scope of the program.
Re: 12.202.4, "[children and youth services] I am not sure all programs have the staff or financial resources to make this happen on a regular basis."	The rules pertaining to children and youth advocacy only apply to programs that have these services and recreational opportunities can be provided if it is feasible for the program to do so.

(12 CCR 2512-2)

12.200 DOMESTIC VIOLENCE PROGRAM (DVP)

12.200.1 Purpose [Rev. eff. 5/1/13]

These rules set forth policies concerned with administering funding to support the provision of a statewide network of services to reduce the incidence of domestic violence in Colorado.

12.200.2 DEFINITIONS

FOR THE PURPOSES OF THESE RULES, THE FOLLOWING DEFINITIONS ARE USED:

A. BEHAVIORAL HEALTH CONDITIONS ARE DEFINED ILLNESS SUCH AS MENTAL HEALTH CONCERNS OR SUBSTANCE MISUSE BEHAVIORS THAT DOMESTIC VIOLENCE VICTIMS MAY EXHIBIT.

B. CLIENT IS DEFINED AS A VICTIM OF DOMESTIC VIOLENCE WHO REQUESTS AND RECEIVES SERVICES FROM A DOMESTIC VIOLENCE VICTIM ADVOCATE. CLIENTS MAY BE ADULTS OR MINOR CHILDREN.

C. DOMESTIC VIOLENCE ADVOCACY IS DEFINED ACTIVITIES PERFORMED BY INDIVIDUALS TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S., WHO WORK FOR OR VOLUNTEER FOR AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE. DOMESTIC VIOLENCE ADVOCACY ACTIVITIES CONDUCTED IN PARTNERSHIP WITH VICTIMS OF DOMESTIC VIOLENCE MAY INCLUDE PROVIDING INFORMATION ABOUT VICTIM RIGHTS, PRESENTING AN ARRAY OF OPTIONS VICTIMS MAY TAKE TO INCREASE THEIR SAFETY, ENGAGING WITH THE VICTIM TO CREATE A SAFETY PLAN, INCREASING VICTIMS' KNOWLEDGE OF AND ACCESS TO AVAILABLE COMMUNITY RESOURCES, ACTING IN AN EMPATHETIC MANNER THAT ENCOURAGES VICTIMS TO SELF-DETERMINE STRATEGIES THAT LEAD TO ENHANCED WELL-BEING, AND SUPPORTING VICTIMS INFORMAL AND FORMAL SOCIAL SUPPORT SYSTEMS. DOMESTIC VIOLENCE ADVOCACY MAY ALSO INCLUDE ACTIVITIES SUCH AS PROVIDING COMMUNITY EDUCATION OR PREVENTION. DOMESTIC VIOLENCE ADVOCACY DOES NOT INCLUDE ACTIVITIES PERFORMED ON BEHALF OF OR WITH PERPETRATORS OR OFFENDERS OF DOMESTIC VIOLENCE.

D. DOMESTIC VIOLENCE VICTIM ADVOCATE IS DEFINED AS AN EMPLOYEE OR VOLUNTEER, TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S., WHO WORKS OR VOLUNTEERS FOR AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE. ADVOCATES SHALL RECEIVE SPECIALIZED TRAINING TO BE KNOWLEDGEABLE ABOUT THE DYNAMICS OF DOMESTIC VIOLENCE, HOW DOMESTIC VIOLENCE IMPACTS VICTIMS, HOW TO ENGAGE WITH VICTIMS IN SAFETY PLANNING, AND HOW TO OFFER EMOTIONAL SUPPORT, INFORMATION AND REFERRALS, AND PROVIDE CRISIS INTERVENTION, VICTIMS' RIGHTS INFORMATION, AND OTHER ASSISTANCE TO VICTIMS AND THEIR DEPENDENTS. ADVOCATES MAY ALSO PROVIDE COMMUNITY EDUCATION OR ENGAGE IN ACTIVITIES AIMED AT PREVENTING DOMESTIC VIOLENCE. AS DEFINED IN THESE RULES, ADVOCATES DO NOT PROVIDE SERVICES TO PERPETRATORS OR OFFENDERS OF DOMESTIC VIOLENCE. ADVOCATES MAY PROVIDE LEGAL SERVICES OR SERVICES TO ADDRESS VICTIMS' BEHAVIORAL HEALTH CONDITIONS IF THEY ARE QUALIFIED TO DO SO.

E. DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, C.R.S. ALSO INCLUDES NON-CRIMINAL ACTS THAT COMPRISE A PATTERN OF ABUSIVE BEHAVIOR IN A current OR FORMER INTIMATE RELATIONSHIP, MARRIAGE, SAME-SEX PARTNERSHIP, OR A DATING RELATIONSHIP. THESE BEHAVIORS MAY INCLUDE PHYSICAL VIOLENCE, INTIMIDATION,

CONTROL, COERCION, SEXUAL COERCION, EMOTIONAL MANIPULATION, ECONOMIC ABUSE, OR OTHER PSYCHOLOGICAL TACTICS THAT HARM A PERSON.

F. DOMESTIC VIOLENCE VICTIM IS DEFINED AS AN INDIVIDUAL WHO EXPERIENCES DOMESTIC VIOLENCE.

G. FUNDED PROGRAM IS DEFINED AS AN ORGANIZATION THAT RECEIVES FUNDING FROM THE COLORADO DEPARTMENT OF HUMAN SERVICES, DOMESTIC VIOLENCE PROGRAM.

H. NON-RESIDENTIAL SERVICES IS DEFINED AS AN ARRAY OF ADVOCACY OR OTHER SUPPORTIVE SERVICES AVAILABLE TO VICTIMS OF DOMESTIC VIOLENCE. THESE SERVICES ARE PROVIDED BY ADVOCATES TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S. WHO ARE EMPLOYED BY AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE.

I. PERSONALLY IDENTIFYING CLIENT INFORMATION IS DATA OR INFORMATION COLLECTED BY A DVP FUNDED PROGRAM ABOUT A CLIENT RECEIVING DOMESTIC VIOLENCE ADVOCACY INCLUDING, BUT NOT LIMITED TO CLIENT NAME, A HOME OR PHYSICAL ADDRESS, INFORMATION REGARDING THE CLIENT'S WHEREABOUTS OR LOCATION, CONTACT INFORMATION SUCH AS A POST OFFICE BOX OR EMAIL ADDRESS, A SOCIAL SECURITY NUMBER, DRIVER LICENSE NUMBER, PASSPORT NUMBER, DATE OF BIRTH OR AGE, GENDER EXPRESSION OR IDENTITY, RACIAL OR ETHNIC BACKGROUND, RELIGIOUS AFFILIATION, OR DISABILITY. NON-AGGREGATED PERSONALLY IDENTIFYING CLIENT INFORMATION SHALL NOT BE SHARED BY A DVP FUNDED PROGRAM WITH AN EXTERNAL PARTY WITHOUT THE EXPRESS WRITTEN CONSENT OF THE CLIENT.

J. RESIDENTIAL FACILITY IS DEFINED AS A LOCATION SUCH AS A SHELTER OR TRANSITIONAL HOUSING SITE WHERE A DOMESTIC VIOLENCE VICTIM RECEIVES TEMPORARY HOUSING AND ADVOCACY SERVICES. AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE OWNS OR LEASES THE LOCATION, OPERATES THE FACILITY, AND IS RESPONSIBLE FOR MAINTENANCE AND UPKEEP. A FACILITY MAY INCLUDE COMMUNAL-STYLE LIVING QUARTERS, OR INDIVIDUAL APARTMENTS OR UNITS FOR RESIDENTS.

K. RESIDENTIAL SERVICES IS DEFINED AS AN ARRAY OF ADVOCACY OR OTHER SUPPORTIVE SERVICES AVAILABLE TO VICTIMS OF DOMESTIC VIOLENCE AT A RESIDENTIAL FACILITY OR AT A MOTEL, HOTEL, OR OTHER LOCATION. THESE SERVICES ARE PROVIDED BY ADVOCATES TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S. WHO ARE EMPLOYED BY AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE.

12.200.~~23~~ Domestic Violence Program (DVP) Advisory Committee ~~[Rev. eff. 1/1/16]~~

An Advisory Committee will be established to provide feedback regarding the DVP's direction~~, which may include establishing priorities for making awards for funding~~. The Advisory Committee's roles, responsibilities, and membership shall be determined by the Committee and, at a minimum, shall consist of:

A. Individuals who are knowledgeable in the field of domestic violence;

B. Individuals who are knowledgeable in nonprofit management and/or grant making;

C. Individuals representing community-based programs and government agencies;

D. At least one representative from the Colorado Coalition Against Domestic Violence; and,

E. At least two representatives for programs that receive funding from DVP.

12.200.~~3~~4 Announcements of Availability of Funding ~~[Rev. eff. 1/1/16]~~

The DVP will announce availability of funding and solicit responses as required by the State Procurement Code (24-101-101, C.R.S., et seq.). ~~The announcement must include, at a minimum:~~

~~A. Established criteria for making funding award determinations;~~

~~B. A process used to notify applicants of the outcome of their application;~~

~~C. A procedure available to applicants to protest the outcome of their application; and,~~

~~D. Other requirements as required by state or federal law.~~

~~**12.200.3 Contracts [Rev. Eff. 1/1/16]**~~

~~A. Per Section 26-7.5-104, C.R.S., the Colorado Department of Human Services may enter into contracts or agreements for services with any entity eligible for funding that fulfills the requirements of the application.~~

~~B. All entities awarded a contract shall agree to all terms and conditions of the contract, up to and including compliance with the rules as set forth in Section 12.201 and 12.202.~~

12.200.5 Funded Program Monitoring and Compliance ~~[Rev. eff. 1/1/16]~~

A. Funded programs shall comply and cooperate with monitoring, which may include on-site visits, financial desk reviews, quality assurance reviews, or REVIEWS FOR COMPLIANCE WITH other federal or state requirements.

~~B. DVP may take one or more of the following actions where the funded program is found to be non-compliant with one or more of the DVP rules in Sections 12.201 and 12.202 or the terms of the DVP contract for funding:~~

~~1. Develop an action plan with steps and timelines for the funded program to achieve compliance;~~

~~2. Temporarily restrict access to funding until compliance issues are remedied; or,~~

~~3. Deny further funding including current contract obligations if compliance is not reached, the action plan fails, or DVP receives evidence of wrongdoing; or,~~

~~4. Extend timelines for full compliance if all of the following conditions exist:~~

~~a. The authorized official of the funded program submits a written request to extend the timeline for compliance to DVP;~~

~~b. The request describes or lists the minimum rule for which the extended timeline is requested and the reason why the funded program is unable to comply with the current timeline;~~

~~c. The funded program documents an alternative means of compliance, temporary substitution to indicate its intent to comply with the rule, and/or a clear, detailed plan for full eventual compliance with the rule within one year; and,~~

~~d. DVP reviews the request for an extension with the Advisory Committee and receives a recommendation to grant the extension if it does not jeopardize the safety or health of clients, does not have a detrimental effect on the provision of~~

~~services to clients, and the original timeline presents a clear financial or otherwise undue burden on the funded program.~~

~~5. If full compliance is not attained within one year, DVP may cancel the contract.~~

B. DVP SHALL PROVIDE FUNDED PROGRAMS WITH NOTICE OF ALL PLANNED MONITORING EFFORTS. MONITORING MAY OCCUR AT REGULAR INTERVALS OR AT RANDOM PERIODS IF DVP IS AWARE OF PROGRAMMATIC OR OPERATIONAL CHANGES AT A FUNDED PROGRAM THAT MAY IMPACT COMPLIANCE.

C. UPON CONCLUSION OF A MONITORING EFFORT, DVP WILL PROVIDE FUNDED PROGRAMS WITH A WRITTEN REPORT CONTAINING THE FOLLOWING ITEMS:

1. THE AREAS DVP REVIEWED DURING THE MONITORING ACTIVITY;

2. RECOMMENDATIONS FOR THE FUNDED PROGRAM TO MAKE IMPROVEMENTS TO PROGRAMMATIC SERVICES OR OPERATIONS;

3. AREAS OF NON-COMPLIANCE WITH DVP RULES, THE CONTRACT FOR FUNDING, OR OTHER STATE OR FEDERAL REQUIREMENTS; AND,

4. A TIMELINE FOR ATTAINING COMPLIANCE WITH AREAS OF NON-COMPLIANCE.

D. FUNDED PROGRAMS MAY REQUEST AN EXTENSION OF THE TIMELINE FOR ATTAINING COMPLIANCE.

E. IF A FUNDED PROGRAM IS NOT ABLE TO ATTAIN FULL COMPLIANCE WITHIN 180 DAYS OF THE DATE THE REPORT WAS ISSUED, DVP MAY TEMPORARILY RESTRICT ACCESS TO CONTRACT FUNDING UNTIL FULL COMPLIANCE IS ATTAINED.

F. IF A FUNDED PROGRAM IS NOT ABLE TO ATTAIN FULL COMPLIANCE WITHIN 365 DAYS OF THE DATE THE REPORT WAS ISSUED, DVP MAY CANCEL THE CONTRACT.

~~C.~~G. A funded program may appeal decisions regarding ~~action plans,~~ restrictions placed upon funding~~, or denial of further funding~~:

1. For the purposes of these rules, an appeal is defined as an action that a funded program may take if the funded program disagrees with ~~the terms of the action plan~~ THE DECISION TO RESTRICT ACCESS TO CONTRACT FUNDING.~~,~~

~~2. A funded program shall claim one or more of the following circumstances to be considered for an appeal:~~

~~a. The timeline is unreasonable.~~

~~b. Discriminatory or unethical behavior occurred in the development of the action plan.~~

~~c. Compliance cannot be reasonably obtained or efforts will cause undue harm.~~

~~3.~~2. All appeals shall be made in writing within thirty (30) business days of issuance of ~~plan or~~ notification of funding restrictions ~~or denials of further funding~~ to the DVP Advisory Committee.

~~4.~~3. The Advisory Committee shall review the appeal and provide the DVP with a recommended course of action.

~~5.~~4. DVP shall issue a written decision to the program within sixty (60) days of receipt of appeal.

~~6.~~5. The written DVP decision shall be the final agency decision.

12.200.6 Complaints ~~[Rev. eff. 1/1/16]~~

The DVP Advisory Committee SHALL ADVISE DVP REGARDING HOW TO PROCEED WITH REVIEWING COMPLIANTS AND shall hear and record complaints from concerned citizens, victims or survivors of domestic violence, clients of funded programs, employees or volunteers of funded programs, and other concerned parties ~~regarding services provided or denied at funded programs,~~ potential violations of rules in SectionS 12.201 AND 12.202.~~, or other matters pertaining to the operation of a DVP-funded program.~~

12.200.7 Critical Incident Reporting ~~[Rev. eff. 1/1/16]~~

Funded programs ~~must~~ SHALL inform DVP of critical incidents impacting the funded ~~program~~ PROGRAM'S ABILITY TO MEET CONTRACTUAL OBLIGATIONS, COMPLY WITH DVP RULES, PROVIDE SAFE SERVICES FOR VICTIMS, MAINTAIN SAFE OPERATIONS OF THE PROGRAM, OR SUSTAIN PRUDENT FINANCIAL STEWARDSHIP OF RESOURCES. ~~including, but not limited to:~~

A. ~~Civil or criminal legal action taken against or on behalf of the funded program, employees, board members, volunteers, or other individuals associated with the operation or governance of the organization or program related to the performance of official duties such as embezzlement of funds; and,~~

B. ~~Death of an employee, board member, volunteer, client, or other individual associated with the operation or governance of the organization or program that occurred during the performance of official duties or during the provision of services at a residential or non-residential service site.~~

12.201 ~~Programmatic~~ OPERATIONS and Administrative Rules for Funded ~~Entities~~ PROGRAMS

12.201.1 Purpose of ~~Programmatic~~ OPERATIONS and Administrative Rules ~~[Rev. eff. 1/1/16]~~

These rules, in accordance with Section 26-7.5-104, C.R.S., shall serve as minimum OPERATIONS AND ADMINISTRATIVE requirements for PROGRAMS FUNDED WHOLLY OR IN PART BY DVP. ~~delivery of free and confidential services to primary and secondary victims of domestic violence to also include community services as well as procedures for operations for programs receiving DVP funding.~~ Domestic Violence Programs, as defined in Section 26-7.5-103, C.R.S., that currently do not receive DVP funding should use these rules to begin the process of establishing programs. Programs that currently receive DVP funding shall adhere to these rules to maintain funding from the DVP.

12.201.2 Confidentiality Requirements ~~[Rev. eff. 1/1/16]~~

All programs funded wholly or in part by DVP shall HAVE THE FOLLOWING WRITTEN OPERATIONS AND ADMINISTRATIVE POLICIES, WHICH ARE APPROVED BY THE FUNDED PROGRAM'S BOARD OF DIRECTORS OR OTHER GOVERNING BODY, IN PLACE TO ENSURE PROTECTION OF CONFIDENTIAL CLIENT COMMUNICATIONS: ~~adhere to the following in the delivery of domestic violence services:~~

A. ~~Ensure~~ TRAINING FOR employees and volunteers ~~serving as advocates~~ WHO PROVIDE ADVOCACY OR HAVE ACCESS TO PERSONALLY IDENTIFYING CLIENT INFORMATION receive fifteen (15) or more hours of domestic violence-related training, per Section 13-90-107, C.R.S., prior to PROVIDING ADVOCACY OR HAVING ACCESS TO PERSONALLY IDENTIFYING CLIENT INFORMATION ~~engaging in the provision of direct services to primary and secondary domestic violence victims.~~

~~B. Require employees and volunteers trained in accordance with Section 12.201.3, A, above, to assert a claim to privileged communications with primary and secondary domestic violence victims unless the victim has waived the privilege.~~

~~C.~~B. ~~Maintain~~ PROTECTING confidential CLIENT communications to minimally include MAINTENANCE AND DESTRUCTION OF, AND ACCESS TO THE FOLLOWING:

1. Client and case file records;

2. ELECTRONIC Data collection systems;

3. ~~Client meeting notes;~~ ELECTRONIC CLIENT COMMUNICATIONS SUCH AS E-EMAIL AND TEXT MESSAGES;

4. Communication logs ADVOCATES USE TO COMMUNICATE AMONG EACH OTHER;

5. Advocacy or counseling MEETING notes;

6. CLIENT Communications through an interpreter or translator; or,

7. Any other documents or materials produced by the program containing personally identifying client information.

~~D. Develop and maintain a written policy regarding confidential communications to minimally include:~~

~~1. Use of voluntary, specific, written, dated, time-limited releases of information to include informed consent;~~

~~2. Client record keeping policies and procedures including document retention and destruction policies;~~

~~3. Clients' rights to access their individual written case file records;~~

~~4. Employee and volunteer access to client files on a strict need-to-know basis only within prescribed professional standards;~~

~~5. Employee, volunteer, and board of directors, advisory board or other governing body confidentiality agreements;~~

~~6. Protocol and procedures for responding to subpoenas for testimony and/or access to client files;~~

~~7. Notifications of exceptions to confidentiality as prescribed by statute to minimally include reporting of known or suspected child maltreatment; and,~~

~~8. Notifications of confidentiality parameters for employees or volunteers acting within other professional standards such as licensed social workers or licensed or unlicensed counselors.~~

~~C.~~ RESPONDING TO SUBPOENAS DIRECTING AN EMPLOYEE OR VOLUNTEER TO TESTIFY OR DIRECTING ACCESS TO CLIENT COMMUNICATIONS IN B, ABOVE.

~~D.~~ MAKING MANDATORY REPORTS OF KNOWN OR SUSPECTED CHILD MALTREATMENT IN ACCORDANCE WITH STATUTE.

~~E.~~ RESPONDING TO THE FOLLOWING CIRCUMSTANCES WITHIN THE CONFINES OF CONFIDENTIAL CLIENT COMMUNICATIONS:

1. CLIENT REQUEST FOR RELEASE OF INFORMATION TO A THIRD PARTY;

2. CLIENT MEDICAL EMERGENCIES WHEN THE CLIENT IS UNABLE TO GIVE CONSENT FOR SUMMONING EMERGENCY MEDICAL SERVICES;

3. SITUATION WHERE A CLIENT IS DETERMINED TO POSE A DANGER TO SELF OR OTHERS;

4. KNOWN OR SUSPECTED CLIENT CRIMINAL ACTIVITY OR BEHAVIOR;

5. LAW ENFORCEMENT REQUEST FOR RESIDENTIAL FACILITY ACCESS TO SERVE A WARRANT OR SUBPOENA ON A CLIENT; AND,

6. WORKING WITH COUNTY AND COURT OFFICIALS, SUCH AS A GUARDIAN AD LITEM, WHEN A FAMILY IS INVOLVED WITH CHILD PROTECTION OR CUSTODY MATTERS;

~~F.~~ ESTABLISHING A SEPARATE SET OF CONFIDENTIALITY PARAMETERS FOR EMPLOYEES OR VOLUNTEERS ACTING WITHIN OTHER PROFESSIONAL STANDARDS SUCH AS ATTORNEYS, LICENSED SOCIAL WORKERS OR LICENSED OR UNLICENSED COUNSELORS.

~~**12.201.3 Statistical Data Collection and Record Keeping Requirements [Rev. eff. 1/1/16]**~~

~~All programs funded wholly or in part by DVP shall adhere to the following in the delivery of domestic violence services:~~

~~A. Maintain individual client case records for a minimum of three years, per CDHS contract requirements, or until successful resolution of monitoring, as outlined in Section 12.200.5., for all adults and children who received domestic violence services to include verification of:~~

~~1. Demographic information necessary for data reporting;~~

~~2. Services provided or offered to clients;~~

~~3. Documentation of safety planning made available to the client; and,~~

~~4. Referrals to other services provided to clients.~~

~~B. Submit reports using the DVP statistical reporting tool(s) and forms according to the schedule set forth by DVP; and,~~

~~C. Maintain a written document retention and destruction policy stating that all records and reports will be kept for a minimum of three (3) years after the end of the grant period or until the successful resolution of monitoring as outlined in Section 12.200.5.~~

12.201.~~4~~3 Fiscal Requirements ~~[Rev. eff. 1/1/16]~~

A. ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall demonstrate sound fiscal management as evidenced by written fiscal policies and procedures in accordance with generally accepted accounting principles, approved and reviewed by the board of directors, advisory board or other governing body that demonstrate sound fiscal controls and sufficient assurances to protect against theft or embezzlement. ~~in accordance with terms set forth in the DVP contract for funding and the electronic Code of Federal Regulations, Title 2, Subtitle A, Chapter II, Part 200. No later editions or amendments are incorporated. These regulations may be reviewed during regular business hours at the Colorado Department of Human Services, Domestic Violence Program, 1575 Sherman Street, Denver, Colorado; or at a state publications library.~~

B. Funded programs shall submit an annual independent financial audit or review to DVP within three hundred sixty five (365) days of the funded program's fiscal year end.

~~1. An annual independent audit is encouraged for all funded programs and is required for any program receiving or more in DVP funds.~~

~~2. An annual independent financial review is required for any FUNDED program receiving less than $60,000.00 in DVP funds.~~

~~C. Funded programs shall make fiscal documentation available to the state as requested to minimally include requirements in Section 12.201.4, A and B, and back-up documentation for contracted expenditures.~~

12.201.~~5~~.4 Board of Directors, Advisory Board, or Governing Body Requirements [Rev. eff. 1/1/16]

A. Funded programs' boards of directors, advisory board, or other governing bodies such as a Tribal Council shall ensure that the funded program exercises sound ethical and legal governance and financial management.

B. Governing bodies shall make every effort to recruit and maintain membership that reflects the racial, ethnic, economic, and social composition of the community or region to be served, including former clients of the program and/or persons who have experienced domestic violence.

C. For funded Tribes, the Tribal Council may serve as the governing body.

12.201.~~6~~.5 GENERAL OPERATIONS AND Administrative Requirements ~~[Rev. eff. 1/1/16]~~

ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall HAVE THE FOLLOWING IN PLACE TO demonstrate SOUND administrative capacity ~~through the following to minimally include~~:

A. Written, BOARD OF DIRECTORS OR OTHER GOVERNING BODY APPROVED, plan, pertaining to disaster management to minimally include assurances to maintain emergency services in the event of a public health emergency or natural or environmental disasters;

B. Written, BOARD OF DIRECTORS OR OTHER GOVERNING BODY APPROVED, safety policies and procedures to minimize risk to clients, employees, volunteers, and property, to minimally include responses to potential breaches of safety at each service location;

C. Written, BOARD OF DIRECTORS OR OTHER GOVERNING BODY APPROVED, policy regarding participation in lobbying, political activity, and public demonstrations that states these activities may not be paid for with DVP funding;

~~D. Procurement of general liability and automobile insurance as required by the DVP contract for funding;~~

~~E.~~D. Satisfactory fire safety inspection report completed annually by the local fire authority for all ~~locations where employees and volunteers provide services to clients that~~ RESIDENTIAL SHELTER FACILITIES OPERATED BY THE FUNDED PROGRAM THAT conforms to the fire safety standards as determined by each city, town, municipality, county or special district;

~~F.~~E. Documentation of a certificate of occupancy in accordance with local zoning, if applicable; AND,

~~G.~~F. Water safety inspection documentation if water at residential facility is not from a public water source.

12.201.~~7~~.6 Personnel ~~and Volunteer~~ Requirements ~~[Rev. eff. 1/1/16]~~

ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall have the following duties and responsibilities related to personnel and volunteer requirements:

A. Written personnel policies approved by the board of directors, advisory board, or other governing body to minimally include:

1. Ethics policy regarding employee-client relationships and professional conduct;

2. Equal employment opportunity hiring policy;

3. Whistleblower policy;

4. Harassment-FREE WORKPLACE policy;

5. Employee grievance policy;

6. Criminal BACKGROUND CHECK POLICY ~~and TRAILS background check policy~~;

7. CHILD ABUSE REGISTRY BACKGROUND CHECK POLICY FOR PERSONNEL WHO HAVE CONTACT WITH MINORS;

~~7.~~8. Drug-free workplace; and,

~~8.~~9. Annual performance reviews of employees.

B. Written job descriptions for employees funded wholly or in part by DVP to minimally include assurances that staff serving as licensed or unlicensed counselors or social workers maintain appropriate licensure as required by law, and/or registration with the Colorado Department of Regulatory Agencies;

~~C. Written volunteer policies to minimally include oversight of volunteer activities;~~

~~D. Ensure adequate employee or volunteer coverage during hours of operation to minimally include staffing during business hours and staffing of the twenty-four (24) hour crisis line as appropriate by trained personnel;~~

~~E.~~C. Current, accurate, and complete personnel records for all employees TO MINIMALLY INCLUDE THE FOLLOWING DOCUMENTATION: ~~and volunteers~~.

1. COMPLETION OF 15 HOURS OF DOMESTIC VIOLENCE-SPECIFIC TRAINING IN ACCORDANCE WITH 13-90-107 PRIOR TO PROVIDING ADVOCACY OR HAVING ACCESS TO PERSONALLY IDENTIFYING CLIENT INFORMATION;

2. VERIFICATION OF LEGAL STATUS TO BE ELIGIBLE TO WORK IN THE UNITED STATES;

3. RESUME OR APPLICATION OF EMPLOYMENT;

4. COMPLETION OF PERFORMANCE REVIEWS BY DIRECT SUPERVISOR;

5. CURRENT WAGE RATE AND BENEFITS;

6. CURRENT, VALID DRIVER'S LICENSE AND PROOF OF INSURANCE IF USING A PERSONAL OR FUNDED PROGRAM-OWNED VEHICLE TO CONDUCT BUSINESS;

7. COMPLETED CRIMINAL BACKGROUND CHECK PRIOR TO EMPLOYMENT START DATE; AND,

8. COMPLETED CHILD ABUSE REGISTRY BACKGROUND CHECK IF HAVING CONTACT WITH MINORS PRIOR TO EMPLOYMENT START DATE.

12.201.7 VOLUNTEER REQUIREMENTS

PROGRAMS FUNDED WHOLLY OR IN PART BY DVP SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES RELATED TO VOLUNTEER REQUIREMENTS:

A. WRITTEN VOLUNTEER POLICIES APPROVED BY THE BOARD OF DIRECTORS, ADVISORY BOARD, OR OTHER GOVERNING BODY TO MINIMALLY INCLUDE:

1. ETHICS POLICY REGARDING VOLUNTEER-CLIENT RELATIONSHIPS AND PROFESSIONAL CONDUCT;

2. WHISTLEBLOWER POLICY;

3. HARASSMENT-FREE VOLUNTEER ENVIRONMENT POLICY;

4. VOLUNTEER GRIEVANCE POLICY;

5. CRIMINAL BACKGROUND CHECK POLICY;

6. CHILD ABUSE REGISTRY BACKGROUND CHECK POLICY FOR VOLUNTEER WHO HAVE CONTACT WITH MINORS;

7. DRUG-FREE VOLUNTEER WORK ENVIRONMENT; AND,

8. REVIEWS OF VOLUNTEER PERFORMANCE.

B. WRITTEN VOLUNTEER JOB DESCRIPTIONS.

C. CURRENT, ACCURATE, AND COMPLETE RECORDS FOR ALL VOLUNTEERS TO MINIMALLY INCLUDE THE FOLLOWING DOCUMENTATION:

1. COMPLETION OF 15 HOURS OF DOMESTIC VIOLENCE-SPECIFIC TRAINING IN ACCORDANCE WITH 13-90-107 PRIOR TO PROVIDING ADVOCACY OR HAVING ACCESS TO PERSONALLY IDENTIFYING CLIENT INFORMATION;

3. RESUME OR APPLICATION TO VOLUNTEER;

4. COMPLETION OF PERFORMANCE REVIEWS BY DIRECT SUPERVISOR;

6. CURRENT, VALID DRIVER'S LICENSE AND PROOF OF INSURANCE IF USING A PERSONAL OR FUNDED PROGRAM-OWNED VEHICLE TO CONDUCT BUSINESS;

7. COMPLETED CRIMINAL BACKGROUND CHECK PRIOR TO VOLUNTEER START DATE; AND,

8. COMPLETED CHILD ABUSE REGISTRY BACKGROUND CHECK IF HAVING CONTACT WITH MINORS PRIOR TO VOLUNTEER START DATE.

12.201.8 Community Services REQUIREMENTS ~~(Eff. 1/1/16)~~

Funded programs shall make every effort to provide or make available the following services to the community:

A. Community education to inform the service region of the availability of domestic violence services;

B. Awareness and education to make known the impact of domestic violence;

C. Prevention activities to reduce the incidence of domestic violence;

D. Training and technical assistance to offer subject-matter expertise; and,

E. Collaborative or cooperative efforts to increase coordination and avoid duplication of services.

12.202 DOMESTIC VIOLENCE Victim Advocacy Services REQUIREMENTS

12.202.1 PURPOSE OF DOMESTIC VIOLENCE VICTIM ADVOCACY SERVICES REQUIREMENTS

THESE RULES, IN ACCORDANCE WITH SECTION 26-7.5-104, C.R.S., SHALL SERVE AS MINIMUM DOMESTIC VIOLENCE VICTIM ADVOCACY SERVICES REQUIREMENTS FOR PROGRAMS FUNDED WHOLLY OR IN PART BY DVP. DOMESTIC VIOLENCE PROGRAMS, AS DEFINED IN SECTION 26-7.5-103, C.R.S., THAT CURRENTLY DO NOT RECEIVE DVP FUNDING SHOULD USE THESE RULES TO BEGIN THE PROCESS OF ESTABLISHING PROGRAMS. PROGRAMS THAT CURRENTLY RECEIVE DVP FUNDING SHALL ADHERE TO THESE RULES TO MAINTAIN FUNDING FROM THE DVP.

12.202~~.1~~.2 Crisis Response Services REQUIREMENTS ~~[Rev. eff. 1/1/16]~~

All programs funded wholly or in part by DVP shall offer and provide free and confidential emergency and crisis response services to primary and secondary victims of domestic violence on a continuous basis by employees and volunteers trained in accordance with ~~Section 12.201.8~~ SECTION 13-90-107, C.R.S., which shall minimally include one or more of the following:

A. Operation of a crisis telephone number accessible to the local community twenty-four (24) hours per day, seven days per week. The crisis line shall be accessible to all callers, including those:

1. Using a “blocked line” where their phone number reads on caller ~~E~~ID as “Unavailable”;

2. With limited spoken English language proficiency through the provision of interpreters or other communication method; and,

3. Who are deaf, hard of hearing, or deaf blind and use a third party telecommunication relay service (such as an IP relay service or a video relay service, teletypewriter (TTY) device) per the requirements of the Americans with Disabilities Act (ADA).

B. Availability of employees or volunteers trained in accordance with ~~Section 12.201.2~~ SECTION 13-90-107, C.R.S. who are able to respond to emergency crisis situations twenty-four (24) hours per day, seven days per week; or,

C. Coordination of ~~1 or 2~~ A AND B, above, through a formal memorandum of understanding with a DVP-funded program in good standing serving the same region that operates its own crisis response services as outlined in A and B, above.

12.202~~.2~~.3 ~~Non-Residential~~ DOMESTIC VIOLENCE Victim Advocacy Services REQUIREMENTS ~~[Eff. 1/1/16]~~

A. ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall provide ~~or make available advocacy, support groups, information and referrals, safety planning, and other supportive services to primary and secondary victims of~~ domestic violence ADVOCACY in the following manner~~:. Funded programs shall provide services funded wholly or in part by DVP:~~

1. By trained employees and volunteers in accordance with Section 13-90-107, C.R.S.;

2. Free of charge to primary and secondary victims;

3. Without income qualifications placed on receipt of services;

4. Without requirements that primary and secondary victims attend a religious activity or instruction as a prerequisite to receive services;

5. WITHOUT REQUIREMENTS FOR VICTIMS TO SHOW PROOF OF RESIDENCY IN COLORADO OR THE UNITED STATES;

6. WITHOUT REQUIREMENTS FOR VICTIMS TO SUBMIT TO CRIMINAL BACKGROUND CHECKS, CREDIT CHECKS, OR DRUG TESTING AS A CONDITION OF SERVICES;

~~5.~~7. On a voluntary basis without any conditions ~~including, but not limited to, placement in residential services; and,~~

~~6.~~8. Following an intake and assessment of needs and ~~risk~~ SAFETY ~~whenever feasible.~~; ~~AND,~~

9. WITH PROVISIONS OF REFERRALS WHEN REQUESTED SERVICES ARE NOT AVAILABLE OR ARE DENIED BY THE FUNDED PROGRAM.

B. ALL PROGRAMS FUNDED WHOLLY OR IN PART BY DVP SHALL ESTABLISH A WRITTEN DOCUMENT OUTLINING THE RIGHTS AFFORDED TO CLIENTS WHO REQUEST SERVICES. WRITTEN RIGHTS SHALL MINIMALLY INCLUDE THE FOLLOWING NOTICES:

1. IDENTIFICATION OF CRITERIA FOR ELIGIBILITY OF DOMESTIC VIOLENCE VICTIM ADVOCACY SERVICES;

2. SERVICE ACCOMMODATIONS FOR THE FOLLOWING VICTIMS:

a. THOSE WHO ARE DEAF OR HARD OF HEARING OR HAVE LIMITED ENGLISH PROFICIENCY; AND,

b. DISABILITIES INCLUDING BEHAVIORAL HEALTH CONDITIONS.

3. AVAILABILITY OF FREE, VOLUNTARY SERVICES TO BE PROVIDED WITHOUT CONDITION OR PREREQUISITES INCLUDING NON-PROSELYTIZATION;

4. PROGRAM ADHERENCE TO CONFIDENTIAL COMMUNICATIONS INCLUDING LEGAL EXCEPTION TO CONFIDENTIALITY OF MANDATORY REPORTING OF KNOWN OR SUSPECTED CHILD MALTREATMENT;

5. OPPORTUNITY TO PROVIDE FEEDBACK REGARDING EXPERIENCE WITH PROVISION OF OR DENIAL OF SERVICES AT THE FUNDED PROGRAM;

6. PROCEDURE TO FILE A GRIEVANCE OR COMPLAINT TO MINIMALLY INCLUDE THE FUNDED PROGRAM'S INTERNAL GRIEVANCE OR COMPLAINT POLICY AND PROCEDURE, AND THE RIGHT TO COMPLAIN TO DVP AND OTHER APPLICABLE REGULATING AGENCIES REGARDING SERVICES PROVIDED OR DENIED; AND,

7. ABILITY TO REQUEST ACCESS TO OWN CLIENT FILE OR RECORD INCLUDING ELECTRONIC DOCUMENTATION SERVICES PROVIDED.

~~B.~~C. ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall establish written policies or procedures regarding:

~~1. Client opportunity to provide feedback regarding their experience with services at the funded program;~~

~~2.~~1. Identification of ~~who is eligible for~~ CRITERIA FOR ELIGIBILITY OF DOMESTIC VIOLENCE ADVOCACY services;

~~3. Referrals when requested services are not available or denied by the funded program;~~

~~4.~~2. Language accessibility plan to minimally include the use of interpreters, translators, bilingual employees, and/or written materials to provide services to clients who are deaf or hard of hearing and those with limited English proficiency;

~~5.~~3. SERVICE ACCOMMODATION PLANS ~~Nondiscrimination~~ to minimally include nondiscrimination on the basis of CLIENTS' age, disability, BEHAVIORAL HEALTH CONDITIONS, sex, sexual orientation, race, color, national origin, religion, ethnicity, or gender IDENTITY OR EXPRESSION AS WELL AS ACCOMPANYING PROTOCOLS TO ENSURE A WELCOMING ENVIRONMENT;

~~6. Access to services or referrals for clients with disabilities, substance abuse addiction, or mental illness; and,~~

~~7. Grievance policies and procedures granting clients the right to complain to DVP and other applicable regulating agencies regarding services provided or denied.~~

~~C. Funded programs shall make every effort to provide the following and establish written policies or procedures regarding:~~

~~1.~~4. Transportation of clients BY EMPLOYEES OR VOLUNTEERS OF THE FUNDED PROGRAM, IF AN AVAILABLE SERVICE; ~~including use of a release when transporting clients and use of appropriate insurance;~~ and,

~~2.~~5. Child care by ~~staff~~ EMPLOYEES or volunteers of the funded program, IF AN AVAILABLE SERVICE, while parent is on-site for a maximum of three hours.

D. PROGRAMS FUNDED WHOLLY OR IN PART BY DVP SHALL ENSURE FULL COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION FOR CHILDREN AND FAMILIES, 45 CFR PART 1370 (EFFECTIVE JANUARY 3, 2017). IF A FUNDED PROGRAM WISHES TO PROVIDE SEX SEGREGATED OR SEX-SPECIFIC PROGRAMMING, THEY SHALL SUBMIT A WRITTEN PLAN TO BE APPROVED BY DVP, WHICH OUTLINES THE FOLLOWING:

1. WHY THE SEX SEGREGATED OR SEX-SPECIFIC PROGRAMMING IS NECESSARY FOR THE ESSENTIAL SAFE OPERATIONS OF THE PROGRAM OR SERVICE;

2. HOW THEY WILL PROVIDE COMPARABLE SERVICES TO INDIVIDUALS WHO CANNOT PARTICIPATE IN THE SEX SEGREGATED OR SEX-SPECIFIC PROGRAMMING OR SERVICE; AND,

3. AN ANALYSIS OF RESEARCH-SUPPORTED BEST PRACTICES THAT JUSTIFY THE NEED FOR THE SEX SEGREGATED OR SEX-SPECIFIC PROGRAMMING OR SERVICE.

12.202.~~3~~.4 Residential DOMESTIC VIOLENCE Victim Advocacy Services REQUIREMENTS ~~[Rev. eff. 1/1/16]~~

~~Residential services are defined as those provided while providing temporary, short or long-term overnight accommodations to primary and secondary victims of domestic violence at a facility maintained,~~

~~operated, and/or paid for by a DVP funded program such as a shelter, safehome, transitional housing unit, or motel or hotel.~~

A. In addition to the requirements in Sections 12.202.1 and 12.202.2, ~~funded~~ ALL programs FUNDED WHOLLY OR IN PART BY DVP THAT offer~~ing~~ residential DOMESTIC VIOLENCE ADVOCACY ~~programs~~ SERVICES shall:

1. Notify DVP of intent to open a new OR RELOCATE A residential facility to include documentation of compliance with this section;

2. NOTIFY DVP OF THE PERMANENT OR TEMPORARY CLOSURE OF A RESIDENTIAL FACILITY;

~~2.~~3. Screen for appropriate access ~~to a~~ FOR residential ~~facility~~ SERVICES based on the victim's need for safe, temporary accommodations and/OR fit for communal living;

~~3.~~4. Develop a safety plan to minimally include the victim's safe contact with formal and informal support systems while ~~in shelter~~ RECEIVING RESIDENTIAL SERVICES;

~~4.~~5. Encourage but not mandate participation in supportive services, advocacy, or counseling as a condition of ~~residency~~ RECEIVING RESIDENTIAL SERVICES;

~~5.~~6. Maintain quality living conditions to address normal wear and tear to the RESIDENTIAL facility, equipment, and furnishings; and,

~~6.~~7. Maintain safe living conditions OF THE RESIDENTIAL FACILITY to minimally include:

a. Locking doors and windows;

b. Appropriate lighting;

c. Mechanisms or devices for contacting emergency assistance; and,

d. Compliance with applicable fire and safety codes.

~~B. Funded programs shall provide services for the following:~~

~~1. Victims with physical disabilities;~~

~~2. Children of any age of the adult victim, including male teenagers;~~

~~3. Adult victims and their adult children with a developmental or physical disability for whom the adult victim is the primary caretaker;~~

~~4. Gay, lesbian, bisexual, and transgender victims;~~

~~5. Victims with mental illness;~~

~~6. Victims with substance abuse addiction; and,~~

~~7. Primary and secondary male victims of domestic violence.~~

~~C. If a funded program is not able to provide services for an individual identifying as a member of a group listed in Section 12.202.3, B, or anyone who otherwise meets established admissions criteria as set forth in Section 12.202.3, F, 1, they must document one or more of the following:~~

1. Providing the service poses a significant difficultly or expense that drains the financial resources of the funded program.

2. Providing the service poses a significant risk to the safety of the employees or volunteers, general operations of the program, or other clients.

D.B. Funded ALL Programs FUNDED WHOLLY OR IN PART BY DVP shall have minimal RESIDENTIAL SERVICES staffing by trained employees or volunteers TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S., to include:

1. An adequate number of employees or volunteers to ensure the health and safety of residential program SERVICES clients INCLUDING THOSE AT A RESIDENTIAL FACILITY OR STAYING IN OTHER ACCOMMODATIONS SUCH AS A MOTEL;

2. Residential program SERVICES intake availability twenty-four (24) hours per day;

3. Twenty-four (24) hour access for residential program SERVICES clients to trained employees or volunteers to offer safety planning, advocacy services, support, or assistance, consistent with residents' schedules and needs in-person whenever feasible; and,

4. If not providing in-person twenty-four (24) hour staffing AT A RESIDENTIAL FACILITY, a DVP-approved written plan to respond to residential program clients' needs to minimally include employee or volunteer coverage and how clients can access emergency services in the event employees or volunteers are not physically present.

E.C. Funded ALL Programs FUNDED WHOLLY OR IN PART BY DVP THAT OFFER RESIDENTIAL SERVICES shall have the following:

1. Separate bedrooms for each family, whenever feasible;

2. Private space for bathing and personal hygiene needs;

3. Space or rooms designated for quiet time, whenever feasible;

4. Free food, clothing, toiletries, hygiene products, and other basic needs whenever feasible;

5. Unrestricted functioning telephone access for the purposes of reaching emergency assistance, securing resources, and maintaining social support;

6. Laundry facilities;

7. Assistance with facilitating access to emergency shelter RESIDENTIAL SERVICES for victims with service animals pets, or other domesticated animals, whenever feasible;

8. ASSISTANCE WITH FACILITATING ACCESS TO SAFE HOUSING ACCOMMODATIONS FOR VICTIMS WITH PETS OR OTHER DOMESTICATED ANIMALS;

8.9. Marked and posted evacuation routes and exits, posting of fire extinguisher locations, and documentation of performance of regular fire drills; and,

9.10. Functioning heating, cooling, and ventilation systems.

F.D. Funded Programs FUNDED WHOLLY OR IN PART BY DVP THAT OFFER RESIDENTIAL SERVICES shall have the following written policies and procedures to minimally include:

1. Admission AND ELIGIBILITY criteria FOR RESIDENTIAL SERVICES including provisions for referrals when unable to accommodate an individual or family;

2. Expectations of residential client conduct while receiving services;

3. Residents' voluntary provision of housekeeping, food preparation, or other chores;

4. Residents' voluntary participation in supportive services such as support groups;

5. Established involuntary exit criteria for residents;

~~6. Response or protocol to the following circumstances within parameters of confidential communications:~~

~~A. Medical emergencies;~~

~~B. Situation where client is a danger to self or others;~~

~~C. Known or suspected criminal activity or behavior;~~

~~D. Law enforcement access to shelter to serve a warrant or subpoena; and,~~

~~E. Working with county child protection officials when a child receiving residential services is the subject of a child maltreatment assessment.~~

~~7.~~6. PROVISION OF Locked storage of personal valuables and legally prescribed medication to minimally include:

A. Granting residents unrestricted access to personal valuables and prescribed medication; and,

B. Employees or volunteers refraining from POSSESSING OR dispensing medication to residents unless they are licensed to do so as a health care professional.

~~8.~~7. CLIENT USE OF Legal substances including tobacco products, alcohol, and marijuana WHILE ON THE RESIDENTIAL FACILITY PROPERTY;

~~9.~~8. Safety protocol and procedures to minimally include a response to safety threats, availability of a First Aid kit, and documentation of performance of regular safety drills; AND,

~~10.~~9. Universal precautions for infectious disease~~;~~.

~~11. Resident conflict management; and,~~

~~12. Child care policies including child care that may be provided by staff or volunteers or by another shelter resident within state of Colorado pursuant to child care licensing rules in Sections 7.700, et seq. (12 CCR 2509-8).~~

12.202.~~4~~5 DOMESTIC VIOLENCE Victim Advocacy Services for Children and Youth REQUIREMENTS ~~[Eff. 1/1/16]~~

A. ALL PROGRAMS FUNDED WHOLLY OR IN PART BY DVP THAT HAVE RESIDENTIAL DOMESTIC VIOLENCE VICTIM ADVOCACY SERVICES SHALL HAVE WRITTEN POLICIES AND PROCEDURES THAT ENSURE THE FOLLOWING:

1. EMPLOYEES AND VOLUNTEERS RECEIVE TRAINING SPECIFIC TO THE DYNAMICS OF THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN AND YOUTH;

2. EMPLOYEES AND VOLUNTEERS THAT HAVE CONTACT WITH CHILDREN AND YOUTH COMPLETE A CHILD ABUSE REGISTRY BACKGROUND CHECK;

3. TRAINED ADVOCATES CONDUCT AN INTAKE AND ASSESSMENT OF CHILDREN AND YOUTH'S NEEDS INDEPENDENT FROM THAT OF THE PARENT'S;

4. TRAINED ADVOCATES INFORM CHILDREN AND YOUTH OF THEIR RIGHT TO CONFIDENTIAL COMMUNICATIONS AND LEGAL EXCEPTIONS TO CONFIDENTIALITY INCLUDING MANDATORY REPORTING OF KNOWN OR SUSPECTED CHILD MALTREATMENT;

5. ACCOMMODATE ANY DEPENDENT ADULT CHILDREN WHO HAVE A DEVELOPMENTAL OR PHYSICAL DISABILITY FOR WHOM THE ADULT VICTIM IS THE PRIMARY CARETAKER;

6. ACCOMMODATE TEENAGE CHILDREN REGARDLESS OF GENDER TOGETHER WITH THEIR VICTIM PARENT; AND,

7. PROVIDE ACCESS TO INDOOR AND OUTDOOR PLAY SPACES AND RECREATIONAL OPPORTUNITIES IF FEASIBLE.

B. ALL PROGRAMS FUNDED WHOLLY OR IN PART BY DVP THAT OFFER NON-RESIDENTIAL DOMESTIC VIOLENCE VICTIM ADVOCACY TO CHILDREN AND YOUTH SHALL HAVE WRITTEN POLICIES AND PROCEDURES THAT ENSURE THE FOLLOWING:

1. EMPLOYEES AND VOLUNTEERS RECEIVE TRAINING SPECIFIC TO THE DYNAMICS OF THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN AND YOUTH;

2. EMPLOYEES AND VOLUNTEERS THAT HAVE CONTACT WITH CHILDREN AND YOUTH COMPLETE A CHILD ABUSE REGISTRY BACKGROUND CHECK;

3. TRAINED ADVOCATES CONDUCT AN INTAKE AND ASSESSMENT OF CHILDREN AND YOUTH'S NEEDS INDEPENDENT FROM THAT OF THE PARENT'S; AND,

4. TRAINED ADVOCATES INFORM CHILDREN AND YOUTH OF THEIR RIGHT TO CONFIDENTIAL COMMUNICATIONS AND LEGAL EXCEPTIONS TO CONFIDENTIALITY INCLUDING MANDATORY REPORTING OF KNOWN OR SUSPECTED CHILD MALTREATMENT.

C. ALL PROGRAMS FUNDED WHOLLY OR IN PART BY DVP THAT OFFER DOMESTIC VIOLENCE VICTIM ADVOCACY FOR TEENS AND YOUTH IMPACTED BY VIOLENCE IN A DATING OR INTIMATE RELATIONSHIP SHALL HAVE WRITTEN POLICIES AND PROCEDURES THAT ENSURE THE FOLLOWING:

1. EMPLOYEES AND VOLUNTEERS RECEIVE TRAINING SPECIFIC TO THE DYNAMICS OF DOMESTIC VIOLENCE THAT OCCURS WITHIN A YOUTH OR TEEN'S DATING OR INTIMATE RELATIONSHIP;

2. EMPLOYEES AND VOLUNTEERS THAT HAVE CONTACT WITH CHILDREN AND YOUTH COMPLETE A CHILD ABUSE REGISTRY BACKGROUND CHECK;

3. TRAINED ADVOCATES CONDUCT AN INTAKE AND ASSESSMENT OF TEENS AND YOUTHS NEEDS REGARDING SAFETY AND COMMUNITY RESOURCES;

4. TRAINED ADVOCATES INFORM YOUTH AND TEENS OF THEIR RIGHT TO CONFIDENTIAL COMMUNICATIONS AND LEGAL EXCEPTIONS TO CONFIDENTIALITY INCLUDING MANDATORY REPORTING OF KNOWN OR SUSPECTED CHILD MALTREATMENT; AND,

5. A WRITTEN POLICY THAT ESTABLISHES THE AGE OF CONSENT FOR WHICH THE FUNDED PROGRAM MAY PROVIDE DOMESTIC VIOLENCE ADVOCACY SERVICES TO A MINOR WITHOUT PARENTAL PERMISSION.

~~A. Funded programs shall make every effort to make available developmentally appropriate services for children and youth exposed to domestic violence or youth experiencing intimate partner violence to minimally include:~~

~~1. Advocacy;~~

~~2. Individual and group counseling;~~

~~3. Information and referrals;~~

~~4. Safety planning; and,~~

~~5. Other supportive services.~~

~~B. If providing these services, funded programs shall:~~

~~1. Have employees or volunteers specifically trained to work with children and youth;~~

~~2. Conduct intake and assessment of children's and youth's needs independent of parents' needs;~~

~~3. Make referrals appropriate to children's needs.~~

~~C. If providing residential services for children and youth, funded programs shall have the following whenever feasible:~~

~~1. Indoor and outdoor play spaces; and,~~

~~2. Recreational opportunities.~~

Title of Proposed Rule:	**Administering Funds and Standards for Domestic Violence Advocacy Services**	
CDHS Tracking #:	**18-02-22-01**	
Office, Division, & Program:	Rule Author:	Phone: (303) 866-3321
OCYF, DVP	Brooke Ely-Milen	E-Mail: Brooke.ElyMilen@state.co.us

STATEMENT OF BASIS AND PURPOSE

Summary of the basis and purpose for new rule or rule change.
Explain why the rule or rule change is necessary and what the program hopes to accomplish through this rule.

As part of an internal rule review process, the Domestic Violence Program (DVP) is ensuring that rules clarify requirements, reflect current best practices in the domestic violence field, and align with new federal rules.

State Board Authority for Rule:

Code	Description
26-1-107, C.R.S. (2015)	State Board to promulgate rules
26-1-109, C.R.S. (2015)	State department rules to coordinate with federal programs
26-1-111, C.R.S. (2015)	State department to promulgate rules for public assistance and welfare activities.

Program Authority for Rule: *Give federal and/or state citations and a summary of the language authorizing the rule-making function AND authority.*

Code	Description
24-7.5-104, C.R.S (2017)	State department shall establish and enforce rules for all domestic abuse programs established pursuant to this article

Does the rule incorporate material by reference? ☐ Yes ☒ No
Does this rule repeat language found in statute? ☐ Yes ☒ No

If yes, please explain.

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REGULATORY ANALYSIS

1. List of groups impacted by this rule.

Which groups of persons will benefit, bear the burdens or be adversely impacted by this rule?

Two groups are impacted by these rules:

Community-based organizations that receive funding from DVP and provide services to victims of domestic violence and their families will be impacted.

Victims of domestic violence and their families who receive domestic violence services will be impacted.

2. Describe the qualitative and quantitative impact.

How will this rule-making impact those groups listed above? How many people will be impacted? What are the short-term and long-term consequences of this rule?

DVP currently funds 45 community-based organizations that provide domestic violence services. There are minimal burdens on these organizations, such as resources and personnel needed to comply with monitoring requirements. However, DVP funding offsets the minimal burden. There are no anticipated short-term or long-term consequences of these rules.

Victims of domestic violence and their families who receive services from these organizations will benefit from these rules because they will have assurances that services meet minimum standards and there is a level of consistency among the organizations. There are no anticipated burdens or adverse impacts to victims. During the period of October 1, 2016 – September 30, 2017, 22,625 adult and child victims of domestic violence received services from DVP-funded programs.

3. Fiscal Impact

For each of the categories listed below explain the distribution of dollars; please identify the costs, revenues, matches or any changes in the distribution of funds even if such change has a total zero effect for any entity that falls within the category. If this rule-making requires one of the categories listed below to devote resources without receiving additional funding, please explain why the rule-making is required and what consultation has occurred with those who will need to devote resources. ***Answer should NEVER be just "no impact" answer should include "no impact because…."***

State Fiscal Impact *(Identify all state agencies with a fiscal impact, including any Colorado Benefits Management System (CBMS) change request costs required to implement this rule change)*

None

County Fiscal Impact

None

Federal Fiscal Impact

None

Other Fiscal Impact *(such as providers, local governments, etc.)*

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None

4. Data Description

List and explain any data, such as studies, federal announcements, or questionnaires, which were relied upon when developing this rule?

DVP administers funding from the federal Family Violence Prevention and Services Act and reviewed 45 CFR Part 1370.

5. Alternatives to this Rule-making

Describe any alternatives that were seriously considered. Are there any less costly or less intrusive ways to accomplish the purpose(s) of this rule? Explain why the program chose this rule-making rather than taking no action or using another alternative. **Answer should NEVER be just "no alternative" answer should include "no alternative because…"**

DVP maximizes use of the statement of work in each contract for services with a funded program to ensure compliance with standards in addition to rules. DVP also provides funded programs with an Administrative Guide and a Data Reporting Requirement Guide with additional requirements for the contract.

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OVERVIEW OF PROPOSED RULE

Compare and/or contrast the content of the current regulation and the proposed change.

Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
12.200.2 (new number)	Definitions needed	None	Add definitions of several terms relevant to the DVP rules.	The terms were previously undefined and new definitions will ensure the intent of the rules is clear.	Not yet.
12.200.3 (new number)	Conflict of interest	An Advisory Committee will be established to provide feedback regarding the DVP's direction, which may include establishing priorities for making awards for funding.	Remove wording regarding establishing priorities for making awards for funding.	The Advisory Committee membership consists of at least two representatives for programs that receive funding from DVP. It is a conflict of interest for them to establish priorities for awards for funding. Awards for funding must be made through the state procurement code. DVP maintains a funding committee that establishes the priorities for funding awards.	The DVP Advisory Committee discussed this conflict of interest at their retreat in September 2017. No concerns were noted at the retreat.
12.200.4 (new number)	Repeated procurement code	The rules listed the requirements of the announcement for funding.	Remove announcement criteria	DVP abides by the requirements in the state procurement code.	This change was reviewed by the Rules Review Task Group on 2/27/18. No concerns were noted at the meeting.
12.200.4 (original number)	Repeated language in statute	Repeated 26-7.5-104, authorizing CDHS to enter into contracts and requiring contractors to comply with rules	Delete entire section	Not necessary to repeat statute; compliance with rule can be attained with contracts	Not yet.
12.200.5 (original number)	Clarifications needed	Used term action plan Strict process to request a timeline extension Timelines could potentially be extended indefinitely by Advisory Committee	Replace action plan with "report"' Informal process to request a timeline extension Compliance must be attained in six months Advisory Committee can only hear appeals of restrictions placed on funding	Simplifies and clarifies the process	This change was reviewed by the Rules Review Task Group on 2/27/18. No concerns were noted at the meeting.
12.200.6 (original number)	Modifications requested by DVP staff	Rule requires DVP staff to bring all complaints to the Advisory Committee.	Advisory Committee shall advise DVP staff how to proceed with reviewing complaints and shall hear complaints pertaining only to violations of rule.	Not all complaints rise to the level of a potential rule violation. It is not a good use of the Advisory Committee's resources to review complaints that are not related to rule violations. DVP staff can screen	Not yet.

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
				complaints and resolve non-rule violations through other means.	
12.200.7 (original number)	Concerns raised regarding definition of critical incident	Critical incidents included legal actions and death notifications.	Critical incidents are limited to issues that impact a funded program's ability to comply with DVP requirements.	Changes are better aligned with appropriate role for DVP as a funding agency	A stakeholder requested the change, but has not yet seen the proposed revisions.
12.201 (original number)	Title change to reflect intent	Programmatic and Administrative Rules for Funded Entities	Operations and Administrative Rules	Term programmatic was misleading – rules did not apply to services for clients	Not yet.
12.201.1 (original number)	Title change to reflect intent and clarify that these are operation rules	Provided definitions.	Remove definitions and relocated to definitions section in 12.200	More efficient to put all definitions in one section.	Not yet.
12.201.2 (original number)	Confidentiality requirements	Prescriptive policy requirements	Clarify record keeping requirements and written policies needed.	Aligns with federal and state confidentiality requirements.	Not yet.
12.201.3 (original number)	Clarifications need for data requirements	Establishes data and reporting requirements	Remove section	Data management is better handled through RFP and contracting	Not yet.
12.201.3 (new number)	Clarifications need for fiscal requirements	References CFR	Remove reference to outdated CFR	Compliance with federal financial management requirements can be obtained via contracting	Not yet.
12.201.3, B., 1. And 2.	Clarifications need for fiscal requirements	Establishes thresholds for when a fund program must submit an audit	Establish a revised threshold	Revised language aligns with original intent and will not have to be updated.	Stakeholders requested revision, but have not yet seen proposed language.
12.201.5 (new number)	Clarifications need for general operations and administrative requirements	Establishes minimum requirements for general operations and administration	Clarify that written policies must be approved by a board of directors or other governing body Remove reference to insurance requirement Clarify that fire safety inspections are only required for residential facilities operated by a funded program	Ensure that the board of directors or other governing body has oversight of safe operations Insurance can be required through contracting It is burdensome to require fire safety inspections for all locations where advocacy is provided due to mobile advocates and co-located staff programs may have more than 20 sites in a given month	Not yet.
12.201.6	Clarifications need for personnel requirements	Establishes minimum requirements for personnel and volunteers	Removes references to volunteers and establishes specific requirements for personnel records.	Ensure that organizations maintain separate policies for paid employees and volunteers, as certain policies	Not yet.

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Rule section Number	Issue	Old Language	New Language or Response	Reason / Example / Best Practice	Public Comment No / Detail
				such legal employment rights only apply to paid employees. Ensure that funded programs are maintaining personnel records that can be verified.	
12.201.7	Clarifications need for volunteer requirements	New section	New section	See above	Not yet.
12.202.1	Clarifications need for purpose of victim advocacy requirements	New section	New section	Aligns with 12.201	Not yet.
12.202.2 (new number)	Clarifications need for crisis Response Services Requirements	Outdated references	Updated references to statute	Correct errors and omissions	Not yet.
12.202.3 (new number)	Clarifications need for advocacy Requirements	Omitted certain federal requirements and requirement of programs to inform clients of their rights when accessing services	Clarify federal requirements Require programs to inform clients of their rights	Best practices and federal requirements and ensure that these requirements apply to both residential and nonresidential services	Not yet.
12.202.4 (new number)	Clarifications need for residential advocacy requirements	Certain requirements that apply only to programs with residential services	Services for underserved populations applied only to residential services	Ensure that underserved populations are served appropriately in residential and non-residential services.	Not yet.
12.202.5 (new number)	Clarifications need for advocacy services for children and youth	Requirements only applied to programs that served children	Require all residential programs to have certain requirements for children and youth Clarify requirements for teen advocacy	Ensure that minors are served with best practices	Not yet.

Title of Proposed Rule:	**Administering Funds and Standards for Domestic Violence Advocacy Services**	
CDHS Tracking #:	**18-02-22-01**	
Office, Division, & Program:	Rule Author:	Phone: (303) 866-3321
OCYF, DVP	Brooke Ely-Milen	E-Mail: Brooke.ElyMilen@state.co.us

STAKEHOLDER COMMENT SUMMARY

Development

The following individuals and/or entities were included in the development of these proposed rules (such as other Program Areas, Legislative Liaison, and Sub-PAC):

DVP worked with our Advisory Committee and a Rules Review Task Group to obtain stakeholder feedback and input.

This Rule-Making Package

The following individuals and/or entities were contacted and informed that this rule-making was proposed for consideration by the State Board of Human Services:

DVP contacted all of the programs that currently receive funding from DVP.

Other State Agencies

Are other State Agencies (such as HCPF or CDPHE) impacted by these rules? If so, have they been contacted and provided input on the proposed rules?

[ ] Yes [X] No

If yes, who was contacted and what was their input?

Sub-PAC

Have these rules been reviewed by the appropriate Sub-PAC Committee?

[ ] Yes [X] No

Name of Sub-PAC			
Date presented			
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.	Per communication from Chantalle Hanschu on 3/7/18, DVP rules should go directly to PAC instead of going through any sub-PAC because DVP does not have an official sub-PAC.		

PAC

Have these rules been approved by PAC?

[x] Yes [ ] No

Date presented	presented on 4/5/18		
What issues were raised?			
Vote Count	*For*	*Against*	*Abstain*
If not presented, explain why.			

Other Comments

Comments were received from stakeholders on the proposed rules:

[x] Yes [ ] No

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If "yes" to any of the above questions, summarize and/or attach the feedback received, including requests made by the State Board of Human Services, by specifying the section and including the Department/Office/Division response. Provide proof of agreement or ongoing issues with a letter or public testimony by the stakeholder.

Comments	DVP Response
Re: 12.200.6, "Does there need to be more clarification as to how the complaints will be handled?"	DVP is proposing a revision to this rule to clarify that the Advisory Committee will advise DVP regarding the complaint process and may hear complaints that rise to the level of a rule violation. Additional clarification regarding the complaint process is available on the DVP website as well as the DVP Administrative Guide.
Re: 12.200.7, "What happens if attorneys are involved and they prevent such information [critical incident] from being shared? If a client, employ yee, volunteer, or BOD have an attorney, they may request that such information is not released."	DVP is proposing a revision to clarify that reporting of critical incidents is limited to activities that impact the funded program's ability to comply with the contract. For example, a funded program would be expected to report that there is an interim executive director at the organization to ensure that DVP is aware who is responsible for complying with the contract, but the program does not have to disclose why previous staff may have left the organization.
Re: 12.200.7, "I still am not in agreement with this requirement. Is there another entity that is requiring DVP to request this information? No other funder requires this. Again, I have concerns about sharing information about an employee, board, volunteer, client, etc. that they may not want shared."	See notes above. DVP is the only funder of domestic violence advocacy programs that is required by state statute to establish standards that pertain to these programs. No other state agency has this type of quasi-regulatory authority. DVP believes it is the best interest of limited funding resources that this requirement, among others, continue to ensure that resources are allocated to programs that comply with these minimal standards.
Re: 12.201.2, "Should we also add a statement regarding mandatory reporting for elder abuse and at-risk adults?"	No. Domestic violence advocates are not required to report abuse toward elderly or at-risk adults. This rule aligns with current state statute.
Re: 12.201.5, "It still feels like overkill in terms of all you require to see and mandate – especially when it comes to NPO [nonprofit organization] best practices versus DV-service related compliance. FVPSA [Family Violence Prevention and Services Act] requirement should lead and DVP should not be in the business of assessing our Boards nor our NPO practices."	See notes above. DVP believes NPO best practices are well-suited for standards for domestic violence advocacy organizations to ensure organizations that receive funding are well-positioned to fulfill their missions and excel as stewards of public resources."
Re: 12.202.3, "[working with county child protection officials] would this not apply to children receiving services in non-residential programs as well? For example, children receiving therapy?"	Yes – it should apply. DVP is proposing changes to rule that align this requirement as applicable to the entire program services, not just residential services.
Re: 12.202.3, "[locked storage of medication] we moved away from [staff] dispensing medication a few years ago. Highly recommend all programs do this."	DVP agrees and will continue this rule to monitor programs to ensure compliance.
Re: 12.202.3, "[safety protocols] with client turnover in shelter, I am concerned that programs would have to be doing safety drill weekly to ensure that all clients participate in drills or is this more directed for staff so they know what to do in the event of an emergency?"	This rule does not establish the frequency with which a program would be required to conduct a safety drill. Safety protocols should be accessible to advocates and clients and the program would determine how often to conduct them given the size and scope of the program.
Re: 12.202.4, "[children and youth services] I am not sure all programs have the staff or financial resources to make this happen on a regular basis."	The rules pertaining to children and youth advocacy only apply to programs that have these services and recreational opportunities can be provided if it is feasible for the program to do so.

(12 CCR 2512-2)

12.200 DOMESTIC VIOLENCE PROGRAM (DVP)

12.200.1 Purpose [Rev. eff. 5/1/13]

These rules set forth policies concerned with administering funding to support the provision of a statewide network of services to reduce the incidence of domestic violence in Colorado.

12.200.2 DEFINITIONS

FOR THE PURPOSES OF THESE RULES, THE FOLLOWING DEFINITIONS ARE USED:

A. BEHAVIORAL HEALTH CONDITIONS ARE DEFINED ILLNESS SUCH AS MENTAL HEALTH CONCERNS OR SUBSTANCE MISUSE BEHAVIORS THAT DOMESTIC VIOLENCE VICTIMS MAY EXHIBIT.

B. CLIENT IS DEFINED AS A VICTIM OF DOMESTIC VIOLENCE WHO REQUESTS AND RECEIVES SERVICES FROM A DOMESTIC VIOLENCE VICTIM ADVOCATE. CLIENTS MAY BE ADULTS OR MINOR CHILDREN.

C. DOMESTIC VIOLENCE ADVOCACY IS DEFINED ACTIVITIES PERFORMED BY INDIVIDUALS TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S., WHO WORK FOR OR VOLUNTEER FOR AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE. DOMESTIC VIOLENCE ADVOCACY ACTIVITIES CONDUCTED IN PARTNERSHIP WITH VICTIMS OF DOMESTIC VIOLENCE MAY INCLUDE PROVIDING INFORMATION ABOUT VICTIM RIGHTS, PRESENTING AN ARRAY OF OPTIONS VICTIMS MAY TAKE TO INCREASE THEIR SAFETY, ENGAGING WITH THE VICTIM TO CREATE A SAFETY PLAN, INCREASING VICTIMS' KNOWLEDGE OF AND ACCESS TO AVAILABLE COMMUNITY RESOURCES, ACTING IN AN EMPATHETIC MANNER THAT ENCOURAGES VICTIMS TO SELF-DETERMINE STRATEGIES THAT LEAD TO ENHANCED WELL-BEING, AND SUPPORTING VICTIMS INFORMAL AND FORMAL SOCIAL SUPPORT SYSTEMS. DOMESTIC VIOLENCE ADVOCACY MAY ALSO INCLUDE ACTIVITIES SUCH AS PROVIDING COMMUNITY EDUCATION OR PREVENTION. DOMESTIC VIOLENCE ADVOCACY DOES NOT INCLUDE ACTIVITIES PERFORMED ON BEHALF OF OR WITH PERPETRATORS OR OFFENDERS OF DOMESTIC VIOLENCE.

D. DOMESTIC VIOLENCE VICTIM ADVOCATE IS DEFINED AS AN EMPLOYEE OR VOLUNTEER, TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S., WHO WORKS OR VOLUNTEERS FOR AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE. ADVOCATES SHALL RECEIVE SPECIALIZED TRAINING TO BE KNOWLEDGEABLE ABOUT THE DYNAMICS OF DOMESTIC VIOLENCE, HOW DOMESTIC VIOLENCE IMPACTS VICTIMS, HOW TO ENGAGE WITH VICTIMS IN SAFETY PLANNING, AND HOW TO OFFER EMOTIONAL SUPPORT, INFORMATION AND REFERRALS, AND PROVIDE CRISIS INTERVENTION, VICTIMS' RIGHTS INFORMATION, AND OTHER ASSISTANCE TO VICTIMS AND THEIR DEPENDENTS. ADVOCATES MAY ALSO PROVIDE COMMUNITY EDUCATION OR ENGAGE IN ACTIVITIES AIMED AT PREVENTING DOMESTIC VIOLENCE. AS DEFINED IN THESE RULES, ADVOCATES DO NOT PROVIDE SERVICES TO PERPETRATORS OR OFFENDERS OF DOMESTIC VIOLENCE. ADVOCATES MAY PROVIDE LEGAL SERVICES OR SERVICES TO ADDRESS VICTIMS' BEHAVIORAL HEALTH CONDITIONS IF THEY ARE QUALIFIED TO DO SO.

E. DOMESTIC VIOLENCE AS DEFINED IN SECTION 18-6-800.3, C.R.S. ALSO INCLUDES NON-CRIMINAL ACTS THAT COMPRISE A PATTERN OF ABUSIVE BEHAVIOR IN A current OR FORMER INTIMATE RELATIONSHIP, MARRIAGE, SAME-SEX PARTNERSHIP, OR A DATING RELATIONSHIP. THESE BEHAVIORS MAY INCLUDE PHYSICAL VIOLENCE, INTIMIDATION,

CONTROL, COERCION, SEXUAL COERCION, EMOTIONAL MANIPULATION, ECONOMIC ABUSE, OR OTHER PSYCHOLOGICAL TACTICS THAT HARM A PERSON.

F. DOMESTIC VIOLENCE VICTIM IS DEFINED AS AN INDIVIDUAL WHO EXPERIENCES DOMESTIC VIOLENCE.

G. FUNDED PROGRAM IS DEFINED AS AN ORGANIZATION THAT RECEIVES FUNDING FROM THE COLORADO DEPARTMENT OF HUMAN SERVICES, DOMESTIC VIOLENCE PROGRAM.

H. NON-RESIDENTIAL SERVICES IS DEFINED AS AN ARRAY OF ADVOCACY OR OTHER SUPPORTIVE SERVICES AVAILABLE TO VICTIMS OF DOMESTIC VIOLENCE. THESE SERVICES ARE PROVIDED BY ADVOCATES TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S. WHO ARE EMPLOYED BY AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE.

I. PERSONALLY IDENTIFYING CLIENT INFORMATION IS DATA OR INFORMATION COLLECTED BY A DVP FUNDED PROGRAM ABOUT A CLIENT RECEIVING DOMESTIC VIOLENCE ADVOCACY INCLUDING, BUT NOT LIMITED TO CLIENT NAME, A HOME OR PHYSICAL ADDRESS, INFORMATION REGARDING THE CLIENT'S WHEREABOUTS OR LOCATION, CONTACT INFORMATION SUCH AS A POST OFFICE BOX OR EMAIL ADDRESS, A SOCIAL SECURITY NUMBER, DRIVER LICENSE NUMBER, PASSPORT NUMBER, DATE OF BIRTH OR AGE, GENDER EXPRESSION OR IDENTITY, RACIAL OR ETHNIC BACKGROUND, RELIGIOUS AFFILIATION, OR DISABILITY. NON-AGGREGATED PERSONALLY IDENTIFYING CLIENT INFORMATION SHALL NOT BE SHARED BY A DVP FUNDED PROGRAM WITH AN EXTERNAL PARTY WITHOUT THE EXPRESS WRITTEN CONSENT OF THE CLIENT.

J. RESIDENTIAL FACILITY IS DEFINED AS A LOCATION SUCH AS A SHELTER OR TRANSITIONAL HOUSING SITE WHERE A DOMESTIC VIOLENCE VICTIM RECEIVES TEMPORARY HOUSING AND ADVOCACY SERVICES. AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE OWNS OR LEASES THE LOCATION, OPERATES THE FACILITY, AND IS RESPONSIBLE FOR MAINTENANCE AND UPKEEP. A FACILITY MAY INCLUDE COMMUNAL-STYLE LIVING QUARTERS, OR INDIVIDUAL APARTMENTS OR UNITS FOR RESIDENTS.

K. RESIDENTIAL SERVICES IS DEFINED AS AN ARRAY OF ADVOCACY OR OTHER SUPPORTIVE SERVICES AVAILABLE TO VICTIMS OF DOMESTIC VIOLENCE AT A RESIDENTIAL FACILITY OR AT A MOTEL, HOTEL, OR OTHER LOCATION. THESE SERVICES ARE PROVIDED BY ADVOCATES TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S. WHO ARE EMPLOYED BY AN ORGANIZATION OR A PROGRAM WITH A MISSION TO RESPOND TO AND/OR PREVENT DOMESTIC VIOLENCE.

12.200.~~23~~ Domestic Violence Program (DVP) Advisory Committee ~~[Rev. eff. 1/1/16]~~

An Advisory Committee will be established to provide feedback regarding the DVP's direction~~, which may include establishing priorities for making awards for funding~~. The Advisory Committee's roles, responsibilities, and membership shall be determined by the Committee and, at a minimum, shall consist of:

A. Individuals who are knowledgeable in the field of domestic violence;

B. Individuals who are knowledgeable in nonprofit management and/or grant making;

C. Individuals representing community-based programs and government agencies;

D. At least one representative from the Colorado Coalition Against Domestic Violence; and,

E. At least two representatives for programs that receive funding from DVP.

12.200.~~3~~4 Announcements of Availability of Funding ~~[Rev. eff. 1/1/16]~~

The DVP will announce availability of funding and solicit responses as required by the State Procurement Code (24-101-101, C.R.S., et seq.). ~~The announcement must include, at a minimum:~~

~~A. Established criteria for making funding award determinations;~~

~~B. A process used to notify applicants of the outcome of their application;~~

~~C. A procedure available to applicants to protest the outcome of their application; and,~~

~~D. Other requirements as required by state or federal law.~~

~~**12.200.3 Contracts [Rev. Eff. 1/1/16]**~~

~~A. Per Section 26-7.5-104, C.R.S., the Colorado Department of Human Services may enter into contracts or agreements for services with any entity eligible for funding that fulfills the requirements of the application.~~

~~B. All entities awarded a contract shall agree to all terms and conditions of the contract, up to and including compliance with the rules as set forth in Section 12.201 and 12.202.~~

12.200.5 Funded Program Monitoring and Compliance ~~[Rev. eff. 1/1/16]~~

A. Funded programs shall comply and cooperate with monitoring, which may include on-site visits, financial desk reviews, quality assurance reviews, or REVIEWS FOR COMPLIANCE WITH other federal or state requirements.

~~B. DVP may take one or more of the following actions where the funded program is found to be non-compliant with one or more of the DVP rules in Sections 12.201 and 12.202 or the terms of the DVP contract for funding:~~

~~1. Develop an action plan with steps and timelines for the funded program to achieve compliance;~~

~~2. Temporarily restrict access to funding until compliance issues are remedied; or,~~

~~3. Deny further funding including current contract obligations if compliance is not reached, the action plan fails, or DVP receives evidence of wrongdoing; or,~~

~~4. Extend timelines for full compliance if all of the following conditions exist:~~

~~a. The authorized official of the funded program submits a written request to extend the timeline for compliance to DVP;~~

~~b. The request describes or lists the minimum rule for which the extended timeline is requested and the reason why the funded program is unable to comply with the current timeline;~~

~~c. The funded program documents an alternative means of compliance, temporary substitution to indicate its intent to comply with the rule, and/or a clear, detailed plan for full eventual compliance with the rule within one year; and,~~

~~d. DVP reviews the request for an extension with the Advisory Committee and receives a recommendation to grant the extension if it does not jeopardize the safety or health of clients, does not have a detrimental effect on the provision of~~

~~services to clients, and the original timeline presents a clear financial or otherwise undue burden on the funded program.~~

~~5. If full compliance is not attained within one year, DVP may cancel the contract.~~

B. DVP SHALL PROVIDE FUNDED PROGRAMS WITH NOTICE OF ALL PLANNED MONITORING EFFORTS. MONITORING MAY OCCUR AT REGULAR INTERVALS OR AT RANDOM PERIODS IF DVP IS AWARE OF PROGRAMMATIC OR OPERATIONAL CHANGES AT A FUNDED PROGRAM THAT MAY IMPACT COMPLIANCE.

C. UPON CONCLUSION OF A MONITORING EFFORT, DVP WILL PROVIDE FUNDED PROGRAMS WITH A WRITTEN REPORT CONTAINING THE FOLLOWING ITEMS:

1. THE AREAS DVP REVIEWED DURING THE MONITORING ACTIVITY;

2. RECOMMENDATIONS FOR THE FUNDED PROGRAM TO MAKE IMPROVEMENTS TO PROGRAMMATIC SERVICES OR OPERATIONS;

3. AREAS OF NON-COMPLIANCE WITH DVP RULES, THE CONTRACT FOR FUNDING, OR OTHER STATE OR FEDERAL REQUIREMENTS; AND,

4. A TIMELINE FOR ATTAINING COMPLIANCE WITH AREAS OF NON-COMPLIANCE.

D. FUNDED PROGRAMS MAY REQUEST AN EXTENSION OF THE TIMELINE FOR ATTAINING COMPLIANCE.

E. IF A FUNDED PROGRAM IS NOT ABLE TO ATTAIN FULL COMPLIANCE WITHIN 180 DAYS OF THE DATE THE REPORT WAS ISSUED, DVP MAY TEMPORARILY RESTRICT ACCESS TO CONTRACT FUNDING UNTIL FULL COMPLIANCE IS ATTAINED.

F. IF A FUNDED PROGRAM IS NOT ABLE TO ATTAIN FULL COMPLIANCE WITHIN 365 DAYS OF THE DATE THE REPORT WAS ISSUED, DVP MAY CANCEL THE CONTRACT.

~~C.~~G. A funded program may appeal decisions regarding ~~action plans,~~ restrictions placed upon funding~~, or denial of further funding~~:

1. For the purposes of these rules, an appeal is defined as an action that a funded program may take if the funded program disagrees with ~~the terms of the action plan~~ THE DECISION TO RESTRICT ACCESS TO CONTRACT FUNDING.~~,~~

~~2. A funded program shall claim one or more of the following circumstances to be considered for an appeal:~~

~~a. The timeline is unreasonable.~~

~~b. Discriminatory or unethical behavior occurred in the development of the action plan.~~

~~c. Compliance cannot be reasonably obtained or efforts will cause undue harm.~~

~~3.~~2. All appeals shall be made in writing within thirty (30) business days of issuance of ~~plan or~~ notification of funding restrictions ~~or denials of further funding~~ to the DVP Advisory Committee.

~~4.~~3. The Advisory Committee shall review the appeal and provide the DVP with a recommended course of action.

~~5.~~4. DVP shall issue a written decision to the program within sixty (60) days of receipt of appeal.

~~6.~~5. The written DVP decision shall be the final agency decision.

12.200.6 Complaints ~~[Rev. eff. 1/1/16]~~

The DVP Advisory Committee SHALL ADVISE DVP REGARDING HOW TO PROCEED WITH REVIEWING COMPLIANTS AND shall hear and record complaints from concerned citizens, victims or survivors of domestic violence, clients of funded programs, employees or volunteers of funded programs, and other concerned parties ~~regarding services provided or denied at funded programs,~~ potential violations of rules in SectionS 12.201 AND 12.202.~~, or other matters pertaining to the operation of a DVP-funded program.~~

12.200.7 Critical Incident Reporting ~~[Rev. eff. 1/1/16]~~

Funded programs ~~must~~ SHALL inform DVP of critical incidents impacting the funded ~~program~~ PROGRAM'S ABILITY TO MEET CONTRACTUAL OBLIGATIONS, COMPLY WITH DVP RULES, PROVIDE SAFE SERVICES FOR VICTIMS, MAINTAIN SAFE OPERATIONS OF THE PROGRAM, OR SUSTAIN PRUDENT FINANCIAL STEWARDSHIP OF RESOURCES. ~~including, but not limited to:~~

A. ~~Civil or criminal legal action taken against or on behalf of the funded program, employees, board members, volunteers, or other individuals associated with the operation or governance of the organization or program related to the performance of official duties such as embezzlement of funds; and,~~

B. ~~Death of an employee, board member, volunteer, client, or other individual associated with the operation or governance of the organization or program that occurred during the performance of official duties or during the provision of services at a residential or non-residential service site.~~

12.201 ~~Programmatic~~ OPERATIONS and Administrative Rules for Funded ~~Entities~~ PROGRAMS

12.201.1 Purpose of ~~Programmatic~~ OPERATIONS and Administrative Rules ~~[Rev. eff. 1/1/16]~~

These rules, in accordance with Section 26-7.5-104, C.R.S., shall serve as minimum OPERATIONS AND ADMINISTRATIVE requirements for PROGRAMS FUNDED WHOLLY OR IN PART BY DVP. ~~delivery of free and confidential services to primary and secondary victims of domestic violence to also include community services as well as procedures for operations for programs receiving DVP funding.~~ Domestic Violence Programs, as defined in Section 26-7.5-103, C.R.S., that currently do not receive DVP funding should use these rules to begin the process of establishing programs. Programs that currently receive DVP funding shall adhere to these rules to maintain funding from the DVP.

12.201.2 Confidentiality Requirements ~~[Rev. eff. 1/1/16]~~

All programs funded wholly or in part by DVP shall HAVE THE FOLLOWING WRITTEN OPERATIONS AND ADMINISTRATIVE POLICIES, WHICH ARE APPROVED BY THE FUNDED PROGRAM'S BOARD OF DIRECTORS OR OTHER GOVERNING BODY, IN PLACE TO ENSURE PROTECTION OF CONFIDENTIAL CLIENT COMMUNICATIONS: ~~adhere to the following in the delivery of domestic violence services:~~

A. ~~Ensure~~ TRAINING FOR employees and volunteers ~~serving as advocates~~ WHO PROVIDE ADVOCACY OR HAVE ACCESS TO PERSONALLY IDENTIFYING CLIENT INFORMATION receive fifteen (15) or more hours of domestic violence-related training, per Section 13-90-107, C.R.S., prior to PROVIDING ADVOCACY OR HAVING ACCESS TO PERSONALLY IDENTIFYING CLIENT INFORMATION ~~engaging in the provision of direct services to primary and secondary domestic violence victims.~~

~~B. Require employees and volunteers trained in accordance with Section 12.201.3, A, above, to assert a claim to privileged communications with primary and secondary domestic violence victims unless the victim has waived the privilege.~~

~~C.~~B. ~~Maintain~~ PROTECTING confidential CLIENT communications to minimally include MAINTENANCE AND DESTRUCTION OF, AND ACCESS TO THE FOLLOWING:

1. Client and case file records;

2. ELECTRONIC Data collection systems;

3. ~~Client meeting notes;~~ ELECTRONIC CLIENT COMMUNICATIONS SUCH AS E-EMAIL AND TEXT MESSAGES;

4. Communication logs ADVOCATES USE TO COMMUNICATE AMONG EACH OTHER;

5. Advocacy or counseling MEETING notes;

6. CLIENT Communications through an interpreter or translator; or,

7. Any other documents or materials produced by the program containing personally identifying client information.

~~D. Develop and maintain a written policy regarding confidential communications to minimally include:~~

~~1. Use of voluntary, specific, written, dated, time-limited releases of information to include informed consent;~~

~~2. Client record keeping policies and procedures including document retention and destruction policies;~~

~~3. Clients' rights to access their individual written case file records;~~

~~4. Employee and volunteer access to client files on a strict need-to-know basis only within prescribed professional standards;~~

~~5. Employee, volunteer, and board of directors, advisory board or other governing body confidentiality agreements;~~

~~6. Protocol and procedures for responding to subpoenas for testimony and/or access to client files;~~

~~7. Notifications of exceptions to confidentiality as prescribed by statute to minimally include reporting of known or suspected child maltreatment; and,~~

~~8. Notifications of confidentiality parameters for employees or volunteers acting within other professional standards such as licensed social workers or licensed or unlicensed counselors.~~

~~C.~~ RESPONDING TO SUBPOENAS DIRECTING AN EMPLOYEE OR VOLUNTEER TO TESTIFY OR DIRECTING ACCESS TO CLIENT COMMUNICATIONS IN B, ABOVE.

~~D.~~ MAKING MANDATORY REPORTS OF KNOWN OR SUSPECTED CHILD MALTREATMENT IN ACCORDANCE WITH STATUTE.

~~E.~~ RESPONDING TO THE FOLLOWING CIRCUMSTANCES WITHIN THE CONFINES OF CONFIDENTIAL CLIENT COMMUNICATIONS:

1. CLIENT REQUEST FOR RELEASE OF INFORMATION TO A THIRD PARTY;

2. CLIENT MEDICAL EMERGENCIES WHEN THE CLIENT IS UNABLE TO GIVE CONSENT FOR SUMMONING EMERGENCY MEDICAL SERVICES;

3. SITUATION WHERE A CLIENT IS DETERMINED TO POSE A DANGER TO SELF OR OTHERS;

4. KNOWN OR SUSPECTED CLIENT CRIMINAL ACTIVITY OR BEHAVIOR;

5. LAW ENFORCEMENT REQUEST FOR RESIDENTIAL FACILITY ACCESS TO SERVE A WARRANT OR SUBPOENA ON A CLIENT; AND,

6. WORKING WITH COUNTY AND COURT OFFICIALS, SUCH AS A GUARDIAN AD LITEM, WHEN A FAMILY IS INVOLVED WITH CHILD PROTECTION OR CUSTODY MATTERS;

~~F.~~ ESTABLISHING A SEPARATE SET OF CONFIDENTIALITY PARAMETERS FOR EMPLOYEES OR VOLUNTEERS ACTING WITHIN OTHER PROFESSIONAL STANDARDS SUCH AS ATTORNEYS, LICENSED SOCIAL WORKERS OR LICENSED OR UNLICENSED COUNSELORS.

~~**12.201.3 Statistical Data Collection and Record Keeping Requirements [Rev. eff. 1/1/16]**~~

~~All programs funded wholly or in part by DVP shall adhere to the following in the delivery of domestic violence services:~~

~~A. Maintain individual client case records for a minimum of three years, per CDHS contract requirements, or until successful resolution of monitoring, as outlined in Section 12.200.5., for all adults and children who received domestic violence services to include verification of:~~

~~1. Demographic information necessary for data reporting;~~

~~2. Services provided or offered to clients;~~

~~3. Documentation of safety planning made available to the client; and,~~

~~4. Referrals to other services provided to clients.~~

~~B. Submit reports using the DVP statistical reporting tool(s) and forms according to the schedule set forth by DVP; and,~~

~~C. Maintain a written document retention and destruction policy stating that all records and reports will be kept for a minimum of three (3) years after the end of the grant period or until the successful resolution of monitoring as outlined in Section 12.200.5.~~

12.201.~~4~~3 Fiscal Requirements ~~[Rev. eff. 1/1/16]~~

A. ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall demonstrate sound fiscal management as evidenced by written fiscal policies and procedures in accordance with generally accepted accounting principles, approved and reviewed by the board of directors, advisory board or other governing body that demonstrate sound fiscal controls and sufficient assurances to protect against theft or embezzlement. ~~in accordance with terms set forth in the DVP contract for funding and the electronic Code of Federal Regulations, Title 2, Subtitle A, Chapter II, Part 200. No later editions or amendments are incorporated. These regulations may be reviewed during regular business hours at the Colorado Department of Human Services, Domestic Violence Program, 1575 Sherman Street, Denver, Colorado; or at a state publications library.~~

B. Funded programs shall submit an annual independent financial audit or review to DVP within three hundred sixty five (365) days of the funded program's fiscal year end.

~~1. An annual independent audit is encouraged for all funded programs and is required for any program receiving or more in DVP funds.~~

~~2. An annual independent financial review is required for any FUNDED program receiving less than $60,000.00 in DVP funds.~~

~~C. Funded programs shall make fiscal documentation available to the state as requested to minimally include requirements in Section 12.201.4, A and B, and back-up documentation for contracted expenditures.~~

12.201.~~5~~.4 Board of Directors, Advisory Board, or Governing Body Requirements [Rev. eff. 1/1/16]

A. Funded programs' boards of directors, advisory board, or other governing bodies such as a Tribal Council shall ensure that the funded program exercises sound ethical and legal governance and financial management.

B. Governing bodies shall make every effort to recruit and maintain membership that reflects the racial, ethnic, economic, and social composition of the community or region to be served, including former clients of the program and/or persons who have experienced domestic violence.

C. For funded Tribes, the Tribal Council may serve as the governing body.

12.201.~~6~~.5 GENERAL OPERATIONS AND Administrative Requirements ~~[Rev. eff. 1/1/16]~~

ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall HAVE THE FOLLOWING IN PLACE TO demonstrate SOUND administrative capacity ~~through the following to minimally include~~:

A. Written, BOARD OF DIRECTORS OR OTHER GOVERNING BODY APPROVED, plan, pertaining to disaster management to minimally include assurances to maintain emergency services in the event of a public health emergency or natural or environmental disasters;

B. Written, BOARD OF DIRECTORS OR OTHER GOVERNING BODY APPROVED, safety policies and procedures to minimize risk to clients, employees, volunteers, and property, to minimally include responses to potential breaches of safety at each service location;

C. Written, BOARD OF DIRECTORS OR OTHER GOVERNING BODY APPROVED, policy regarding participation in lobbying, political activity, and public demonstrations that states these activities may not be paid for with DVP funding;

~~D. Procurement of general liability and automobile insurance as required by the DVP contract for funding;~~

~~E.~~D. Satisfactory fire safety inspection report completed annually by the local fire authority for all ~~locations where employees and volunteers provide services to clients that~~ RESIDENTIAL SHELTER FACILITIES OPERATED BY THE FUNDED PROGRAM THAT conforms to the fire safety standards as determined by each city, town, municipality, county or special district;

~~F.~~E. Documentation of a certificate of occupancy in accordance with local zoning, if applicable; AND,

~~G.~~F. Water safety inspection documentation if water at residential facility is not from a public water source.

12.201.~~7~~.6 Personnel ~~and Volunteer~~ Requirements ~~[Rev. eff. 1/1/16]~~

ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall have the following duties and responsibilities related to personnel and volunteer requirements:

A. Written personnel policies approved by the board of directors, advisory board, or other governing body to minimally include:

1. Ethics policy regarding employee-client relationships and professional conduct;

2. Equal employment opportunity hiring policy;

3. Whistleblower policy;

4. Harassment-FREE WORKPLACE policy;

5. Employee grievance policy;

6. Criminal BACKGROUND CHECK POLICY ~~and TRAILS background check policy~~;

7. CHILD ABUSE REGISTRY BACKGROUND CHECK POLICY FOR PERSONNEL WHO HAVE CONTACT WITH MINORS;

~~7.~~8. Drug-free workplace; and,

~~8.~~9. Annual performance reviews of employees.

B. Written job descriptions for employees funded wholly or in part by DVP to minimally include assurances that staff serving as licensed or unlicensed counselors or social workers maintain appropriate licensure as required by law, and/or registration with the Colorado Department of Regulatory Agencies;

~~C. Written volunteer policies to minimally include oversight of volunteer activities;~~

~~D. Ensure adequate employee or volunteer coverage during hours of operation to minimally include staffing during business hours and staffing of the twenty-four (24) hour crisis line as appropriate by trained personnel;~~

~~E.~~C. Current, accurate, and complete personnel records for all employees TO MINIMALLY INCLUDE THE FOLLOWING DOCUMENTATION: ~~and volunteers~~.

1. COMPLETION OF 15 HOURS OF DOMESTIC VIOLENCE-SPECIFIC TRAINING IN ACCORDANCE WITH 13-90-107 PRIOR TO PROVIDING ADVOCACY OR HAVING ACCESS TO PERSONALLY IDENTIFYING CLIENT INFORMATION;

2. VERIFICATION OF LEGAL STATUS TO BE ELIGIBLE TO WORK IN THE UNITED STATES;

3. RESUME OR APPLICATION OF EMPLOYMENT;

4. COMPLETION OF PERFORMANCE REVIEWS BY DIRECT SUPERVISOR;

5. CURRENT WAGE RATE AND BENEFITS;

6. CURRENT, VALID DRIVER'S LICENSE AND PROOF OF INSURANCE IF USING A PERSONAL OR FUNDED PROGRAM-OWNED VEHICLE TO CONDUCT BUSINESS;

7. COMPLETED CRIMINAL BACKGROUND CHECK PRIOR TO EMPLOYMENT START DATE; AND,

8. COMPLETED CHILD ABUSE REGISTRY BACKGROUND CHECK IF HAVING CONTACT WITH MINORS PRIOR TO EMPLOYMENT START DATE.

12.201.7 VOLUNTEER REQUIREMENTS

PROGRAMS FUNDED WHOLLY OR IN PART BY DVP SHALL HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES RELATED TO VOLUNTEER REQUIREMENTS:

A. WRITTEN VOLUNTEER POLICIES APPROVED BY THE BOARD OF DIRECTORS, ADVISORY BOARD, OR OTHER GOVERNING BODY TO MINIMALLY INCLUDE:

1. ETHICS POLICY REGARDING VOLUNTEER-CLIENT RELATIONSHIPS AND PROFESSIONAL CONDUCT;

2. WHISTLEBLOWER POLICY;

3. HARASSMENT-FREE VOLUNTEER ENVIRONMENT POLICY;

4. VOLUNTEER GRIEVANCE POLICY;

5. CRIMINAL BACKGROUND CHECK POLICY;

6. CHILD ABUSE REGISTRY BACKGROUND CHECK POLICY FOR VOLUNTEER WHO HAVE CONTACT WITH MINORS;

7. DRUG-FREE VOLUNTEER WORK ENVIRONMENT; AND,

8. REVIEWS OF VOLUNTEER PERFORMANCE.

B. WRITTEN VOLUNTEER JOB DESCRIPTIONS.

C. CURRENT, ACCURATE, AND COMPLETE RECORDS FOR ALL VOLUNTEERS TO MINIMALLY INCLUDE THE FOLLOWING DOCUMENTATION:

1. COMPLETION OF 15 HOURS OF DOMESTIC VIOLENCE-SPECIFIC TRAINING IN ACCORDANCE WITH 13-90-107 PRIOR TO PROVIDING ADVOCACY OR HAVING ACCESS TO PERSONALLY IDENTIFYING CLIENT INFORMATION;

3. RESUME OR APPLICATION TO VOLUNTEER;

4. COMPLETION OF PERFORMANCE REVIEWS BY DIRECT SUPERVISOR;

6. CURRENT, VALID DRIVER'S LICENSE AND PROOF OF INSURANCE IF USING A PERSONAL OR FUNDED PROGRAM-OWNED VEHICLE TO CONDUCT BUSINESS;

7. COMPLETED CRIMINAL BACKGROUND CHECK PRIOR TO VOLUNTEER START DATE; AND,

8. COMPLETED CHILD ABUSE REGISTRY BACKGROUND CHECK IF HAVING CONTACT WITH MINORS PRIOR TO VOLUNTEER START DATE.

12.201.8 Community Services REQUIREMENTS ~~(Eff. 1/1/16)~~

Funded programs shall make every effort to provide or make available the following services to the community:

A. Community education to inform the service region of the availability of domestic violence services;

B. Awareness and education to make known the impact of domestic violence;

C. Prevention activities to reduce the incidence of domestic violence;

D. Training and technical assistance to offer subject-matter expertise; and,

E. Collaborative or cooperative efforts to increase coordination and avoid duplication of services.

12.202 DOMESTIC VIOLENCE Victim Advocacy Services REQUIREMENTS

12.202.1 PURPOSE OF DOMESTIC VIOLENCE VICTIM ADVOCACY SERVICES REQUIREMENTS

THESE RULES, IN ACCORDANCE WITH SECTION 26-7.5-104, C.R.S., SHALL SERVE AS MINIMUM DOMESTIC VIOLENCE VICTIM ADVOCACY SERVICES REQUIREMENTS FOR PROGRAMS FUNDED WHOLLY OR IN PART BY DVP. DOMESTIC VIOLENCE PROGRAMS, AS DEFINED IN SECTION 26-7.5-103, C.R.S., THAT CURRENTLY DO NOT RECEIVE DVP FUNDING SHOULD USE THESE RULES TO BEGIN THE PROCESS OF ESTABLISHING PROGRAMS. PROGRAMS THAT CURRENTLY RECEIVE DVP FUNDING SHALL ADHERE TO THESE RULES TO MAINTAIN FUNDING FROM THE DVP.

12.202~~.1~~.2 Crisis Response Services REQUIREMENTS ~~[Rev. eff. 1/1/16]~~

All programs funded wholly or in part by DVP shall offer and provide free and confidential emergency and crisis response services to primary and secondary victims of domestic violence on a continuous basis by employees and volunteers trained in accordance with ~~Section 12.201.8~~ SECTION 13-90-107, C.R.S., which shall minimally include one or more of the following:

A. Operation of a crisis telephone number accessible to the local community twenty-four (24) hours per day, seven days per week. The crisis line shall be accessible to all callers, including those:

1. Using a “blocked line” where their phone number reads on caller ~~E~~ID as “Unavailable”;

2. With limited spoken English language proficiency through the provision of interpreters or other communication method; and,

3. Who are deaf, hard of hearing, or deaf blind and use a third party telecommunication relay service (such as an IP relay service or a video relay service, teletypewriter (TTY) device) per the requirements of the Americans with Disabilities Act (ADA).

B. Availability of employees or volunteers trained in accordance with ~~Section 12.201.2~~ SECTION 13-90-107, C.R.S. who are able to respond to emergency crisis situations twenty-four (24) hours per day, seven days per week; or,

C. Coordination of ~~1 or 2~~ A AND B, above, through a formal memorandum of understanding with a DVP-funded program in good standing serving the same region that operates its own crisis response services as outlined in A and B, above.

12.202~~.2~~.3 ~~Non-Residential~~ DOMESTIC VIOLENCE Victim Advocacy Services REQUIREMENTS ~~[Eff. 1/1/16]~~

A. ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall provide ~~or make available advocacy, support groups, information and referrals, safety planning, and other supportive services to primary and secondary victims of~~ domestic violence ADVOCACY in the following manner~~:. Funded programs shall provide services funded wholly or in part by DVP:~~

1. By trained employees and volunteers in accordance with Section 13-90-107, C.R.S.;

2. Free of charge to primary and secondary victims;

3. Without income qualifications placed on receipt of services;

4. Without requirements that primary and secondary victims attend a religious activity or instruction as a prerequisite to receive services;

5. WITHOUT REQUIREMENTS FOR VICTIMS TO SHOW PROOF OF RESIDENCY IN COLORADO OR THE UNITED STATES;

6. WITHOUT REQUIREMENTS FOR VICTIMS TO SUBMIT TO CRIMINAL BACKGROUND CHECKS, CREDIT CHECKS, OR DRUG TESTING AS A CONDITION OF SERVICES;

~~5.~~7. On a voluntary basis without any conditions ~~including, but not limited to, placement in residential services; and,~~

~~6.~~8. Following an intake and assessment of needs and ~~risk~~ SAFETY ~~whenever feasible.~~; ~~AND,~~

9. WITH PROVISIONS OF REFERRALS WHEN REQUESTED SERVICES ARE NOT AVAILABLE OR ARE DENIED BY THE FUNDED PROGRAM.

B. ALL PROGRAMS FUNDED WHOLLY OR IN PART BY DVP SHALL ESTABLISH A WRITTEN DOCUMENT OUTLINING THE RIGHTS AFFORDED TO CLIENTS WHO REQUEST SERVICES. WRITTEN RIGHTS SHALL MINIMALLY INCLUDE THE FOLLOWING NOTICES:

1. IDENTIFICATION OF CRITERIA FOR ELIGIBILITY OF DOMESTIC VIOLENCE VICTIM ADVOCACY SERVICES;

2. SERVICE ACCOMMODATIONS FOR THE FOLLOWING VICTIMS:

a. THOSE WHO ARE DEAF OR HARD OF HEARING OR HAVE LIMITED ENGLISH PROFICIENCY; AND,

b. DISABILITIES INCLUDING BEHAVIORAL HEALTH CONDITIONS.

3. AVAILABILITY OF FREE, VOLUNTARY SERVICES TO BE PROVIDED WITHOUT CONDITION OR PREREQUISITES INCLUDING NON-PROSELYTIZATION;

4. PROGRAM ADHERENCE TO CONFIDENTIAL COMMUNICATIONS INCLUDING LEGAL EXCEPTION TO CONFIDENTIALITY OF MANDATORY REPORTING OF KNOWN OR SUSPECTED CHILD MALTREATMENT;

5. OPPORTUNITY TO PROVIDE FEEDBACK REGARDING EXPERIENCE WITH PROVISION OF OR DENIAL OF SERVICES AT THE FUNDED PROGRAM;

6. PROCEDURE TO FILE A GRIEVANCE OR COMPLAINT TO MINIMALLY INCLUDE THE FUNDED PROGRAM'S INTERNAL GRIEVANCE OR COMPLAINT POLICY AND PROCEDURE, AND THE RIGHT TO COMPLAIN TO DVP AND OTHER APPLICABLE REGULATING AGENCIES REGARDING SERVICES PROVIDED OR DENIED; AND,

7. ABILITY TO REQUEST ACCESS TO OWN CLIENT FILE OR RECORD INCLUDING ELECTRONIC DOCUMENTATION SERVICES PROVIDED.

~~B.~~C. ALL ~~Funded~~ programs FUNDED WHOLLY OR IN PART BY DVP shall establish written policies or procedures regarding:

~~1. Client opportunity to provide feedback regarding their experience with services at the funded program;~~

~~2.~~1. Identification of ~~who is eligible for~~ CRITERIA FOR ELIGIBILITY OF DOMESTIC VIOLENCE ADVOCACY services;

~~3. Referrals when requested services are not available or denied by the funded program;~~

~~4.~~2. Language accessibility plan to minimally include the use of interpreters, translators, bilingual employees, and/or written materials to provide services to clients who are deaf or hard of hearing and those with limited English proficiency;

~~5.~~3. SERVICE ACCOMMODATION PLANS ~~Nondiscrimination~~ to minimally include nondiscrimination on the basis of CLIENTS' age, disability, BEHAVIORAL HEALTH CONDITIONS, sex, sexual orientation, race, color, national origin, religion, ethnicity, or gender IDENTITY OR EXPRESSION AS WELL AS ACCOMPANYING PROTOCOLS TO ENSURE A WELCOMING ENVIRONMENT;

~~6. Access to services or referrals for clients with disabilities, substance abuse addiction, or mental illness; and,~~

~~7. Grievance policies and procedures granting clients the right to complain to DVP and other applicable regulating agencies regarding services provided or denied.~~

~~C. Funded programs shall make every effort to provide the following and establish written policies or procedures regarding:~~

~~1.~~4. Transportation of clients BY EMPLOYEES OR VOLUNTEERS OF THE FUNDED PROGRAM, IF AN AVAILABLE SERVICE; ~~including use of a release when transporting clients and use of appropriate insurance;~~ and,

~~2.~~5. Child care by ~~staff~~ EMPLOYEES or volunteers of the funded program, IF AN AVAILABLE SERVICE, while parent is on-site for a maximum of three hours.

D. PROGRAMS FUNDED WHOLLY OR IN PART BY DVP SHALL ENSURE FULL COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION FOR CHILDREN AND FAMILIES, 45 CFR PART 1370 (EFFECTIVE JANUARY 3, 2017). IF A FUNDED PROGRAM WISHES TO PROVIDE SEX SEGREGATED OR SEX-SPECIFIC PROGRAMMING, THEY SHALL SUBMIT A WRITTEN PLAN TO BE APPROVED BY DVP, WHICH OUTLINES THE FOLLOWING:

1. WHY THE SEX SEGREGATED OR SEX-SPECIFIC PROGRAMMING IS NECESSARY FOR THE ESSENTIAL SAFE OPERATIONS OF THE PROGRAM OR SERVICE;

2. HOW THEY WILL PROVIDE COMPARABLE SERVICES TO INDIVIDUALS WHO CANNOT PARTICIPATE IN THE SEX SEGREGATED OR SEX-SPECIFIC PROGRAMMING OR SERVICE; AND,

3. AN ANALYSIS OF RESEARCH-SUPPORTED BEST PRACTICES THAT JUSTIFY THE NEED FOR THE SEX SEGREGATED OR SEX-SPECIFIC PROGRAMMING OR SERVICE.

12.202.~~3~~.4 Residential DOMESTIC VIOLENCE Victim Advocacy Services REQUIREMENTS ~~[Rev. eff. 1/1/16]~~

~~Residential services are defined as those provided while providing temporary, short or long-term overnight accommodations to primary and secondary victims of domestic violence at a facility maintained,~~

~~operated, and/or paid for by a DVP funded program such as a shelter, safehome, transitional housing unit, or motel or hotel.~~

A. In addition to the requirements in Sections 12.202.1 and 12.202.2, ~~funded~~ ALL programs FUNDED WHOLLY OR IN PART BY DVP THAT offer~~ing~~ residential DOMESTIC VIOLENCE ADVOCACY ~~programs~~ SERVICES shall:

1. Notify DVP of intent to open a new OR RELOCATE A residential facility to include documentation of compliance with this section;

2. NOTIFY DVP OF THE PERMANENT OR TEMPORARY CLOSURE OF A RESIDENTIAL FACILITY;

~~2.~~3. Screen for appropriate access ~~to a~~ FOR residential ~~facility~~ SERVICES based on the victim's need for safe, temporary accommodations and/OR fit for communal living;

~~3.~~4. Develop a safety plan to minimally include the victim's safe contact with formal and informal support systems while ~~in shelter~~ RECEIVING RESIDENTIAL SERVICES;

~~4.~~5. Encourage but not mandate participation in supportive services, advocacy, or counseling as a condition of ~~residency~~ RECEIVING RESIDENTIAL SERVICES;

~~5.~~6. Maintain quality living conditions to address normal wear and tear to the RESIDENTIAL facility, equipment, and furnishings; and,

~~6.~~7. Maintain safe living conditions OF THE RESIDENTIAL FACILITY to minimally include:

a. Locking doors and windows;

b. Appropriate lighting;

c. Mechanisms or devices for contacting emergency assistance; and,

d. Compliance with applicable fire and safety codes.

~~B. Funded programs shall provide services for the following:~~

~~1. Victims with physical disabilities;~~

~~2. Children of any age of the adult victim, including male teenagers;~~

~~3. Adult victims and their adult children with a developmental or physical disability for whom the adult victim is the primary caretaker;~~

~~4. Gay, lesbian, bisexual, and transgender victims;~~

~~5. Victims with mental illness;~~

~~6. Victims with substance abuse addiction; and,~~

~~7. Primary and secondary male victims of domestic violence.~~

~~C. If a funded program is not able to provide services for an individual identifying as a member of a group listed in Section 12.202.3, B, or anyone who otherwise meets established admissions criteria as set forth in Section 12.202.3, F, 1, they must document one or more of the following:~~

1. Providing the service poses a significant difficultly or expense that drains the financial resources of the funded program.

2. Providing the service poses a significant risk to the safety of the employees or volunteers, general operations of the program, or other clients.

D.B. Funded ALL Programs FUNDED WHOLLY OR IN PART BY DVP shall have minimal RESIDENTIAL SERVICES staffing by trained employees or volunteers TRAINED IN ACCORDANCE WITH SECTION 13-90-107, C.R.S., to include:

1. An adequate number of employees or volunteers to ensure the health and safety of residential program SERVICES clients INCLUDING THOSE AT A RESIDENTIAL FACILITY OR STAYING IN OTHER ACCOMMODATIONS SUCH AS A MOTEL;

2. Residential program SERVICES intake availability twenty-four (24) hours per day;

3. Twenty-four (24) hour access for residential program SERVICES clients to trained employees or volunteers to offer safety planning, advocacy services, support, or assistance, consistent with residents' schedules and needs in-person whenever feasible; and,

4. If not providing in-person twenty-four (24) hour staffing AT A RESIDENTIAL FACILITY, a DVP-approved written plan to respond to residential program clients' needs to minimally include employee or volunteer coverage and how clients can access emergency services in the event employees or volunteers are not physically present.

E.C. Funded ALL Programs FUNDED WHOLLY OR IN PART BY DVP THAT OFFER RESIDENTIAL SERVICES shall have the following:

1. Separate bedrooms for each family, whenever feasible;

2. Private space for bathing and personal hygiene needs;

3. Space or rooms designated for quiet time, whenever feasible;

4. Free food, clothing, toiletries, hygiene products, and other basic needs whenever feasible;

5. Unrestricted functioning telephone access for the purposes of reaching emergency assistance, securing resources, and maintaining social support;

6. Laundry facilities;

7. Assistance with facilitating access to emergency shelter RESIDENTIAL SERVICES for victims with service animals pets, or other domesticated animals, whenever feasible;

8. ASSISTANCE WITH FACILITATING ACCESS TO SAFE HOUSING ACCOMMODATIONS FOR VICTIMS WITH PETS OR OTHER DOMESTICATED ANIMALS;

8.9. Marked and posted evacuation routes and exits, posting of fire extinguisher locations, and documentation of performance of regular fire drills; and,

9.10. Functioning heating, cooling, and ventilation systems.

F.D. Funded Programs FUNDED WHOLLY OR IN PART BY DVP THAT OFFER RESIDENTIAL SERVICES shall have the following written policies and procedures to minimally include:

1. Admission AND ELIGIBILITY criteria FOR RESIDENTIAL SERVICES including provisions for referrals when unable to accommodate an individual or family;

2. Expectations of residential client conduct while receiving services;

3. Residents' voluntary provision of housekeeping, food preparation, or other chores;

4. Residents' voluntary participation in supportive services such as support groups;

5. Established involuntary exit criteria for residents;

~~6. Response or protocol to the following circumstances within parameters of confidential communications:~~

~~A. Medical emergencies;~~

~~B. Situation where client is a danger to self or others;~~

~~C. Known or suspected criminal activity or behavior;~~

~~D. Law enforcement access to shelter to serve a warrant or subpoena; and,~~

~~E. Working with county child protection officials when a child receiving residential services is the subject of a child maltreatment assessment.~~

~~7.~~6. PROVISION OF Locked storage of personal valuables and legally prescribed medication to minimally include:

A. Granting residents unrestricted access to personal valuables and prescribed medication; and,

B. Employees or volunteers refraining from POSSESSING OR dispensing medication to residents unless they are licensed to do so as a health care professional.

~~8.~~7. CLIENT USE OF Legal substances including tobacco products, alcohol, and marijuana WHILE ON THE RESIDENTIAL FACILITY PROPERTY;

~~9.~~8. Safety protocol and procedures to minimally include a response to safety threats, availability of a First Aid kit, and documentation of performance of regular safety drills; AND,

~~10.~~9. Universal precautions for infectious disease~~;~~.

~~11. Resident conflict management; and,~~

~~12. Child care policies including child care that may be provided by staff or volunteers or by another shelter resident within state of Colorado pursuant to child care licensing rules in Sections 7.700, et seq. (12 CCR 2509-8).~~

12.202.~~4~~5 DOMESTIC VIOLENCE Victim Advocacy Services for Children and Youth REQUIREMENTS ~~[Eff. 1/1/16]~~

A. ALL PROGRAMS FUNDED WHOLLY OR IN PART BY DVP THAT HAVE RESIDENTIAL DOMESTIC VIOLENCE VICTIM ADVOCACY SERVICES SHALL HAVE WRITTEN POLICIES AND PROCEDURES THAT ENSURE THE FOLLOWING:

1. EMPLOYEES AND VOLUNTEERS RECEIVE TRAINING SPECIFIC TO THE DYNAMICS OF THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN AND YOUTH;

2. EMPLOYEES AND VOLUNTEERS THAT HAVE CONTACT WITH CHILDREN AND YOUTH COMPLETE A CHILD ABUSE REGISTRY BACKGROUND CHECK;

3. TRAINED ADVOCATES CONDUCT AN INTAKE AND ASSESSMENT OF CHILDREN AND YOUTH'S NEEDS INDEPENDENT FROM THAT OF THE PARENT'S;

4. TRAINED ADVOCATES INFORM CHILDREN AND YOUTH OF THEIR RIGHT TO CONFIDENTIAL COMMUNICATIONS AND LEGAL EXCEPTIONS TO CONFIDENTIALITY INCLUDING MANDATORY REPORTING OF KNOWN OR SUSPECTED CHILD MALTREATMENT;

5. ACCOMMODATE ANY DEPENDENT ADULT CHILDREN WHO HAVE A DEVELOPMENTAL OR PHYSICAL DISABILITY FOR WHOM THE ADULT VICTIM IS THE PRIMARY CARETAKER;

6. ACCOMMODATE TEENAGE CHILDREN REGARDLESS OF GENDER TOGETHER WITH THEIR VICTIM PARENT; AND,

7. PROVIDE ACCESS TO INDOOR AND OUTDOOR PLAY SPACES AND RECREATIONAL OPPORTUNITIES IF FEASIBLE.

B. ALL PROGRAMS FUNDED WHOLLY OR IN PART BY DVP THAT OFFER NON-RESIDENTIAL DOMESTIC VIOLENCE VICTIM ADVOCACY TO CHILDREN AND YOUTH SHALL HAVE WRITTEN POLICIES AND PROCEDURES THAT ENSURE THE FOLLOWING:

1. EMPLOYEES AND VOLUNTEERS RECEIVE TRAINING SPECIFIC TO THE DYNAMICS OF THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN AND YOUTH;

2. EMPLOYEES AND VOLUNTEERS THAT HAVE CONTACT WITH CHILDREN AND YOUTH COMPLETE A CHILD ABUSE REGISTRY BACKGROUND CHECK;

3. TRAINED ADVOCATES CONDUCT AN INTAKE AND ASSESSMENT OF CHILDREN AND YOUTH'S NEEDS INDEPENDENT FROM THAT OF THE PARENT'S; AND,

4. TRAINED ADVOCATES INFORM CHILDREN AND YOUTH OF THEIR RIGHT TO CONFIDENTIAL COMMUNICATIONS AND LEGAL EXCEPTIONS TO CONFIDENTIALITY INCLUDING MANDATORY REPORTING OF KNOWN OR SUSPECTED CHILD MALTREATMENT.

C. ALL PROGRAMS FUNDED WHOLLY OR IN PART BY DVP THAT OFFER DOMESTIC VIOLENCE VICTIM ADVOCACY FOR TEENS AND YOUTH IMPACTED BY VIOLENCE IN A DATING OR INTIMATE RELATIONSHIP SHALL HAVE WRITTEN POLICIES AND PROCEDURES THAT ENSURE THE FOLLOWING:

1. EMPLOYEES AND VOLUNTEERS RECEIVE TRAINING SPECIFIC TO THE DYNAMICS OF DOMESTIC VIOLENCE THAT OCCURS WITHIN A YOUTH OR TEEN'S DATING OR INTIMATE RELATIONSHIP;

2. EMPLOYEES AND VOLUNTEERS THAT HAVE CONTACT WITH CHILDREN AND YOUTH COMPLETE A CHILD ABUSE REGISTRY BACKGROUND CHECK;

3. TRAINED ADVOCATES CONDUCT AN INTAKE AND ASSESSMENT OF TEENS AND YOUTHS NEEDS REGARDING SAFETY AND COMMUNITY RESOURCES;

4. TRAINED ADVOCATES INFORM YOUTH AND TEENS OF THEIR RIGHT TO CONFIDENTIAL COMMUNICATIONS AND LEGAL EXCEPTIONS TO CONFIDENTIALITY INCLUDING MANDATORY REPORTING OF KNOWN OR SUSPECTED CHILD MALTREATMENT; AND,

5. A WRITTEN POLICY THAT ESTABLISHES THE AGE OF CONSENT FOR WHICH THE FUNDED PROGRAM MAY PROVIDE DOMESTIC VIOLENCE ADVOCACY SERVICES TO A MINOR WITHOUT PARENTAL PERMISSION.

~~A. Funded programs shall make every effort to make available developmentally appropriate services for children and youth exposed to domestic violence or youth experiencing intimate partner violence to minimally include:~~

~~1. Advocacy;~~

~~2. Individual and group counseling;~~

~~3. Information and referrals;~~

~~4. Safety planning; and,~~

~~5. Other supportive services.~~

~~B. If providing these services, funded programs shall:~~

~~1. Have employees or volunteers specifically trained to work with children and youth;~~

~~2. Conduct intake and assessment of children's and youth's needs independent of parents' needs;~~

~~3. Make referrals appropriate to children's needs.~~

~~C. If providing residential services for children and youth, funded programs shall have the following whenever feasible:~~

~~1. Indoor and outdoor play spaces; and,~~

~~2. Recreational opportunities.~~

Permanent Rules Adopted

Department

Department of Revenue

Agency

Division of Motor Vehicles

CCR number

1 CCR 204-10

Rule title

1 CCR 204-10 TITLE AND REGISTRATION SECTION 1 - eff 05/30/2018

Effective date

05/31/2018

DEPARTMENT OF REVENUE

Division of Motor Vehicles – Title and Registration Section

1 CCR 204-10

RULE 5. FLEET REGISTRATION PROGRAMS

Basis: The statutory bases for this rule are sections 42-1-102(35), 42-1-102(36), 42-1-204, 42-3-107(16)(f), 42-3-107(27), 42-3-113(8)(a)(II), and 42-3-125, C.R.S.

Purpose: The following rule is promulgated to establish requirements for participation in the Colorado fleet vehicle programs.

1.0 **Definitions**

1.1 "Colorado Fleet Registration Program (CFRP)" means the optional program for fleet operators, defined in section 42-1-102(35), C.R.S., to register fleet vehicles, as defined at section 42-1-102(36), C.R.S., in a common registration expiration month evidenced by the issuance of a Fleet License Plate.

1.2 "Colorado Standard Fleet Program (CSFP)" means the optional program for fleet operators to register fleet vehicles in a common registration expiration month without the issuance of a Fleet License Plate.

1.3 "Fleet License Plate" means the Colorado red and white license plate with stacked letters "FLT" which are not required to display year and month validation tabs.

1.4 "Fleet Number" means the number assigned by the Department to a fleet operator that has been approved to participate in the CFRP and/or CSFP.

1.5 "International Registration Plan (IRP)" means the program in which vehicles are registered under a reciprocity agreement among the states of the United States and provinces of Canada, providing for the payment of license fees based upon total distance operated in all jurisdictions.

2.0 **Fleet Vehicle Programs and Participation Requirements**

2.1 Fleet vehicle programs are as follows:

a. Colorado Fleet Registration Program: The CFRP program is available to fleet operators that request a common registration expiration month for their fleet vehicles. Under this program, each fleet vehicle must display a Fleet License Plate. The same registration expiration month applies for all vehicles in the fleet.

b. Colorado Standard Fleet Program: The CSFP program is available to fleet operators that request a common registration expiration month for their fleet vehicles, without requiring Fleet License Plates. Under this program, the fleet operator is required to update the Colorado registration receipt and license plate month and year tabs on each fleet vehicle annually. The same registration expiration month applies for all vehicles in the fleet.

2.2 A fleet operator may apply to participate in one or both of the fleet vehicle programs. The fleet operator must meet and maintain the minimum requirement of ten for each separate fleet vehicle program that the fleet operator is participating in.

2.3 Vehicles registered in the CFRP or CSFP programs must be titled in the fleet operator's name to participate in the programs.

2.4 The fleet operator must also provide any applicable registration documents: proof of Colorado compliant insurance, heavy vehicle use tax, proof of emissions, and public utility license.

3.0 Process

3.1 The fleet operator must complete the form DR 2428 Fleet Owner Request for Participation in the Colorado Fleet Registration Program (for CFRP) and/or form DR 2194 Fleet Owners Request for Common Registration Expiration Date (for CSFP). The fleet operator must designate the requested registration expiration month (including designating an alternate choice, if applicable) for the fleet vehicles. Otherwise, the Department will assign the registration expiration month.

3.2 Upon approval, a Fleet Number will be assigned by the Department. The Department will provide the assigned Fleet Number to the fleet operator and all counties designated on the DR 2428 and/or DR 2194

3.3 Upon the initial registration of fleet vehicles in a fleet registration program, the fleet operator will be issued a registration period certificate containing "PERM" in the expiration date field. This "PERM" registration period certificate must be retained in each fleet vehicle as evidence of registration. Upon annual renewal, the fleet operator will be issued a new registration period certificate to show taxes and fees paid. However, if the original "PERM" registration period certificate is maintained in the fleet vehicle, the new registration period certificate must be retained but need not replace the "PERM" registration period certificate in the vehicle.

4.0 Changes to Fleet Operator Vehicle Number, Fleet Operator Name, or Expiration Month

4.1 If at any time a fleet operator owns or leases less than ten vehicles, then the fleet operator's participation in the fleet programs is subject to cancellation.

4.2 In the event of a legal name change of the fleet operator

a. All fleet vehicle titles must be properly transferred to the fleet operator's new name;

b. The fleet operator must complete the DR 2428 (for CRFP) or DR 2194 (for CSFP) marking the form in the "name change" section, and;

c. Once the name change is processed, the fleet operator will receive Colorado registration receipts updated with the name change for all fleet vehicles from the county where the fleet vehicles are registered.

4.3 A fleet operator may change the expiration month, not to exceed twelve months, by re-submitting form DR 2428 (for CFRP) and/or form DR 2194 (for CSFP). The fleet operator will be assigned a new Fleet Number.

5.0 IRP Vehicles Ineligible

5.1 Vehicles registered in the International Registration Plan (IRP) are not eligible to participate in the CFRP or CSFP. A fleet operator wishing to register vehicles in Colorado fleet vehicle program(s) must remove those vehicles from the IRP prior to registering the vehicles in CFRP and/or CSFP.

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Tracking number: 2017-00601

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Motor Vehicles

on 04/03/2018

1 CCR 204-10

TITLE AND REGISTRATION SECTION

The above-referenced rules were submitted to this office on 04/05/2018 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.

April 16, 2018 08:30:44

Cynthia H. Coffman
Attorney General
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Permanent Rules Adopted

Department

Department of Revenue

Agency

Division of Gaming - Rules promulgated by Gaming Commission

CCR number

1 CCR 207-1

Rule title

1 CCR 207-1 GAMING REGULATIONS 1 - eff 07/01/2018

Effective date

07/01/2018

BASIS AND PURPOSE FOR RULE 14

The purpose of Rule 14 is to establish the rate of the gaming tax on adjusted gross proceeds of gaming in compliance with section 12-47.1-601, C.R.S., to provide for security for the payment of gaming taxes to the Department, and to provide for the payment of gaming taxes by electronic fund transfer and to change the method of filing monthly gaming tax returns to electronically transmitted. The statutory basis for purpose for Rule 14 is found in sections 12-47.1-201, C.R.S, 12-47.1-203, C.R.S, 12-47.1-302, C.R.S, 12-47.1-602, C.R.S, and 12-47.1-604, C.R.S.

RULE 14 GAMING TAX

47.1-1403 Taxation of free play - adjustments to gaming tax rates based on casino free play. Effective 7/1/18

1) Notwithstanding any procedural limitations in rule 47.1-1401, which are expressly directory rather than mandatory, and as specified in this rule and beginning in fiscal year 2018-2019, the Commission will modify gaming tax rates to reflect free play offered by licensees to players, which practice is consistent with the Commission's constitutional authority to require that each licensee pay up to forty percent (40%) of its adjusted gross proceeds to the state of Colorado.

    A) Definitions.

        I) "Base year used for calculating free play tax rate adjustment eligibility" means the fiscal year ending June 30, 2018.

        II) "Free play" for slot machines means electronic downloadable credits and for table games means non-negotiable chips or match play coupons, provided by a licensee to specific players, enabling the play of a form of limited gaming by such players without the payment of consideration. "Free play" amounts have no actual monetary value that would allow them to be negotiated for cash, independent of the conduct of limited gaming.

    B) Reporting.

        I) By December 31, 2018, retail licensees must prepare and retain a summary of free play (delineating separately free play amounts from slot machines and free play amounts from table games) provided to players between July 1, 2017 and June 30, 2018, by calendar quarter, that was taxed. Such summary must be timely provided to the Division.

        II) After the software used for gaming tax reporting and payment has been updated to permit gaming tax reporting of free play on a monthly basis, each retail licensee must disclose as part of its gaming tax filing that month's free play amount (detailing separately slot machine free play and table games free play). At least annually, the Division shall aggregate licensees' reports of monthly free play amounts.

    C) Eligibility for yearly tax rate adjustments. Annually, the Commission will adjust gaming tax rates to reflect gaming taxes paid on that amount of adjusted gross proceeds which is directly attributable to free play by any retail licensees who reported free play to the Division only if:

        I) The resulting gaming tax revenue paid by all retail licensees during a fiscal year is at least the amount of gaming tax revenue in the base year used for calculating free play tax rate adjustment eligibility, plus a growth factor of 3.5 percent applied

to gaming tax revenue in the base year used for calculating free play tax rate adjustment eligibility and compounded annually as of July 1 of that year; and

II) A retail licensee's reduction in applicable gaming tax rates is limited to its percentage of the gaming taxes paid on free play that exceeds the minimum required threshold, set forth in rule 47.1-1403(1)(c)(i).

D) Extension of free play tax rate adjustment: conditions. The practice of annually adjusting gaming tax rates will be extended after the end of fiscal year 2020-2021 only if the following two conditions are satisfied:

I) Total reported free play, at the end of the third year during which retail licensees are eligible for tax rate adjustments, has grown by at least 10.87 percent over the free play usage in the base year used for calculating free play tax rate adjustment eligibility; and

II) Total gaming tax revenue has grown by at least 10.87 percent, over the gaming tax revenue collected in the base year used for calculating free play tax rate adjustment eligibility.

2) At its August meeting each year, consistent with Rule 24, the Commission will issue a final decision to approve tax rate adjustments authorized by this rule to adjust qualifying licensees' gaming tax rates from the preceding fiscal year and thereupon refund overpayments of gaming taxes to qualifying licensees.

A) At least fifteen (15) days prior to the Commission's August hearing each year, the Division will transmit to all licensees its findings concerning the eligibility calculations set forth in subsections (1)(c)(i) and (ii) of this rule as well as a list of proposed tax rate adjustments for each of the qualifying licensees. Any licensee and any other interested person may address the Commission in public or executive session, depending on the nature of the information to be transmitted, concerning the proposed tax rate adjustments before the Commission issues its final decision as to such adjustments.

B) Within five (5) business days of qualified licensees' receipt of proposed tax rate adjustments, any dispute shall be submitted in writing to the Division for review. The Division shall submit a response to such licensee(s) within three (3) business days from receipt of the dispute. If an agreement is reached between the Division and the licensee(s), the matter shall be considered settled, and the dispute will not be brought before the Commission. Notice of any such dispute and settlement, to the extent it alters the amount of the proposed tax rate adjustments before the Commission, shall be sent to all qualified licensees within two (2) business days of resolution. Licensees may request, and are encouraged to participate in, an in-person meeting with the division in order to reach such an agreement.

C) Such determination of the amounts of qualifying licensees' tax rate adjustments must be concluded before the commission certifies that fiscal year's distributions from the limited gaming fund and the extended limited gaming fund.

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Tracking number: 2018-00032

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Gaming - Rules promulgated by Gaming Commission

on 04/19/2018

1 CCR 207-1

GAMING REGULATIONS

The above-referenced rules were submitted to this office on 04/19/2018 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.

April 26, 2018 13:37:54

Cynthia H. Coffman
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Permanent Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-1

Rule title

1 CCR 301-1 RULES FOR THE ADMINISTRATION OF THE ACCREDITATION OF SCHOOL DISTRICTS 1 - eff 05/30/2018

Effective date

05/31/2018

DEPARTMENT OF EDUCATION

Colorado State Board of Education

ADMINISTRATION OF STATEWIDE ACCOUNTABILITY MEASURES FOR THE COLORADO PUBLIC SCHOOL SYSTEM, CHARTER SCHOOL INSTITUTE, PUBLIC SCHOOL DISTRICTS AND PUBLIC SCHOOLS

1 CCR 301-1

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

2202-R-0.00 Statement of Basis and Purpose.

These accountability measures are adopted under authority granted the State Board of Education in the Colorado Constitution, Article IX, Section 1; and Colorado Revised Statutes § 22-2-106, § § 22-7-401 through 410, § § 22-7-501 through 505, § 22-11-104(1), § § 22-11-201 through 22-11-209, § 22-11-210(1)(a), § § 22-11-303 through 306, § 22-11-402, § § 22-11-501 through 22-11-504, § 22-30.5-503, § 22-32-109, § § 22-44-101 through 206, and § § 22-45-101 through 113.

The Basic Purposes of the Education Accountability Act of 2009 are:

To provide a process for the State Board of Education to fulfill its constitutional responsibility for supervising the Public Schools of the state;

To focus the attention of educators, parents, students and other members of the community on maximizing every student's progress toward Postsecondary and Workforce Readiness and post graduation success;

To report information concerning performance at the State level, School District or Institute level and individual Public School level that is perceived by educators, parents and students as fair, balanced, cumulative, credible and useful;

To provide more academic performance information, and fewer labels, to move from a punitive accountability system to one that is positive and focused on learning and achieving high levels of academic performance;

To hold the State, School Districts, the Institute and individual Public Schools accountable for performance on the same set of indicators and related measures statewide;

To ensure performance indicators and measures are aligned through a single accountability system to the extent possible that objectively evaluates the performance of the thorough and uniform statewide system of public education for all groups of students at the State, School District or Institute and individual Public School levels and, as appropriate, reward success and provide support for improvement at each level;

To employ a differentiated approach to state intervention based on performance and need, whereby demonstration of high performance results in greater autonomy and demonstration of high need results in greater support and intervention.

1.00 DEFINITIONS.

1.01 "Accreditation" means certification by the State Board of Education that Public School Districts and Public Schools of the School District or the State Charter School Institute and the Institute Charter Schools meet the requirements established by § 22-11-101, C.R.S., et seq., § 22-44-101, C.R.S., et seq. and § 22-45-101, C.R.S., et seq. and the rules promulgated thereunder. Accreditation includes the process for accrediting School Districts and the Institute and reviewing the performance of Public Schools as provided in § 22-11-201 through § 22-11-210, C.R.S., and the rules promulgated pursuant thereto.

1.02 "Accreditation Contract" or "Contract" means:

(A) the agreement between the State Board of Education and a local School District as described in § 22-11-206, C.R.S. that includes, but is not limited to, the School District's obligation to manage the Accreditation of the Public Schools of the School District consistent with the provisions of Article 11 of Title 22; or

(B) the agreement between the State Board and the Institute as described in § 22-11-206, C.R.S., that includes, but is not limited to the Institute's obligation to manage the Accreditation of the Institute Charter Schools consistent with the provisions of Article 11 of Title 22.

1.03 "Accreditation Criteria" means the criteria that determine the Accreditation category of a School District or the Institute pursuant to the provisions of § 22-11-207, C.R.S.

1.04 "Accredited" means a School District or the Institute meets statewide attainment on the Performance Indicators and is required to adopt and implement a Performance Plan as described in § 22-11-303, C.R.S.

1.05 "Accredited with Distinction" means a School District or the Institute meets or exceeds the statewide targets or targets annually set by the School District or the Institute or exceeds statewide attainment on the Performance Indicators and is required to adopt and implement a Performance Plan as described in § 22-11-303, C.R.S.

1.06 "Accredited with Improvement Plan" means a School District or the Institute is required to adopt and implement an Improvement Plan as provided in § 22-11-304, C.R.S.

1.07 "Accredited with Priority Improvement Plan" means a School District or the Institute is required to adopt and implement a Priority Improvement Plan as provided in § 22-11-305, C.R.S.

1.08 "Accredited with Turnaround Plan" means a School District or the Institute is required to adopt, with the Commissioner's approval, and implement a Turnaround Plan as provided in § 22-11-306, C.R.S.

1.09 "Achievement Level" means the level of proficiency a student demonstrates on a statewide assessment.

1.10 "Adequate Longitudinal Growth" means Catch-up Growth, for a student who scored at Unsatisfactory or Partially Proficient Achievement Level on the Statewide Assessments in the previous academic year, which is the amount of academic growth necessary to score at the Proficient Achievement Level within three years or by tenth grade, whichever comes sooner; and (ii) Keep-up Growth, for a student who scored at the Proficient or Advanced Achievement Level on the Statewide Assessments in the previous academic year, which is the amount of academic growth necessary to score at the Proficient Achievement Level or higher for the succeeding three years or until the tenth grade, whichever is sooner.

1.11 "Advanced" means a student has success with the most challenging content of the Colorado Academic Standards. These students answer most of the test questions correctly, including the most challenging questions.

1.12 "All Students" means every student regardless of gender, socio-economic level, at-risk status, racial, ethnic, or cultural background, exceptional ability, disability, or Limited English Proficiency.

1.13 "Alternative Education Campus" means a Public School that receives a designation pursuant to § 22-7-604.5, C.R.S.

1.14 "BOCES" means a Board of Cooperative Education Services, as defined by § 22-5-101, C.R.S., et seq.

1.15 "Catch-up Growth" means, for a student who scores at the Achievement Level of Unsatisfactory or Partially Proficient on Statewide Assessments, the amount of academic growth the student must attain to score at the Proficient Achievement Level on Statewide Assessments within three years or by tenth grade, whichever is sooner.

1.16 "Commissioner" means the State Commissioner of Education.

1.17 "Contextual Learning" establishes connections between school-based instruction and the world of work, careers, and learning that occurs beyond the school itself. Examples are service learning, internships, and school collaboration with business and community enterprises.

1.18 "Department" means the State Department of Education.

1.19 "Detention Center" means a center that addresses the temporary care of a child who requires secure custody in physically restricting facilities pending court disposition or an execution of a court order for placement or commitment.

1.20 "Facility" means a day treatment center, residential child care facility, or other facility licensed by the Department of Human Services pursuant to § 26-6-104, C.R.S.

1.21 "Improvement Plan" means:

(A) the plan described in and adopted by a Local School Board pursuant to § 22-11-304, C.R.S., in which case it may also be referred to more specifically as a "District Improvement Plan";

(B) the plan described in and adopted by the Institute pursuant to § 22-11-304, C.R.S., in which case it may also be referred to more specifically as an "Institute Improvement Plan"; or

(C) the plan described in and adopted by a Public School pursuant to § 22-11-404, C.R.S., in which case it may also be referred to more specifically as a "School Improvement Plan."

1.22 "Institute" means the State Charter School Institute created pursuant to § 22-30.5-503, C.R.S.

1.23 "Institute Charter School" means a charter school that is authorized by the Institute pursuant to the provisions of part 5 of Article 30.5 of Title 22.

1.24 "Keep-up Growth" means, for a student who scores at the Achievement Level of Proficient or Advanced on Statewide Assessments, the amount of academic growth the student must attain to score at the Proficient Achievement Level or higher on Statewide Assessments for the succeeding three years or until tenth grade, whichever is sooner.

1.25 "Local School Board" means the board of education of a District. "Local School Board" also includes the governing board of a BOCES if the BOCES is operating a Public School.

1.26 "Median Student Growth" means, in ranking of individual student growth scores from highest to lowest, the middle student growth score attained.

1.27 "Move-up Growth" means, for a student who scores at the Achievement Level of Proficient on Statewide Assessments, the amount of academic growth the student must attain to score at the Advanced Achievement Level on Statewide Assessments within three years or by tenth grade, whichever is sooner.

1.28 "Neighborhood" means the geographic area aligned with a public school's student population, as defined by the school district or authorizer of the public school.

1.29 "Online Program" means a full-time online education program authorized pursuant to Title 22 of the Colorado Revised Statutes that delivers a sequential program of synchronous or asynchronous instruction from a teacher to a student primarily through the use of the internet. "Online Program" does not include a supplemental program. Accountability for each student in an online program is attributed back to a designated school that houses the online program. Any Online Program with one hundred or more students shall be considered an Online School and not an Online Program.

1.30 "Online School" means a full-time, online education school authorized pursuant to Title 22 of the Colorado Revised Statutes that delivers a sequential program of synchronous or asynchronous instruction from a teacher to a student primarily through the use of the Internet. An Online School has an assigned school code and operates with its own administrator, a separate budget, and a complete instructional program. An Online School is responsible for fulfilling all reporting requirements and will be held to state and federally mandated accountability processes.

1.31 "Parent" shall mean a child's biological parent, adoptive parent, or legal guardian or another adult person recognized by the child's school as the child's primary caregiver.

1.32 "Partially Proficient" means a student has limited success with the challenging content of the Colorado Academic Standards. These students may demonstrate inconsistent performance or may answer many test questions correctly but be generally less successful with questions that are most challenging.

1.33 "Performance Indicators" means the indicators specified in § 22-11-204, C.R.S., for measuring the performance of the state public education system, including each Public School, each School District, the Institute, and the state as a whole.

1.34 "Performance Plan" means:

(A) the plan described in and adopted by a Local School Board pursuant to § 22-11-303, C.R.S., in which case it may also be referred to more specifically as a "District Performance Plan";

(B) the plan described in and adopted by the Institute pursuant to § 22-11-303, C.R.S., in which case it may also be referred to more specifically as an "Institute Performance Plan"; or

(C) the plan described in and adopted by a Public School pursuant to § 22-11-403, C.R.S., in which case it may also be referred to more specifically as a "School Performance Plan."

1.35 "Postsecondary and Workforce Readiness" shall have the same meaning as provided in § 22-7-1003(15), C.R.S.

1.36 "Postsecondary and Workforce Readiness Assessment" shall have the same meaning as provided in § 22-7-1003(16), C.R.S.

1.37 "Priority Improvement Plan" means:

(A) the plan described in and adopted by a Local School Board pursuant to § 22-11-305, C.R.S., in which case it may also be referred to more specifically as a "District Priority Improvement Plan";

(B) the plan described in and adopted by the Institute pursuant to § 22-11-305, C.R.S., in which case it may also be referred to more specifically as an "Institute Priority Improvement Plan"; or

(C) the plan described in and adopted by a Local School Board pursuant to § 22-11-405, C.R.S., in which case it may also be referred to more specifically as a "School Priority Improvement Plan."

1.38 "Proficient" means a student has success with the challenging content of the Colorado Academic Standards. These students answer most of the test questions correctly, but may have only some success with questions that reflect the most challenging content.

1.39 "Public School" shall have the same meaning as provided in § 22-1-101, C.R.S., and includes but is not limited to a District charter school, an Institute charter school and an online school as defined in section § 22-30.7-102(9.5), C.R.S.

1.40 "Quality early childhood program" means an early childhood program that has been rated as a 3, 4, or 5 by the Colorado Shines Rating System, accredited by the National Association for the Education of Young Children, or other similar agency as designated by the Department.

1.41 "School Accountability Committee" means the committee established by each District Public School and each Institute Charter School pursuant to § 22-11-401, C.R.S.

1.42 "School District" or "District" means a School District organized and authorized by section 15 of Article IX of the State Constitution and organized pursuant to Article 30 of Title 22. "School District" also includes a BOCES if the BOCES is operating a Public School.

1.43 "School District Accountability Committee" means the committee established by each Local School Board pursuant to § 22-11-301, C.R.S.

1.44 "Significant Reading Deficiency" means a student who does not meet the minimum skill levels for reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension established by the State Board for the student's grade level pursuant to 1 CCR 301-92.

1.45 "State Board" means the State Board of Education established pursuant to Section 1 of Article IX of the state constitution.

1.46 "State Charter School Institute" or "Institute" means the State Charter School Institute created pursuant to § 22-30.5-503, C.R.S.

1.47 "State-Operated Program" means an approved school program supervised by the Department and operated by the Colorado School for the Deaf and Blind, the Department of Corrections, or

the Department of Human Services, including but not limited to the Division of Youth Corrections and the Colorado Mental Health Institutes.

1.48 "SchoolView" means the Internet-based electronic data delivery system developed and maintained by the Department pursuant to § 22-11-502, C.R.S.

1.49 "State Review Panel" means the panel of education experts appointed by the Commissioner pursuant to § 22-11-205, C.R.S., to assist the Department and the State Board in implementing provisions of Article 11 of Title 22.

1.50 "Statewide Assessments" means the assessments administered pursuant to the Colorado Assessment Program created in § 22-7-409, C.R.S. or as part of the system of the assessments adopted by the State Board pursuant to § 22-7-1006, C.R.S.

1.51 "Student Group" means the grouping of students based on sex, socioeconomic status, race and ethnicity, disability, English language proficiency and gifted and talented status, as those groups are defined by State Board rule or Federal requirements, as well as the grouping of students based on any other characteristic that the Department might require to align with Federal requirements or to provide additional data for analysis of student learning.

1.52 "Turnaround Plan" means:

(A) the plan described in and adopted by a Local School Board pursuant to § 22-11-306, C.R.S., in which case it may also be referred to more specifically as a "District Turnaround Plan";

(B) the plan described in and adopted by the Institute pursuant to § 22-11-306, C.R.S., in which case it may also be referred to more specifically as an "Institute Turnaround Plan"; or

(C) the plan described in and adopted by a Local School Board pursuant to § 22-11-406, C.R.S., in which case it may also be referred to more specifically as a "School Turnaround Plan."

1.53 "Unsatisfactory" means a student has little success with the challenging content of the Colorado Academic Standards.

5.00 DISTRICT ACCREDITATION CATEGORIES AND ACCREDITATION REVIEWS

5.01 No later than August 15th of each school year, based on an objective analysis of each District's or the Institute's attainment on the four key Performance Indicators, which analysis shall place greatest emphasis upon the longitudinal growth and Postsecondary and Workforce Readiness Performance Indicators, the Department shall determine whether the District or Institute exceeds, meets, approaches or does not meet statewide targets for each Performance Indicator. After baseline data from the approved READ Act assessments has been collected and verified to be adequately predictive of statewide reading assessment results, the Department shall determine whether the District or Institute meets or exceeds targets established by the State Board for the percentage of its third and fourth grade students who were at one time identified as having a significant reading deficiency pursuant to section 22-7-1205 and who have scored Partially Proficient, Proficient, or Advanced on the statewide reading assessment and, if so, shall provide credit to the District or Institute. The Department also shall consider each District's and the Institute's compliance with the requirements specified in that District's or Institute's Accreditation contract. Taking into account this information concerning attainment on the Performance Indicators, concerning the performance of students who were at one time identified as having a significant reading deficiency and who later score Partially Proficient, Proficient, or Advanced on

the statewide reading assessment, and concerning compliance with the Accreditation Contract, the Department shall make an initial assignment for each District and the Institute to one of the following Accreditation categories:

5.01(A) Accredited with Distinction;

5.01(B) Accredited;

5.01(C) Accredited with Improvement Plan;

5.01(D) Accredited with Priority Improvement Plan;

5.01(E) Accredited with Turnaround Plan; or

5.01(F) Unaccredited.

5.02 Information concerning the percentage of students enrolled in the District's or Institute's Public Schools who are not tested on the Statewide Assessments will not be factored into the analysis of the District's or Institute's attainment on the Performance Indicators, but will be factored into the Accreditation category assignment.

5.03 A District's or the Institute's failure to administer statewide assessments in a standardized and secure manner so that resulting assessment scores are reflective of independent student performance shall be considered by the Department in assigning the District or Institute to an Accreditation category, and may result in the District or Institute being assigned to an Accreditation category at least one level lower than what otherwise would have been assigned. If the District or Institute otherwise would have been assigned to Accredited with Distinction, Accredited with Performance Plan, or Accredited with an Improvement Plan, it instead may be assigned to Accredited with Priority Improvement Plan. If the District or Institute otherwise would have been assigned to Accredited with Priority Improvement Plan, it instead may be assigned to Accredited with Turnaround Plan. The Commissioner shall determine whether a District or Institute has failed to administer statewide assessment results in a standardized and secure manner so that resulting assessment scores are reflective of independent student performance and whether the failure was pervasive and egregious enough to warrant a change in the District's or Institute's accreditation rating.

5.04 If a Local School Board or the Institute choose not to endorse a high school diploma as described in § 22-7-1009(2), C.R.S., the District or Institute will not be penalized for such choice when it is assigned an Accreditation category assignment.

5.05 No later than August 15th of each school year, the Department shall provide to each District and the Institute the data used by the Department to conduct its analysis of the District's or Institute's performance and the Department's initial Accreditation assignment.

5.06 No later than October 15th of each school year, if the District or Institute disagrees with the Department's initial Accreditation assignment and wishes to provide additional information for consideration, the District or Institute shall submit:

5.06(A) A statement about the extent to which the District or Institute effectively implemented with fidelity either its Performance Plan, Improvement Plan, Priority Improvement Plan or Turnaround Plan during the previous academic school year. Said statement shall include information about the specific improvements, changes, and interventions the District or Institute has implemented to improve its performance and the extent to which the District or Institute has successfully met the implementation benchmarks in its plan during the previous academic school year; and

5.06(B) If the Department has assigned the District or Institute to an initial Accreditation category of Accredited with Priority Improvement Plan or Accredited with Turnaround Plan, valid and reliable data demonstrating the progress the District or Institute has made in improving its performance and in moving closer to meeting the statewide targets on the Performance Indicators and the District's or Institute's targets, including evidence from a Department-approved third-party review of performance.

5.07 No later than November15th of each school year, the Department shall determine a final Accreditation category for each District and the Institute and shall notify the District or Institute of the Accreditation category to which it has been assigned.

5.08 The State Board may allow a District or the Institute to remain in the Accreditation category of Accredited with Improvement Plan for an unlimited number of years. The State Board shall not allow a District or the Institute to remain in the Accreditation category of Accredited with Priority Improvement Plan and/or Accredited with Turnaround Plan for longer than a total of five (5) consecutive school years before removing the District's or the Institute's Accreditation as provided in § 22-11-209, C.R.S. The calculation of the total of five (5) consecutive school years shall commence July 1, during the summer immediately following the fall in which the District or the Institute is notified that it has been placed in the Accreditation category of Accredited with Priority Improvement Plan or Accredited with Turnaround Plan. For those Districts that were placed by the Department in the "Accredited: Accreditation Notice with Support" or "Accredited: Probation" category during the 2009-10 academic school year, the State Board shall not allow that District to remain in the Accreditation category of Accredited with Priority Improvement Plan and/or Accredited with Turnaround Plan for longer than a total of four (4) consecutive school years before removing the District's Accreditation as provided in § 22-11-209, C.R.S.

5.09 As described in detail below, the Department shall employ a differentiated approach to state intervention based on performance and need, whereby demonstration of high performance results in greater autonomy and demonstration of high need results in greater support and intervention.

If a District or the Institute is required to implement a Performance Plan or Improvement Plan, the District or the Institute shall submit said plan to the Department for publishing on SchoolView.

If a District or the Institute is required to implement a Priority Improvement Plan, the District or the Institute shall submit said plan to the Department, and the Commissioner, subject to available appropriations may assign the State Review Panel to critically evaluate the plan. The Commissioner may recommend modifications to the Priority Improvement Plan to the Local School Board or Institute and, after making any revisions, the Local School Board or Institute shall submit the plan to the Department for publishing on SchoolView.

If a District or the Institute is required to implement a Turnaround Plan, the District or Institute shall submit said plan to the Department for review by the State Review Panel. The Commissioner may approve the Turnaround Plan or suggest modifications to the plan. The Local School Board or Institute shall revise the Turnaround Plan, if necessary, and resubmit the plan to the Commissioner for approval. The Local School Board or Institute shall submit the final approved plan to the Department for publishing on SchoolView.

5.10 The Department shall provide technical assistance and support to Districts that are Accredited with Improvement Plan, Accredited with Priority Improvement Plan, or Accredited with Turnaround Plan and to the Institute if it is accredited at any of those categories. The Department shall base the amount of technical assistance and support provided to a District or the Institute on the District's or Institute's degree of need for assistance and the Department's available resources. Such technical assistance shall be provided through a mutually agreed upon plan between the Department and the Local School Board or the Institute. Technical assistance and support may include, but need not be limited to:

5.10(A) access to data and research to support interpretation of student data, decision-making, and learning;

5.10(B) consultative services on best practices for improvement and implementation of intervention strategies, including, where appropriate, research-based strategies that address the quality and availability of early childhood education opportunities within the school district and student engagement and re-engagement; and

5.10(C) evaluation and feedback on the District's or the Institute's Improvement, Priority Improvement, or Turnaround Plan, whichever is applicable.

7.00 DEVELOPING AND SUBMITTING DISTRICT PLANS

7.01 District and Institute Performance Plans and Improvement Plans.

7.01(A) Each Local School Board for a District that is Accredited or Accredited with Distinction shall create and adopt a District Performance Plan. Each Local School Board for a District that is Accredited with Improvement Plan shall create and adopt a District Improvement Plan.

7.01(A)(1) The Local School Board shall adopt the plan no later than April 15th of the academic school year in which it is directed to adopt the plan.

7.01(A)(2) The School District Accountability Committee for the District shall advise the Local School Board concerning the contents of the District's plan. In advising and making its recommendations, the School District Accountability Committee shall take into account and incorporate any of the School Performance Plans, Improvement Plans, Priority Improvement Plans or Turnaround Plans that the Public Schools of the District submit to the School District Accountability Committee.

7.01(A)(3) The District shall submit the adopted plan to the Department for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt the plan.

7.01(A)(4) The Local School Board shall ensure that the plan is implemented for the District and the District Public Schools when the following academic school year begins. This responsibility includes taking all necessary steps in the year prior to implementation to ensure that the plan can be implemented with fidelity.

7.01(B) If the Institute is Accredited or Accredited with Distinction, the Institute shall create and adopt an Institute Performance Plan. If the Institute is Accredited with Improvement Plan, the Institute shall create and adopt an Institute Improvement Plan

7.01(B)(1) The Institute shall adopt the plan no later than April 15th of the academic school year in which it is directed to adopt the plan.

7.01(B)(2) Prior to creating the plan, the Institute shall compile the Institute Charter School Performance Plans, Improvement Plan, Priority Improvement Plans and Turnaround Plans prepared for each Institute Charter School and shall take the compilation of plans into account in creating and adopting the Institute's plan.

7.01(B)(3) The Institute shall submit the adopted plan to the Department for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt the plan.

7.01(B)(4) The Institute shall ensure that the Institute Performance Plan is implemented for the Institute and Institute Charter Schools when the following academic school year begins. This responsibility includes taking all necessary steps in the year prior to implementation to ensure that the plan can be implemented with fidelity.

7.01(C) A District or Institute Performance Plan or Improvement Plan shall be designed to raise the academic performance of students enrolled in the District or in the Institute Charter Schools and to ensure that the District or Institute, after the annual Accreditation review following implementation of the plan, attains a higher Accreditation category or remains in the same Accreditation category if the District or Institute is Accredited with Distinction. At a minimum, each District and Institute Performance Plan or Improvement Plan shall:

7.01(C)(1) Setor revise, as appropriate, ambitious but attainable targets that the District, including District Public Schools, or the Institute, including Institute Charter Schools, shall attain on the Performance Indicators. The Local School Board or the Institute shall ensure that the targets are aligned with the statewide targets set by the State Board, as described in section 2.03 of these rules. These targets must include targets that the District, including the District Public Schools, or the Institute, including the Institute Charter Schools, shall attain in reducing the number of students who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

7.01(C)(2) Identify positive and negative trends for District Public Schools as a group and individually or for Institute Charter Schools as a group and individually in the levels of attainment by the Public Schools as a group and individually on the Performance Indicators;

7.01(C)(3) Assess and prioritize the root causes of any low-performance for the District and for the individual District Public Schools or for the Institute and for the individual Institute Charter Schools that must be addressed to raise the levels of attainment on the Performance Indicators by the District Public Schools or the Institute Charter Schools and to improve school readiness in District Public Schools or Institute Charter Schools that serve students in preschool and Kindergarten;

7.01(C)(4) Identify specific, research-based strategies to address the District's or Institute's root causes of any low-performance. These strategies must include the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies;

7.01(C)(5) Identify the local, state and federal resources that the District or the Institute shall use to implement the identified strategies with fidelity;

7.01(C)(6) Identify implementation benchmarks and interim targets and measures to assess whether the identified strategies are carried out with fidelity; and

7.01(C)(7) Address any other issues raised by the Department through the Accreditation process described in sections 4.00 and 5.00 of these rules.

7.02 **District and Institute Improvement Plans—repealed**.

7.03 **District and Institute Priority Improvement Plans.**

7.03(A) Each Local School Board for a District that is Accredited with Priority Improvement Plan shall create and adopt a District Priority Improvement Plan.

7.03(A)(1) The Local School Board shall adopt a District Priority Improvement Plan no later than January 15th of the academic school year in which it is directed to adopt a District Priority Improvement Plan. The Commissioner may provide additional time for the Local School Board to adopt and submit a plan, to the extent the Commissioner finds an extension to be reasonable.

7.03(A)(2) The School District Accountability Committee for the District shall advise the Local School Board concerning the contents of the District Priority Improvement Plan. In advising and making its recommendations, the School District Accountability Committee shall take into account and incorporate any of the School Performance Plans, Improvement Plans, Priority Improvement Plans or Turnaround Plans that the Public Schools of the District submit to the School District Accountability Committee.

7.03(A)(3) At the request of the Local School Board, the Department shall provide technical assistance, evaluation and feedback to the Local School Board in preparing the District Priority Improvement Plan.

7.03(A)(4) No later than five (5) business days after the Local School Board has adopted a District Priority Improvement Plan, the Local School Board shall submit the adopted District Priority Improvement Plan to the Department for review. The Commissioner, subject to available appropriations, may assign the State Review Panel to critically evaluate the District Priority Improvement Plan concerning the issues outlined in section 7.03 (C) of these rules.

7.03(A)(5) After conducting any such evaluation of the District Priority Improvement Plan, the State Review Panel may recommend modifications to the plan to the Commissioner. Taking into consideration any recommendations of the State Review Panel, the Commissioner may recommend to the Local School Board modifications to the District Priority Improvement Plan.

7.03(A)(6) After making any revisions to the District Priority Improvement Plan, the Local School Board shall submit the revised plan to the Department for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt a District Priority Improvement Plan.

7.03(A)(7) The Local School Board shall ensure that the [revised] District Priority Improvement Plan is implemented for the District and the District Public Schools when the following academic school year begins. This responsibility includes taking all necessary steps in the year prior to implementation to ensure that the plan can be implemented with fidelity.

7.03(B) If the Institute is Accredited with Priority Improvement Plan, the Institute shall create and adopt an Institute Priority Improvement Plan.

7.03(B)(1) The Institute shall adopt an Institute Priority Improvement Plan no later than January 15th of the academic school year in which it is directed to adopt an Institute Priority Improvement Plan. The Commissioner may provide additional time for the Institute to adopt and submit a plan, to the extent the Commissioner finds an extension to be reasonable.

7.03(B)(2) Prior to creating the Institute Priority Improvement Plan, the Institute shall compile the Institute Charter School Performance Plans, Improvement Plan, Priority Improvement Plans and Turnaround Plans prepared for each Institute Charter School and shall take the compilation of plans into account in creating and adopting the Institute Priority Improvement Plan.

7.03(B)(3) At the request of the Institute, the Department shall provide technical assistance, evaluation and feedback to the Institute in preparing the Institute Priority Improvement Plan.

7.03(B)(4) No later than five (5) business days after the Institute has adopted an Institute Priority Improvement Plan, the Institute shall submit the adopted Institute Priority Improvement Plan to the Department for review. The Commissioner, subject to available appropriations, may assign the State Review Panel to critically evaluate the Institute Priority Improvement Plan concerning the issues outlined in section 7.03 (C) of these rules.

7.03(B)(5) After conducting any such evaluation of the Institute Priority Improvement Plan, the State Review Panel may recommend modifications to the plan to the Commissioner. Taking into consideration any recommendations of the State Review Panel, the Commissioner may recommend to the Institute modifications to the Institute Priority Improvement Plan.

7.03(B)(6) After making any revisions to the Institute Priority Improvement Plan, the Institute shall submit the revised plan to the Department for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt an Institute Priority Improvement Plan.

7.03(B)(7) The Institute shall ensure that the [revised] Institute Priority Improvement Plan is implemented for the Institute and the Institute Charter Schools when the following academic school year begins. This responsibility includes taking all necessary steps in the year prior to implementation to ensure that the plan can be implemented with fidelity.

7.03(C) In reviewing a District's or Institute's plan, the State Review Panel shall report to the Commissioner and the State Board its recommendations concerning:

7.03(C)(1) whether the District's or Institute's leadership is adequate to implement change to improve results;

7.03(C)(2) whether the District's or Institute's infrastructure is adequate to support school improvement;

7.03(C)(3) the readiness and apparent capacity of Public School and District or Institute personnel to plan effectively and lead the implementation of appropriate actions to improve student academic performance within the District Public Schools or Institute Charter Schools;

7.03(C)(4) the readiness and apparent capacity of Public School and District or Institute personnel to engage productively with and benefit from the assistance provided by an external partner;

7.03(C)(5) the likelihood of positive returns on state investments of assistance and support to improve the District's or Institute's performance within the current management structure and staffing; and

7.03(C)(6) the necessity that the District or Institute remain in operation to serve students.

7.03(D) A District or Institute Priority Improvement Plan shall be designed to ensure that the District or the Institute improves its performance to the extent that, after the annual Accreditation review following implementation of the plan, the District or the Institute attains a higher Accreditation category. At a minimum, each District and Institute Priority Improvement Plan shall:

7.03(D)(1) Set or revise, as appropriate, ambitious but attainable targets that the District, including District Public Schools, or the Institute, including Institute Charter Schools, shall attain on the Performance Indicators. The Local School Board or the Institute shall ensure that the targets are aligned with the statewide targets set by the State Board, as described in section 2.03 of these rules. These targets must include targets that the District, including the District Public Schools, or the Institute, including the Institute Charter Schools, shall attain in reducing the number of students who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

7.03(D)(2) Identify positive and negative trends for District Public Schools as a group and individually or for Institute Charter Schools as a group and individually in the levels of attainment by the Public Schools as a group and individually on the Performance Indicators;

7.03(D)(3) Assess and prioritize the root causes of any low-performance for the District and for the individual District Public Schools or for the Institute and for the individual Institute Charter Schools that must be addressed to raise the levels of attainment on the Performance Indicators by the

District Public Schools or the Institute Charter Schools and to improve school readiness in District Public Schools or Institute Charter Schools that serve students in preschool and Kindergarten. If a school district includes a district public school that is operating under a priority improvement or turnaround plan and enrolls students in kindergarten or any of grades one through three, the needs assessment for the school district shall include, but not be limited to, an early childhood learning needs assessment. The needs assessment shall determine the extent to which:

7.03(D)(3)(a) There are quality early childhood programs existing within the geographic boundaries of the school district;

7.03(D)(3)(b) Children are enrolled in publicly funded early learning and development programs within the school district or in private early learning and development programs that participate in the school readiness quality improvement program pursuant to section 26-6.5-106;

7.03(D)(3)(c) The school district and the district public schools work with an early childhood council pursuant to section 26-6.5-101, et. seq. or early childhood community agencies existing within the school district;

7.03(D)(3)(d) The school district and the district public schools collaborate with early childhood providers and programs regarding students' transition from preschool to kindergarten;

7.03(D)(3)(e) Teachers employed by the school district or the district public schools to teach kindergarten or one of grades one through three have early childhood teaching credentials, such as an Early Childhood or Early Childhood Special Education endorsement on a Department issued teacher license or a Colorado early childhood professional credential;

7.03(D)(3)(f) Joint professional development opportunities, including opportunities for educator collaboration, are available within the school district for early childhood providers, teachers, and principals;

7.03(D)(3)(g) The school district and the district public schools have a current parent engagement plan and provide ample opportunities for parent and family engagement in preschool through third grade; and

7.03(D)(3)(h) Other publicly available early childhood resources, such as the availability of home visitation programs, early intervention services, library programs for young children, and family resource centers, are available to families who reside within the school district.

7.03(D)(3)(i) Nothing in the requirements for the early childhood needs assessment as described in in subsection 7.03(D)

(d)(a) through 7.03(D)(3)(h) is intended to authorize or require a school district or the Institute to collect information from a private early childhood education provider.

7.03(D)(4) Identify specific, research-based strategies that are appropriate in scope, intensity and type to address the District's or Institute's root causes of any low-performance. These strategies must include the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies;

7.03(D)(5) Identify the local, state and federal resources that the District or the Institute shall use to implement the identified strategies with fidelity;

7.03(D)(6) Identify implementation benchmarks and interim targets and measures to assess whether the identified strategies are carried out with fidelity; and

7.03(D)(7) Address any other issues raised by the Department through the Accreditation process described in sections 4.00 and 5.00 of these rules.

7.04 **District and Institute Turnaround Plans.**

7.04(A) Each Local School Board for a District that is Accredited with Turnaround Plan shall create and adopt a District Turnaround Plan.

7.04(A)(1) The Local School Board shall adopt a District Turnaround Plan no later than January 15th of the academic school year in which it is directed to adopt a District Turnaround Plan. The Commissioner may provide additional time for the Local School Board to adopt and submit a plan, to the extent the Commissioner finds an extension to be reasonable.

7.04(A)(2) The School District Accountability Committee for the District shall advise the Local School Board concerning the contents of the District Turnaround Plan. In advising and making its recommendations, the School District Accountability Committee shall take into account and incorporate any of the School Performance Plans, Improvement Plans, Priority Improvement Plans or Turnaround Plans that the Public Schools of the District submit to the School District Accountability Committee.

7.04(A)(3) At the request of the Local School Board, the Department shall provide technical assistance, evaluation and feedback to the Local School Board in preparing the District Turnaround Plan.

7.04(A)(4) No later than five (5) business days after the Local School Board has adopted a District Turnaround Plan, the Local School Board shall submit the adopted District Turnaround Plan to the Department for review.

7.04(A)(5) The Commissioner then shall assign the State Review Panel to critically evaluate the District Turnaround Plan concerning the issues outlined in section 7.03(C) of these rules.

7.04(A)(6) After conducting such an evaluation of the District Turnaround Plan, the State Review Panel may recommend modifications to the plan to the Commissioner. Taking into consideration any recommendations of the State Review Panel, the Commissioner may approve the District Turnaround Plan or suggest modifications to the plan.

7.04(A)(7) After making any necessary revisions to the District Turnaround Plan, the Local School Board shall submit the revised plan to the Department for approval no later than March 30th of the academic school year in which it is directed to adopt a District Turnaround Plan.

7.04(A)(8) The Local School Board shall submit the final adopted District Turnaround Plan for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt a District Turnaround Plan.

7.04(A)(9) The Local School Board shall ensure that the final District Turnaround Plan is implemented for the District and the District Public Schools when the following academic school year begins. This responsibility includes taking all necessary steps in the year prior to implementation to ensure that the plan can be implemented with fidelity.

7.04(B) If the Institute is Accredited with Turnaround Plan, the Institute shall create and adopt an Institute Turnaround Plan.

7.04(B)(1) The Institute shall adopt an Institute Turnaround Plan no later than January 15th of the academic school year in which it is directed to adopt an Institute Turnaround Plan. The Commissioner may provide additional time for the Institute to adopt and submit a plan, to the extent the Commissioner finds an extension to be reasonable.

7.04(B)(2) Prior to creating the Institute Turnaround Plan, the Institute shall compile the Institute Charter School Performance Plans, Improvement Plan, Priority Improvement Plans and Turnaround Plans prepared for each Institute Charter School and shall take the compilation of plans into account in creating and adopting the Institute Improvement Plan.

7.04(B)(3) At the request of the Institute, the Department shall provide technical assistance, evaluation and feedback to the Institute in preparing the Institute Turnaround Plan.

7.04(B)(4) No later than five (5) business days after the Institute has adopted an Institute Turnaround Plan, the Institute shall submit the adopted Institute Turnaround Plan to the Department for review.

7.04(B)(5) The Commissioner then shall assign the State Review Panel to critically evaluate the Institute Turnaround Plan concerning the issues outlined in section 7.03(C) of these rules.

7.04(B)(6) After conducting such an evaluation of the Institute Turnaround Plan, the State Review Panel may recommend modifications to the plan to the

Commissioner. Taking into consideration any recommendations of the State Review Panel, the Commissioner may approve the Institute Turnaround Plan or suggest modifications to the plan.

7.09(B)(7) After making any necessary revisions to the Institute Turnaround Plan, the Institute shall submit the revised plan to the Department for approval no later than March 30th of the academic school year in which it is directed to adopt an Institute Turnaround Plan.

7.09(B)(8) The Institute shall submit the final adopted Institute Turnaround Plan for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt an Institute Turnaround Plan.

7.04(B)(9) The Institute shall ensure that the final Institute Turnaround Plan is implemented for the Institute and the Institute Charter Schools when the following academic school year begins. This responsibility includes taking all necessary steps in the year prior to implementation to ensure that the plan can be implemented with fidelity.

7.04(C) A District or Institute Turnaround Plan shall be designed to ensure that the District or the Institute improves its performance to the extent that, after the annual Accreditation review following implementation of the plan, the District or the Institute attains a higher Accreditation category. At a minimum, each District and Institute Turnaround Plan shall:

7.04(C)(1) Set or revise, as appropriate, ambitious but attainable targets that the District, including District Public Schools, or the Institute, including Institute Charter Schools, shall attain on the Performance Indicators. The Local School Board or the Institute shall ensure that the targets are aligned with the statewide targets set by the State Board, as described in section 2.03 of these rules. These targets must include targets that the District, including the District Public Schools, or the Institute, including the Institute Charter Schools, shall attain in reducing the number of students who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

7.04(C)(2) Identify positive and negative trends for District Public Schools as a group and individually or for Institute Charter Schools as a group and individually in the levels of attainment by the Public Schools as a group and individually on the Performance Indicators;

7.04(C)(3) Assess and prioritize the root causes of any low-performance for the District and for the individual District Public Schools or for the Institute and for the individual Institute Charter Schools that must be addressed to raise the levels of attainment on the Performance Indicators by the District Public Schools or the Institute Charter Schools and to improve school readiness in District Public Schools or Institute Charter Schools that serve students in preschool and Kindergarten. If a school district includes a district public school that is operating under a priority improvement or turnaround plan and enrolls students in kindergarten or any of grades one through three, the needs assessment for the school district shall include, but not be limited to, the early childhood learning needs assessment described in Section 7.03(D)(3) or these rules;

7.04(C)(4) Identify specific, research-based strategies that are appropriate in scope, intensity and type to address the District's or Institute's root causes of

any low-performance. These strategies must include the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies. These strategies shall, at a minimum, include one or more of the following:

7.04(C)(4)(a) employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the Turnaround Plan and shall serve as a liaison to other school partners;

7.04(C)(4)(b) reorganizing the oversight and management structure within the District or the Institute to provide greater, more effective support for Public Schools;

7.04(C)(4)(c) for a District, recognizing individual District Public Schools as innovation schools or clustering District Public Schools with similar governance or management structures into one or more innovation school zones and seeking designation as a District of innovation pursuant to Article 32.5 of Title 22;

7.04(C)(4)(d) hiring an entity that uses research-based strategies and has a proven record of success working with schools under similar circumstances to operate one or more District Public Schools or Institute Charter Schools pursuant to a contract with the Local School Board or the Institute;

7.04(C)(4)(e) for a District, converting one or more District Public School to Charter Schools;

7.04(C)(4)(f) for the Institute, renegotiating and significantly restructuring an Institute Charter School's charter contract;

7.04(C)(4)(g) closing the District Public Schools or Institute Charter Schools; and

7.04(C)(4)(h) other actions of comparable or greater significance or effect;

7.04(C)(5) Identify the local, state and federal resources that the District or the Institute shall use to implement the identified strategies with fidelity;

7.04(C)(6) Identify implementation benchmarks and interim targets and measures to assess whether the identified strategies are carried out with fidelity; and

7.04(C)(7) Address any other issues raised by the Department through the Accreditation process described in sections 4.00 and 5.00 of these rules.

10.00 SCHOOL PLANS AND SCHOOL RESTRUCTURING

10.01 No later than August 15th of each school year, based on an objective analysis of each Public School's attainment on the four key Performance Indicators, which analysis shall place greatest emphasis upon the longitudinal growth and Postsecondary and Workforce Readiness Performance Indicators, the Department shall determine whether the Public School exceeds,

meets, approaches or does not meet statewide targets. After baseline data from the approved READ Act assessments has been collected and verified to be adequately predictive of statewide reading assessment results, the Department shall determine whether each Public School serving third and/or fourth grade students meets or exceeds targets established by the State Board for the percentage of third and fourth grade students who were at one time identified as having a significant reading deficiency pursuant to section 22-7-1205 and who have scored Partially Proficient, Proficient, or Advanced on the statewide reading assessment and, if so, shall provide credit to the Public School. Taking into account this information, the Department shall formulate an initial recommendation for each Public School as to whether the Public School should implement a Performance Plan, an Improvement Plan, a Priority Improvement Plan or a Turnaround Plan, or that the Public School should be subject to restructuring.

10.01(A) Information concerning the percentages of students at the Public School who are not tested on the Statewide Assessments will not be factored into the analysis of the Public School's attainment on the Performance Indicators, but will be factored into the determination of which type of plan the Public School must implement.

10.01(B) A Public School's failure to administer statewide assessments in a standardized and secure manner so that resulting assessment scores are reflective of independent student performance shall be considered by the Department in identifying which type of plan the Public School must implement, and may result in a plan type at least one level lower than what otherwise would have been required. If the Public School otherwise would have been required to implement a Performance Plan or Improvement Plan, it instead may be required to implement a Priority Improvement Plan. If the Public School otherwise would have been required to implement a Priority Improvement Plan, it instead may be required to implement a Turnaround Plan. The Commissioner shall determine whether a Public School has failed to administer statewide assessment results in a standardized and secure manner so that resulting assessment scores are reflective of independent student performance and shall determine whether such failure was pervasive and egregious enough to warrant a change in the Public School's plan type assignment.

10.01(C) If a Local School Board or the Institute choose not to endorse a high school diploma as described in § 22-7-1009(2), C.R.S., the Public School will not be penalized for such choice when the Department makes a determination regarding the type of plan the Public School must implement.

10.01(D) For those Public Schools designated as Alternative Education Campuses, the Department shall incorporate the results of the performance evaluation framework for Alternative Education Campuses, as described by rule of the State Board, when determining which type of plan the Alternative Education Campus must implement.

10.02 No later than August 15th of each school year, the Department shall provide to each District and the Institute, for each of the District's Public Schools or the Institute's Public Schools, the data used by the Department to conduct its analysis of that Public School's performance and the Department's initial recommendation concerning the type of plan that the Public School shall implement.

10.03 No later than October 15th of each school year, each District and the Institute shall submit to the Department the following:

10.03(A) The Accreditation category assigned to each Public School, as determined by the Local School Board or Institute, and the school performance framework used for that Accreditation assignment, including evidence of the Public School's level of attainment of District or Institute targets on the Performance Indicators and the Public School's level of attainment of its own annual targets; and

10.03(B) If the District or Institute disagrees with the Department's initial recommendation concerning the type of plan that the Public School shall implement and wishes to provide additional information for consideration, the District or Institute shall submit:

10.03(B)(1) A recommendation from the District or Institute regarding the type of plan the Public School shall implement;

10.03(B)(2) A statement about the extent to which the Public School effectively implemented with fidelity either the School Performance Plan, School Improvement Plan, School Priority Improvement Plan or School Turnaround Plan during the previous academic school year. Said statement shall include information about the specific improvements, changes, and interventions the Public School has implemented to improve its performance and the extent to which the Public School has successfully met the implementation benchmarks in the Public School's plan during the previous academic school year; and

10.03(B)(3) For Public Schools that the Department has initially recommended to implement a School Priority Improvement Plan or a School Turnaround Plan, valid and reliable data demonstrating the progress the Public School has made in improving its performance and in meeting the statewide targets on the Performance Indicators, the District or Institute targets on the Performance Indicators, and its own school targets, including evidence from a Department-approved third-party review of performance.

10.03(C) No later than November 15th of each school year, the Department shall formulate a final recommendation as to whether each Public School should implement a Performance Plan, an Improvement Plan, a Priority Improvement Plan or a Turnaround Plan, or that the Public School be subject to restructuring. This final recommendation shall take into consideration both the objective analysis of each Public School's attainment on the Performance Indicators, as described in section 10.01 of these rules, and the additional information submitted by a District or Institute, as described in section 10.03(B) of these rules. The Department shall submit its final recommendation to the State Board, along with any conflicting recommendation provided by the District or Institute.

10.04 No later than December of each school year, the State Board shall make a final determination regarding the type of plan each Public School shall implement. The State Board shall notify the Local School Board for the Public School, or the Institute if the Public School is an Institute Charter School, regarding the type of plan the Public School shall implement.

10.05 A Public School shall not be permitted to implement a Priority Improvement and/or Turnaround Plan for longer than a combined total of five consecutive school years before the District or Institute is required to restructure or close the school. The calculation of the total of five (5) consecutive school years shall commence July 1, during the summer immediately following the fall in which the Public School is notified that it is required to implement a Priority Improvement or Turnaround Plan. A Public School implementing an Improvement Plan is not subject to a time limitation for implementing its Improvement Plan. 10.06 As described in detail below, the Department shall employ a differentiated approach to state intervention based on performance and need, whereby demonstration of high performance results in greater autonomy and demonstration of high need results in greater support and intervention.

For a Public School required to implement a School Performance Plan or School Improvement Plan, the District or the Institute shall submit said plan to the Department for publishing on SchoolView.

For a Public School required to implement a School Priority Improvement Plan, the District or the Institute shall submit said plan to the Department and the Commissioner, subject to available appropriations may assign the State Review Panel to critically evaluate the plan. The Commissioner may recommend modifications to the School Priority Improvement Plan to the Local School Board or Institute and, after making any revisions, the Local School Board or Institute shall submit the School Priority Improvement Plan to the Department for publishing on SchoolView.

For a Public School required to implement a School Turnaround Plan, the District or Institute shall submit said plan to the Department for review by the State Review Panel. The Commissioner may approve the School Turnaround Plan or suggest modifications to the plan. The Local School Board or Institute shall revise the plan, if necessary, and resubmit the plan to the Commissioner for approval. The Local School Board or Institute shall submit the final approved plan to the Department for publishing on SchoolView.

A School District with one thousand students or fewer may submit a single plan to satisfy the School District and School plan requirements, so long as the plan meets all state and federal requirements for School District and School plans. A School District with more than one thousand but fewer than one thousand two hundred students may, upon request and at the Department's discretion, submit a single plan to satisfy the School District and School plan requirements, so long as the plan meets all state and federal requirements for School District and School plans.

10.07 At the request of a Local School Board or the Institute, the Department shall provide technical assistance and support to the Public School, Local School Board, or Institute in preparing and implementing the Public School's Improvement, Priority Improvement, or Turnaround Plan. The Department shall base the amount of technical assistance and support provided to a Public School, the Local School Board, or the Institute on the Public School's degree of need for assistance and the Department's available resources. Such technical assistance shall be provided through a mutually agreed upon plan between the Department and the Public School, Local School Board or the Institute. Technical assistance and support may include, but need not be limited to:

10.07(A) access to data and research to support interpretation of student data, decision-making, and learning;

10.07(B) consultative services on best practices for improvement and implementation of intervention strategies, including, where appropriate, research-based strategies that address the quality and availability of early childhood education

opportunities for students who reside within the neighborhood for the public school and student engagement and re-engagement; and

10.07(C) evaluation and feedback on the Public School's plan.

10.08 **School Performance Plans and Improvement Plans.**

10.08(A) If the State Board directs a District Public School to adopt a School Performance Plan or Improvement Plan, the school principal and the District superintendent, or his or her designee, shall adopt the plan. The Local School Board is encouraged to review and approve such plan and to consider in its local policies whether it would like to require the school principal and District superintendent or designee to submit the plan to the Local School Board for approval.

10.08(A)(1) The plan shall be adopted no later than April 15th of the academic school year in which the Public School is directed to adopt the plan.

10.08(A)(2) The School Accountability Committee for the Public School shall advise the principal concerning preparation of the plan and make recommendations to the principal concerning the contents of the plan. The principal, with the approval of the Superintendent or his or her designee, shall create and adopt the plan, taking into account the advice and recommendations of the School Accountability Committee.

10.08(A)(3) The School District Accountability Committee shall include the adopted plan in the compilation of the plans of its Public Schools that the committee considers when making recommendations for a District plan.

10.08(A)(4) The Local School Board shall consider the adopted school plan in developing the budget required by § 22-44-108, C.R.S.

10.08(A)(5) The District shall submit the adopted school plan to the Department for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt the plan.

10.08(A)(6) The principal and superintendent or his or her designee shall ensure that the plan is implemented for the Public School when the following academic school year begins.

10.08(B) If the State Board directs an Institute Charter School to adopt a School Performance Plan or Improvement Plan, the school principal shall adopt the plan. The Institute Charter School's Board and the Institute are encouraged to review and approve such plan. The Institute also is encouraged to consider whether it would like to require the Institute Charter School's board and the school principal to submit the plan to the Institute for approval.

10.08(B)(1) The plan shall be adopted no later than April 15th of the academic school year in which the Charter School is directed to adopt the plan.

10.08(B)(2) The School Accountability Committee for the Institute Charter School shall advise the principal concerning preparation of the plan and make recommendations to the principal concerning the contents of the plan.

The principal shall create and adopt the plan, taking into account the advice and recommendations of the School Accountability Committee.

10.08(B)(3) The Institute shall include the adopted school plan in the compilation of the plans of its Public Schools that the Institute considers when making recommendations for the Institute's plan.

10.08(B)(4) The Institute shall submit the adopted school plan to the Department for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt the plan.

10.08(B)(5) The principal shall ensure that the plan is implemented for the Institute Charter School when the following academic school year begins.

10.08(C) A School Performance Plan or Improvement Plan shall be designed to raise the academic performance of students enrolled in the Public School and to ensure that the Public School, after its annual Accreditation review following implementation of the plan, attains a higher Accreditation category or remains in the same Accreditation category if the Public School is already accredited by the District or the Institute at the highest level. At a minimum, each School Performance Plan or Improvement Plan shall:

10.08(C)(1) Set, reaffirm or revise, as appropriate, ambitious but attainable targets that the Public School shall attain on the Performance Indicators. The principal and the District superintendent, or his or her designee, shall ensure that the targets are aligned with the statewide targets set by the State Board, as described in section 2.03 of these rules. These targets must include targets that the Public School shall attain in reducing the number of students who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

10.08(C)(2) Identify positive and negative trends in the levels of attainment by the Public School on the Performance Indicators;

10.08(C)(3) Assess and prioritize the root causes of any low-performance at the Public School that must be addressed to raise the levels of attainment on the Performance Indicators by the Public School and to improve school readiness, if the Public School serves students in preschool and Kindergarten;

10.08(C)(4) Identify specific, research-based strategies to address the Public School's root-causes of any low-performance. If the Public School serves students in kindergarten and first, second, and third grades, these strategies must include the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies;

10.08(C)(5) Identify the local, state and federal resources that the Public School shall use to implement the identified strategies with fidelity;

10.08(C)(6) Identify implementation benchmarks and interim targets and measures to assess whether the identified strategies are carried out with fidelity; and

10.08(C)(7) Address any other issues raised by the Department through the performance evaluation process described in section 9.00 of these rules.

10.09 **School Improvement Plans—repealed.**

10.10 **School Priority Improvement Plans.**

10.10(A) If directed by the State Board, the Local School Board shall adopt a School Priority Improvement Plan for its Public School.

10.10(A)(1) Within 30 days after receiving the initial notice of the State Board's determination or, if the determination is appealed, within 30 days after receiving final notice of the State Board's determination, the School District shall notify the parents of the students enrolled in the school of the required plan type and the issues identified by the Department as giving rise to the need for the required plan. The notice shall also include the timeline for developing and adopting the required plan and the dates, times, and locations of the public meeting and public hearing described below. The public meeting shall be held by the School Accountability Committee to solicit input concerning the contents of the School Priority Improvement Plan before the plan is written. At this meeting, the school principal shall review the school's progress in implementing its plan for the preceding year and in improving its performance. The Local School Board shall hold a public hearing after the plan is written to review the School Priority Improvement Plan prior to final adoption. A member of the School Accountability Committee is encouraged to attend the public hearing. The date of the public hearing shall be at least thirty days after the date on which the School District provides the written notice. The School Priority Improvement Plan shall be adopted no later than January 15th of the academic school year in which the Public School is directed to adopt a School Priority Improvement Plan. The Commissioner may provide additional time for the Local School Board to adopt and submit a plan, to the extent the Commissioner finds an extension to be reasonable.

10.10(A)(2) The School Accountability Committee for the Public School shall advise the Local School Board concerning preparation of the School Priority Improvement Plan and make recommendations to the Local School Board concerning the contents of the plan, taking into account the recommendations received at the public meeting. The Local School Board shall create and adopt the School Priority Improvement Plan, taking into account the advice and recommendations of the School Accountability Committee.

10.10(A)(3) At the request of the Public School's Local School Board, the Department shall provide technical assistance, evaluation and feedback on the Public School's plan.

10.10(A)(4) No later than five (5) business days after the Local School Board has adopted a School Priority Improvement Plan, the Local School Board shall submit the adopted plan to the Department for review.

10.10(A)(5) The Commissioner, subject to available appropriations, may assign the State Review Panel to critically evaluate the School Priority Improvement Plan concerning the issues outlined in section 10.10(C) of these rules. After conducting any such evaluation, the State Review Panel may recommend modifications to the plan to the Commissioner. Taking into consideration any recommendations of the State Review Panel, the Commissioner may recommend to the Local School Board modifications to the School Priority Improvement Plan.

10.10(A)(6) After making any revisions to the School Priority Improvement Plan, the Local School Board shall submit the revised School Priority Improvement Plan to the Department for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt a School Priority Improvement Plan.

10.10(A)(7) The School District Accountability Committee shall include the [revised] School Priority Improvement Plan in the compilation of the plans of its Public Schools that the committee considers when making recommendations for a District plan.

10.10(A)(8) The Local School Board shall consider the [revised] School Priority Improvement Plan in developing the budget required by § 22-44-108, C.R.S.

10.10(A)(9) The Local School Board shall ensure that the [revised] School Priority Improvement Plan is implemented for the Public School when the following academic school year begins.

10.10(B) If directed by the State Board, the Institute shall adopt a School Priority Improvement Plan for its Institute Charter School.

10.10(B)(1) Within 30 days after receiving the initial notice of the State Board's determination or, if the determination is appealed, within 30 days after receiving final notice of the State Board's determination, the Charter School shall notify the parents of the students enrolled in the school of the required plan type and the issues identified by the Department as giving rise to the need for the required plan. The notice shall also include the timeline for developing and adopting the required plan and the dates, times, and locations of the public meeting and public hearing described below. The public meeting shall be held by the School Accountability Committee to solicit input concerning the contents of the School Priority Improvement Plan before the plan is written. At this meeting, the school principal shall also review the school's progress in implementing its plan for the preceding year and in improving its performance. The Institute shall hold a public hearing after the plan is written to review the School

Priority Improvement Plan prior to final adoption. A member of the School Accountability Committee is encouraged to attend the public hearing. The date of the public hearing shall be at least thirty days after the date on which the Charter School provides the written notice. The School Priority Improvement Plan shall be adopted no later than January 15th of the academic school year in which the Charter School is directed to adopt a School Priority Improvement Plan. The Commissioner may provide additional time for the Institute to adopt and submit a plan, to the extent the Commissioner finds an extension to be reasonable.

10.10(B)(2) The School Accountability Committee for the Institute Charter School shall advise the Institute concerning preparation of the School Priority Improvement Plan and make recommendations to the Institute concerning the contents of the plan, taking into account the recommendations received at the public meeting. The Institute shall create and adopt the School Priority Improvement Plan, taking into account the advice and recommendations of the School Accountability Committee.

10.10(B)(3) At the request of the Institute, the Department shall provide technical assistance, evaluation and feedback on the Institute Charter School's plan.

10.10(B)(4) No later than five (5) business days after the Institute has adopted a School Priority Improvement Plan, the Institute shall submit the adopted plan to the Department for review.

10.10(B)(5) The Commissioner, subject to available appropriations, may assign the State Review Panel to critically evaluate the School Priority Improvement Plan concerning the issues outlined in section 10.10(C) of these rules. After conducting any such evaluation, the State Review Panel may recommend modifications to the plan to the Commissioner. Taking into consideration any recommendations of the State Review Panel, the Commissioner may recommend to the Institute modifications to the School Priority Improvement Plan.

10.10(B)(6) After making any revisions to the School Priority Improvement Plan, the Institute shall submit the revised School Priority Improvement Plan to the Department for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt a School Priority Improvement Plan.

10.10(B)(7) The Institute shall include the [revised] School Priority Improvement Plan in the compilation of the plans of its Charter Schools that the Institute considers when making recommendations for an Institute plan.

10.10(B)(8) The Institute shall ensure that the [revised] School Priority Improvement Plan is implemented for the Institute Charter School when the following academic school year begins.

10.10(C) In reviewing a Public School's plan, the State Review Panel shall report to the Commissioner and the State Board its recommendations concerning:

10.10(C)(1) whether the Public School's leadership is adequate to implement change to improve results;

10.10(C)(2) whether the Public School's infrastructure is adequate to support school improvement;

10.10(C)(3) the readiness and apparent capacity of Public School's personnel to plan effectively and lead the implementation of appropriate actions to improve student academic performance within the school;

10.10(C)(4) the readiness and apparent capacity of Public School's personnel to engage productively with and benefit from the assistance provided by an external partner;

10.10(C)(5) the likelihood of positive returns on state investments of assistance and support to improve the Public School's performance within the current management structure and staffing; and

10.10(C)(6) the necessity that Public School remain in operation to serve students.

10.10(D) A School Priority Improvement Plan shall be designed to raise the academic performance of students enrolled in the Public School and to ensure that the Public School, after its annual Accreditation review following implementation of the plan, attains a higher Accreditation category. At a minimum, each School Priority Improvement Plan shall:

10.10(D)(1) Set or revise, as appropriate, ambitious but attainable targets that the Public School shall attain on the Performance Indicators. The Local School Board or the Institute shall ensure that the targets are aligned with the statewide targets set by the State Board, as described in section 2.03 of these rules. These targets must include targets that the Public School shall attain in reducing the number of students who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

10.10(D)(2) Identify positive and negative trends in the levels of attainment by the Public School on the Performance Indicators;

10.10(D)(3) Assess and prioritize the root causes of any low-performance at the Public School that must be addressed to raise the levels of attainment on the Performance Indicators by the Public School and to improve school readiness, if the Public School serves students in preschool and Kindergarten. The needs assessment for a public school that enrolls students in kindergarten or any of grades one through three shall include, but not be limited to, the early childhood learning needs assessment. The needs assessment shall determine the extent to which:

10.10(D)(3)(a) There are quality early childhood programs existing within the neighborhood of the public school, if that information is readily available to the public school;

10.10(D)(3)(b) Children are enrolled in publicly funded early learning and development programs within the neighborhood of the public school or in private early learning and development programs that participate in the school readiness quality improvement program pursuant to section 26-6.5-106 and are located within the

neighborhood of the public school, if that information is readily available to the public school;

10.10(D)(3)(c) The public school works with an early childhood council pursuant to section 26-6.5-101, et. seq. or early childhood community agencies existing within the neighborhood of the public school;

10.10(D)(3)(d) The public school collaborates with early childhood providers and programs regarding students' transition from preschool to kindergarten;

10.10(D)(3)(e) Teachers employed at or by the public school to teach kindergarten or one of grades one through three have early childhood teaching credentials, such as an Early Childhood or Early Childhood Special Education endorsement on a Department issued teacher license or a Colorado early childhood professional credential;

10.10(D)(3)(f) Joint professional development opportunities, including opportunities for educator collaboration, are available through the public school for early childhood providers, teachers, and principals;

10.10(D)(3)(g) The public school has a current parent engagement plan and provides ample opportunities for parent and family engagement in preschool through third grade; and

10.10(D)(3)(h) Other publicly available early childhood resources, such as the availability of home visitation programs, early intervention services, library programs for young children, and family resource centers, are available to families who reside in the neighborhood of the public school.

10.10(D)(3)(i) Nothing in the requirements for the early childhood needs assessment as described in in subsection 10.10(D)(d)(a) through 10.10(D)(3)(h) is intended to authorize or require a school to collect information from a private early childhood education provider.

10.10(D)(4) Identify specific, research-based strategies that are appropriate in scope, intensity and type to address the Public School's root causes of any low-performance. These strategies must include strategies to increase parent engagement in the Public School. If the Public School serves students in kindergarten and first, second, and third grades, these strategies must include the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies;

10.10(D)(5) Identify the local, state and federal resources that the Public School shall use to implement the identified strategies with fidelity;

10.10(D)(6) Identify implementation benchmarks and interim targets and measures to assess whether the identified strategies are carried out with fidelity; and

10.10(D)(7) Address any other issues raised by the Department through the performance review process described in section 9.00 of these rules.

10.11 **School Turnaround Plans.**

10.11(A) If directed by the State Board, the Local School Board shall adopt a School Turnaround Plan for its Public School.

10.11(A)(1) Within 30 days after receiving the initial notice of the State Board's determination or, if the determination is appealed, within 30 days after receiving final notice of the State Board's determination, the School District shall notify the parents of the students enrolled in the school of the required plan type and the issues identified by the Department as giving rise to the need for the required plan. The notice shall also include the timeline for developing and adopting the required plan and the dates, times, and locations of the public meeting and the public hearing described below. The School Accountability Committee shall hold a public meeting to solicit input concerning the contents of the School Turnaround Plan before the plan is written. At this meeting, the school principal shall also review the school's progress in implementing its plan for the preceding year and in improving its performance. The Local School Board shall hold a public hearing after the plan is written to review the School Turnaround Plan before it is written. A member of the School Accountability Committee is encouraged to attend the public hearing. The date of the public hearing shall be at least thirty days after the date on which the School District provides the written notice. The School Turnaround Plan shall be adopted no later than January 15th of the academic school year in which the Public School is directed to adopt a School Turnaround Plan. The Commissioner may provide additional time for the Local School Board to adopt and submit a plan, to the extent the Commissioner finds an extension to be reasonable.

10.11(A)(2) The School Accountability Committee for the Public School shall advise the Local School Board concerning preparation of the School Turnaround Plan and make recommendations to the Local School Board concerning the contents of the plan, taking into account the recommendations received at the public meeting. The Local School Board shall create and adopt the School Turnaround Plan, taking into account the advice and recommendations of the School Accountability Committee.

10.11(A)(3) At the request of the Public School's Local School Board, the Department shall provide technical assistance, evaluation and feedback on the Public School's plan.

10.11(A)(4) No later than five (5) business days after the Local School Board has adopted a School Turnaround Plan, the Local School Board shall submit the adopted plan to the Department for review.

10.11(A)(5) The Commissioner shall assign the State Review Panel to critically evaluate the School Turnaround Plan concerning the issues outlined in section 10.10(C) of these rules. After conducting such an evaluation of the School Turnaround Plan, the State Review Panel may recommend modifications to the plan to the Commissioner. Taking into consideration

any recommendations of the State Review Panel, the Commissioner may suggest modifications to the plan and may require that those plan modifications be made prior to the date when the State Board enters into an accreditation contract with the Public School's authorizing District.

10.11(A)(6) After making any necessary revisions to the School Turnaround Plan, the Local School Board shall submit the revised plan to the Department for approval no later than March 30th of the academic school year in which it is directed to adopt a School Turnaround Plan.

10.11(A)(7) The Local School Board shall submit the final adopted School Turnaround Plan for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt a School Turnaround Plan.

10.11(A)(8) The School District Accountability Committee shall include the final adopted School Turnaround Plan in the compilation of the plans of its Public Schools that the committee considers when making recommendations for a District plan.

10.11(A)(9) The Local School Board shall consider the final adopted School Turnaround Plan in developing the budget required by § 22-44-108, C.R.S.

10.11(A)(10) The Local School Board shall ensure that the School Turnaround Plan is implemented for the Public School when the following academic school year begins.

10.11(B) If directed by the State Board, the Institute shall adopt a School Turnaround Plan for its Institute Charter School.

10.11(B)(1) Within 30 days after receiving the initial notice of the State Board's determination or, if the determination is appealed, within 30 days after receiving final notice of the State Board's determination, the Charter School shall notify the parents of the students enrolled in the school of the required plan type and the issues identified by the Department as giving rise to the need for the required plan. The notice shall also include the timeline for developing and adopting the required plan and the dates, times, and locations of the public meeting and the public hearing described below. The School Accountability Committee shall hold a public meeting to solicit input concerning the contents of the School Turnaround Plan before the plan is written. At this public meeting, the school principal shall also review the school's progress in implementing its plan for the preceding year and in improving its performance. The Institute shall hold a public hearing after the plan is written to review the

School Turnaround Plan prior to final adoption. A member of the School Accountability Committee is encouraged to attend. The date of the public hearing shall be at least thirty days after the date on which the Charter School provides the written notice. The School Turnaround Plan shall be adopted no later than January 15th of the academic school year in which the Charter School is directed to adopt a School Turnaround Plan. The Commissioner may provide additional time for the Institute to adopt and submit a plan, to the extent the Commissioner finds an extension to be reasonable.

10.11(B)(2) The School Accountability Committee for the Institute Charter School shall advise the Institute concerning preparation of the School Turnaround Plan and make recommendations to the Institute concerning the contents of the plan, taking into account the recommendations received at the public meeting. The Institute shall create and adopt the School Turnaround Plan, taking into account the advice and recommendations of the School Accountability Committee.

10.11(B)(3) At the request of the Institute, the Department shall provide technical assistance, evaluation and feedback on the Institute Charter School's plan.

10.11(B)(4) No later than five (5) business days after the Institute has adopted a School Turnaround Plan, the Institute shall submit the adopted plan to the Department for review.

10.11(B)(5) The Commissioner shall assign the State Review Panel to critically evaluate the School Turnaround Plan concerning the issues outlined in section 10.10(C) of these rules. After conducting such an evaluation of the School Turnaround Plan, the State Review Panel may recommend modifications to the plan to the Commissioner. Taking into consideration any recommendations of the State Review Panel, the Commissioner may suggest modifications to the plan and may require that those plan modifications be made prior to the date when the State Board enters into an accreditation contract with the Institute.

10.11(B)(6) After making any necessary revisions to the School Turnaround Plan, the Institute shall submit the revised plan to the Department for approval no later than March 30th of the academic school year in which it is directed to adopt a School Turnaround Plan.

10.11(B)(7) The Institute shall submit the final adopted School Turnaround Plan for publication on SchoolView no later than April 15th of the academic school year in which it is directed to adopt a School Turnaround Plan.

10.11(B)(8) The Institute shall include the final adopted School Turnaround Plan in the compilation of the plans of its Charter Schools that the Institute considers when making recommendations for an Institute plan.

10.11(B)(9) The Institute shall ensure that the School Turnaround Plan is implemented for the Institute Charter School when the following academic school year begins.

10.11(C) A School Turnaround Plan shall be designed to raise the academic performance of students enrolled in the Public School and to ensure that the Public School,

after its annual Accreditation review following implementation of the plan, attains a higher Accreditation category. At a minimum, each School Turnaround Plan shall:

10.11(C)(1) Set or revise, as appropriate, ambitious but attainable targets that the Public School shall attain on the Performance Indicators. The local school board or the Institute, shall ensure that the targets are aligned with the statewide targets set by the State Board, as described in section 2.03 of these rules. These targets must include targets that the Public School shall attain in reducing the number of students who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

10.11(C)(2) Identify positive and negative trends in the levels of attainment by the Public School on the Performance Indicators;

10.11(C)(3) Assess and prioritize the root causes of any low-performance at the Public School that must be addressed to raise the levels of attainment on the Performance Indicators by the Public School and to improve school readiness, if the Public School serves students in preschool and Kindergarten. The needs assessment for a public school that enrolls students in kindergarten or any of grades one through three shall include, but not be limited to, the early childhood learning needs assessment described in Section 10.10(D)(3) of these rules;

10.11(C)(4) Identify specific, research-based strategies that are appropriate in scope, intensity and type to address the Public School's root causes of any low-performance. These strategies must incorporate strategies to increase parent engagement in the Public School. If the Public School serves students in kindergarten and first, second, and third grades, these strategies must include the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies. These strategies shall, at a minimum, include one or more of the following:

10.11(C)(4)(a) employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the School Turnaround Plan and shall serve as a liaison to other school partners;

10.11(C)(4)(b) reorganizing the oversight and management structure within the Public School to provide greater, more effective support;

10.11(C)(4)(c) for a District Public School, seeking recognition as an innovation school or clustering with other District Public Schools that have similar governance management structures to form an innovation school zone pursuant to Article 32.5 of Title 22;

10.11(C)(4)(d) hiring a public or private entity that uses research-based strategies and has a proven record of success working with schools under similar circumstances to manage the Public

School pursuant to a contract with the Local School Board or the Institute;

10.11(C)(4)(e) for a District Public School that is not a charter school, converting to a charter school;

10.11(C)(4)(f) for a District charter school or an Institute Charter School, renegotiating and significantly restructuring the charter school's charter contract;

10.11(C)(4)(g) for a public school that serves students enrolled in kindergarten or any of grades one through three, that the public school invest in research-based strategies focused on early learning and development to address any deficiencies identified in the early childhood learning needs assessment completed for the public school pursuant to section 10.11(c)(3) of these rules if the cause of the public school's low performance is directly related to lack of school readiness and access to quality early learning opportunities, as demonstrated by state or local student performance and achievement data for the early elementary grades (any of the grades preschool through third), and the public school has not successfully implemented these strategies in the preceding school years. These strategies include: increasing the quality and availability of early learning and development programs for students who reside within the neighborhood of the public school and increasing the resources available in kindergarten (or preschool as applicable) through third grade to improve school readiness and early learning. A public school may implement strategies focused on early learning and development as described in this subsection only in combination with at least one other research-based strategy specified in this section 10.11(C)(4); and

10.11(C)(4)(h) other actions of comparable or greater significance or effect, including those interventions required for low-performing schools under the Elementary and Secondary Education Act of 1965 and accompanying guidance;

10.11(C)(5) Identify the local, state and federal resources that the Public School shall use to implement the identified strategies with fidelity;

10.11(C)(6) Identify implementation benchmarks and interim targets and measures to assess whether the identified strategies are carried out with fidelity; and

10.11(C)(7) Address any other issues raised by the Department through the performance review process described in section 9.00 of these rules.

10.12 **School Restructuring.**

10.12(A) If a Public School fails to make adequate progress under its School Turnaround Plan, as evidenced by the Public School's failure to improve attainment on the Performance Indicators or failure to meet the implementation benchmarks and interim targets and measures included in the Public School's Turnaround Plan, or if the Public School continues to operate under a School Priority Improvement and/or School Turnaround Plan for a combined total of five (5) consecutive

school years, the Commissioner shall assign the State Review Panel to critically evaluate the Public School's performance and determine whether to recommend one of the following:

10.12(A)(1) with regard to a District Public School that is not a Charter School, that the District Public School be managed by a private or public entity other than the District;

10.12(A)(2) with regard to a District or Institute Charter School, that the public or private entity operating the Charter School or the governing board of the Charter School should be replaced by a different public or private entity or governing board;

10.12(A)(3) with regard to a Public School, that the District Public School be converted to a Charter School if it is not already authorized as a Charter School;

10.12(A)(4) with regard to a District Public School, that the District Public School be granted status as an innovation school pursuant to § 22-32.5-104, C.R.S.; or

10.12(A)(5) that the Public School be closed or, with regard to a District Charter School or an Institute Charter School, that the Public School's charter be revoked.

10.12(B) The State Review Panel shall present its recommendations to the Commissioner and the State Board. Taking the recommendations into account, the State Board shall determine which of the actions described in section 10.12 (A) of these rules the Local School Board for a District Public School or the Institute for an Institute Charter School shall take regarding the Public School and direct the Local School Board or Institute accordingly.

Editor's Notes

History

Entire rule eff. 06/30/2008.

Entire rule eff. 05/31/2010.

Sections SB&P, 5.07, 12.02, 12.04 eff. 03/31/2011.

Sections SB&P, 1.00-2.00, 4.00, 7.04(A)-(B)(9), 9.02(C)-(D)(2), 10.01-10.11(C)(7), 11.01-11.04(G), 13.00 eff. 07/30/2012.

Sections 1.00, 2.02(C)(1)(b), 3.04(D), 4.03(C)(2), 9.02(C)(2)-(3), 9.02(D)(1)(e)-(f), 10.04, 10.05, 10.08(C)(7), 10.09(B), 10.09(C)(1), 10.09(C)(7), 10.10(B)(2), 10.10(B)(6)-(7), 10.10(D)(1), 10.10(D)(7), 10.11(C)(1), 10.11(C)(7), 11.05(F), 13.01(A), 13.01(D)(10), 13.09(B) eff. 03/02/2013.

Sections SB&P, 5.03, 5.05-5.10, 10.01(B)-(D) eff. 04/30/2013.

Sections SB&P, 1.11, 1.31, 1.37, 1.42-1.51, 2.02(B)(3), 3.02, 3.05(B), 4.01(D)-4.01(E), 4.03(B), 5.01, 5.03, 7.01, 7.03(D)(1), 7.03(D)(4), 7.04(C)(1), 7.04(C)(4), 9.02(B), 10.01, 10.04, 10.08, 10.10(A)(1)-(2), 10.10(B)(1)-(2) 10.10(D)(1), 10.10(D)(4), 10.10(D)(7), 10.11(A)(1)-(2), 10.11(B)(1)-(2), 10.11(C)(1), 10.11(C)(4), 10.11(C)(7), 11.04(B)-11.04(F), 11.05(C)(6)-(7), 11.05(C)(9)-(10), 13.09(B)(1) eff. 04/30/2014. Sections 7.02, 10.09, 12.0 repealed eff. 04/30/2014.

Sections 3.05(C)-3.05(E)(2) eff. 11/14/2016.

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Tracking number: 2018-00023

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 04/11/2018

1 CCR 301-1

RULES FOR THE ADMINISTRATION OF THE ACCREDITATION OF SCHOOL DISTRICTS

The above-referenced rules were submitted to this office on 04/13/2018 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.

April 25, 2018 09:29:19

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Behavioral Health

CCR number

2 CCR 502-1

Rule title

2 CCR 502-1 BEHAVIORAL HEALTH 1 - eff 06/01/2018

Effective date

06/01/2018

(2 CCR 502-1)

21.281 INVOLUNTARY TRANSPORTATION FOR IMMEDIATE SCREENING

21.281.1 DEFINITIONS

"Facility" means any outpatient mental health facility or other clinically appropriate facility designated by the office of behavioral health as a seventy-two (72) hour treatment and evaluation facility that has walk-in capabilities and provides immediate screenings. If such a facility is not available, an emergency medical services facility, as defined in Section 27-65-102(5.5), C.R.S., may be used.

"Immediate screening" means the determination if an individual meets criteria for seventy-two (72) hour treatment and evaluation.

"Intervening professional" as defined in section 27-65-105(1)(a)(II), C.R.S., means a certified peace officer; a professional person; a registered professional nurse as defined in section 12-38-103(11), C.R.S. who by reason of postgraduate education and additional nursing preparation has gained knowledge, judgment, and skill in psychiatric or mental health nursing; a licensed marriage and family therapist, licensed professional counselor, or addiction counselor licensed under Part 5, 6, or 8 of Article 43 of Title 12, C.R.S., who by reason of postgraduate education and additional preparation has gained knowledge, judgment, and skill in psychiatric or clinical mental health therapy, forensic psychotherapy, or the evaluation of mental health disorders; or a licensed clinical social worker licensed under the provisions of Part 4 of Article 43 of Title 12, C.R.S.

"Involuntary transportation form" means the report and application allowing for immediate transport of an individual, in need of an immediate screening for treatment, to a clinically appropriate facility.

"Involuntary transportation hold" means the ability to transport an individual in need of an immediate screening to determine if the individual meets criteria for seventy-two (72) hour treatment and evaluation. Pursuant to Section 27-65-105(1)(a)(I.5), C.R.S., an intervening professional may involuntary transport an individual in need of an immediate screening from the community to an outpatient mental health facility or other clinically appropriate facility. The involuntary transportation hold does not extend or replace the timing or procedures related to a seventy-two (72) hour treatment and evaluation hold or an individual's ability to voluntarily apply for mental health services.

21.281.2 PROCEDURE

A. An individual may be placed on an involuntary transportation hold pursuant to section 27-65-105(1)(a)(I.5), C.R.S.

1. The involuntary transportation form shall be completed by an intervening professional and contain:

a. The circumstances under which the individual's condition was called to the intervening professional's attention;

b. The date and time the individual was placed on the involuntary transportation hold;

c. The name of the facility to which the individual will be transported; and,

d. The signature of the intervening professional placing the involuntary transportation hold.

2. A copy of the involuntary transportation form must be given to the facility and made part of the individual's medical record.

3. A copy of the involuntary transportation form must be given to the individual who was placed on the involuntary transportation hold.

B. The involuntary transportation hold expires:

1. Six (6) hours after it was placed; or,

2. Upon the facility receiving the individual for screening; thereby resolving the involuntary transportation hold.

C. The facility shall ensure that the immediate screening is completed to determine if the individual meets criteria for seventy-two (72) hour treatment and evaluation and follow standard procedures pursuant to section 27-65-105(1)(A)(I), C.R.S.

CYNTHIA H. COFFMAN
Attorney General

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Office of the Attorney General

Tracking number: 2017-00648

Opinion of the Attorney General rendered in connection with the rules adopted by the

Behavioral Health

on 04/06/2018

2 CCR 502-1

BEHAVIORAL HEALTH

The above-referenced rules were submitted to this office on 04/11/2018 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.

April 25, 2018 09:05:56

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 1 - eff 06/01/2018

Effective date

06/01/2018

DEPARTMENT OF REGULATORY AGENCIES

DIVISION OF INSURANCE

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

New Regulation 4-2-58

NON-DISCRIMINATORY COST-SHARING AND TIERING REQUIREMENTS FOR PRESCRIPTION DRUGS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-3-1110, 10-16-108.5(8), 10-16-109, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish rules for carriers regarding non-discriminatory cost-sharing and tiering requirements for prescription drugs.

Section 3 Applicability

This regulation applies to all Affordable Care Act-compliant individual and small employer health benefit plans issued or renewed on or after January 1, 2019. This regulation does not apply to catastrophic plans, grandfathered plans, large group plans, Health Savings Account (HSA)-qualified high deductible health benefit plans, limited benefit plans or short-term limited duration health insurance policies.

Section 4 Definitions

A. “Carrier” shall have the same meaning as found at § 10-16-102(8), C.R.S.

B. “Catastrophic plan” shall have the same meaning as found at § 10-16-102(10), C.R.S.

C. “Exchange” shall have the same meaning as found at § 10-16-102(26), C.R.S.

D. “Grandfathered health benefit plan” and “grandfathered plan” shall have the same meaning as found at § 10-16-102(31), C.R.S.

E. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.

F. “Limited benefit health plans” 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.

G. “Service area” means, for the purposes of this regulation, the area a carrier offers a plan or plans. Service areas may include specific zip codes, counties or may be statewide.

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

I. “Small employer” shall have the same meaning as found at § 10-16-102(61), C.R.S.

Section 5 Drug Tiering and Non-Discriminatory Plan Design

A. Individual and small employer carriers shall not discriminate against individuals based on health status or claims experience. Carriers shall not encourage or direct individuals or small employers to refrain from filing an application for coverage because of health status or claims experience by ensuring that:

1. No more than fifty percent (50%) of the drugs on a carrier’s formulary that are used to treat a specific condition are placed on the health benefit plan’s highest cost tier of the carrier;

2. The most recent clinical studies are used in developing plans to ensure consumers have access to screening and treatment in a timely manner;

3. The primary category and class for each drug will be utilized when calculating the fifty percent (50%) requirement, but secondary uses and off-label usage shall not be included in the calculation; and

4. Drugs not included on a carrier’s formulary shall not be considered as part of this calculation, including any drugs approved as part of the exception process.

B. Carriers may use appropriate disease management or utilization reviews as part of a plan design.

C. Carriers shall clearly and appropriately name all plans that have the copayment structure to aid in the consumer plan selection process.

Section 6 Required Drug Copayment-only Payment Structures

For each of a carrier’s service areas, no fewer than twenty-five (25%) percent of the plans offered for each metal level (Platinum, Gold, Silver and Bronze) must contain a copayment-only payment structure for all drug tiers. Carriers shall not apply the deductible or any coinsurance amount for these plans.

A. The highest allowable copayment for the highest cost drug tier(s) must be no greater than 1/12th of the plan’s “individual” annual out-of-pocket maximum.

B. For all other tiers, carriers shall not employ benefit designs that will have the effect of discouraging individuals with significant prescription needs from enrolling in certain health benefit plans.

C. Cost-sharing arrangements that utilize coinsurance up to a capped dollar amount maximum are not considered copayments and cannot be used to meet the all-copayment structure requirement.

D. Carriers must meet these requirements separately for plans offered on the Exchange and plans that are offered outside of the Exchange.

Section 7 Required Methodology

In order to determine compliance with the copayment requirements, carriers shall use the following calculation methodology:

A. The numerator shall contain the count of all plans that have a copayment-only payment structure for all drug tiers for each metal level in a service area.

B. The denominator shall contain the count of all plans, including plans with a copayment or coinsurance benefit, for each metal level in a service area. Catastrophic plans, grandfathered plans, large group plans and high deductible health plans that are HSA-qualified shall not be included in the total.

C. This calculation shall be completed and submitted separately for plans that are offered on the Exchange and for plans offered off of the Exchange.

D. Plans that are marketed both on and off of the Exchange must be included in the separate calculations for on-Exchange plans and off-Exchange plans.

E. Carriers that market all plans on the Exchange and off of the Exchange shall submit one calculation.

Section 8 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 9 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 10 Effective Date

This regulation shall become effective on June 1, 2018.

Section 11 History

New regulation effective June 1, 2018.

CYNTHIA H. COFFMAN
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Office of the Attorney General

Tracking number: 2018-00081

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 04/12/2018

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 04/13/2018 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.

April 17, 2018 16:13:45

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-2

Rule title

3 CCR 702-4 Series 4-2 LIFE, ACCIDENT AND HEALTH, Series 4-2 1 - eff 06/01/2018

Effective date

06/01/2018

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

Amended Regulation 4-2-57

NETWORK ADEQUACY STANDARDS AND REPORTING REQUIREMENTS FOR ACA-COMPLIANT STAND-ALONE DENTAL MANAGED CARE PLANS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109(1), 10-16-109, 10-16-704(1.5), and 10-16-708, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to provide carriers offering ACA-compliant stand-alone dental managed care plans with standards and guidance on Colorado filing requirements for managed care dental plan network adequacy filings. These standards shall serve as the measurable requirements used by the Division to evaluate the adequacy of carrier networks.

Section 3 Applicability

This regulation applies to all carriers marketing, issuing, and renewing ACA-compliant stand-alone dental managed care plans, including individual and small group dental managed care plans, subject to the individual and small group laws of Colorado. ACA-compliant health benefit plans with embedded dental benefits are excluded from this regulation.

Section 4 Definitions

A. Affordable Care Act, "ACA" or "PPACA" means, for the purposes of this regulation, The Patient Protection and Affordable Care Act, Pub. L. 111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152.

B. "Carrier" shall have the same meaning as found at § 10-16-102(8), C.R.S.

C. "Counties with Extreme Access Considerations" or "CEAC" means, for the purposes of this regulation, counties with a population density of less than ten (10) people per square mile, based on U.S. Census Bureau population and density estimates for calendar year 2013 (see Appendix A).

D. "Covered person" means, for the purposes of this regulation, a person entitled to receive benefits or services under a dental managed care plan.

E. "Dentist" and "Dental Provider" mean, for the purposes of this regulation, a dental provider who is skilled in and licensed to practice dentistry for patients in all age groups and is responsible for the diagnosis, treatment, management, and overall coordination of services to meet the patient's oral health needs.

F. "Dental managed care plan" means, for the purposes of this regulation, a dental plan that covers dental benefits obtained through a network of contracted dental providers.

G. "Embedded" means, for the purposes of this regulation, dental benefits provided as part of a health benefit plan, which may or may not be subject to the deductible, coinsurance, copayment and out-of-pocket maximum of the health benefit plan.

H. "Enrollment" means, for the purposes of this regulation, the number of covered persons enrolled in a specific dental plan or network.

I. "Essential community provider" or "ECP" means, for the purposes of this regulation, a provider that serves predominantly low-income, medically underserved individuals, including health care providers defined under part 4 of article 5 of title 25.5, C.R.S and at 45 C.F.R. § 156.235(c).

J. "Health benefit plan" shall have the same meaning as found at § 10-16-102(32), C.R.S.

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

L. "Material change" means, for the purposes of this regulation, changes in the dental carrier's network of providers or type of providers available in the network to provide dental services or specialty dental services to covered persons that render the carrier's network non-compliant with one or more network adequacy standards.

M. “Network” means, for the purposes of this regulation, a group of participating providers providing services under a dental managed care plan. Any subdivision or subgrouping of a network is considered a network if covered individuals are restricted to any benefit tiering for covered benefits under the dental managed care plan.

N. “Specialist” means, for the purposes of this regulation, a licensed provider in dentistry who has obtained additional education and/or certification to practice specialized treatment, such as pediatric, oral surgery, endodontics, periodontics, and orthodontics.

O. “Stand-alone dental plan” or “SADP” means, for the purposes of this regulation, a plan, separate from a managed care plan, which provides the pediatric dental essential health benefits required under the Affordable Care Act, and which has its own cost sharing and deductibles separate from a managed care plan.

Section 5 Rules

A. Network adequacy filings for ACA-compliant individual and small group SADPs shall be filed with the Division through the NAIC’s System for Electronic Rate and Form Filing (“SERFF”) prior to use and annually thereafter.

B. Network adequacy filings for ACA-compliant SADPs shall consist of the documents listed below. Instructions for preparation of these documents will be published on an annual basis.

C. The “ACA-Compliant Dental Carrier Network Adequacy Summary and Attestation Form” shall be submitted as part of the network adequacy form filing.

Section 6 Dental Network Adequacy Standards

A. The carrier shall attest that at least one (1) providers listed below is available within the maximum road travel distance of any enrollee in each specific Colorado service area, as defined in Appendix A of this regulation:

Geographic Type					
Provider Type – the plan provides access to at least one dental provider for at least 90% of the enrollees	**Large Metro**	**Metro**	**Micro**	**Rural**	**CEAC**
	Maximum Road Travel Distance (Miles)	Maximum Road Travel Distance (Miles)	Maximum Road Travel Distance (Miles)	Maximum Road Travel Distance (Miles)	Maximum Road Travel Distance (Miles)
Dentist	15	30	60	75	110

B. Access standards may require that a policyholder cross county or state lines to reach a provider.

Section 7 Essential Community Provider Standards for ACA-Compliant Individual and Small Group Stand-Alone Dental Plans

A. Carriers issuing ACA-Compliant SADPs in the individual and small group markets are required to have a sufficient number and geographic distribution of ECPs, where available.

B. Carriers shall ensure the inclusion of a sufficient number of ECPs to ensure reasonable and timely access to a broad range of ECPs for low-income, medically underserved individuals in their service areas.

C. Carriers shall meet one (1) of the two (2) federal ECP standards for carrier ECP submissions, and the carrier shall submit one (1) of the following ECP standards to the Division for review:

1. General ECP Standard. Carriers utilizing this standard shall demonstrate in their "ECP/Network Adequacy Template" that at least thirty percent (30%) of available ECPs in each plan's service area participate in the plan's network. This standard applies to all carriers except those who qualify for the alternate ECP standard; or

2. Alternate ECP Standard. The Centers for Medicare & Medicaid Services (CMS) defines a carrier that provides a majority of covered professional services through physicians it employs or through a single contracted medical group as subject to the Alternate ECP Standard. Carriers utilizing this standard shall demonstrate in their "ECP/Network Adequacy Template" and justifications, that they have the same number of ECPs as defined in Section 7.C.1. Carriers utilizing the Alternate ECP standard shall certify that their ECPs are located within Health Professional Shortage Areas (HPSAs) or five-digit ZIP codes in which thirty percent (30%) or more of the population falls below 200 percent (200%) of the federal poverty level (FPL).

Section 8 Annual Dental Network Adequacy Reporting Requirements for Individual and Small Group ACA-Compliant Stand-Alone Dental Plans

A. Annual individual and small group ACA-compliant SADP network adequacy filings shall consist of two (2) sections, the Essential Community Providers(ECP)/Network Adequacy Template filing in the Plan Management (Binder) section in SERFF, and a network adequacy form filing in SERFF. All network adequacy documents will be filed by carrier network, rather than by plan type or group size. Each network that is included on the network templates filed in any of a carrier's binder filings shall be included in the carrier's ECP/Network Adequacy Template filing. Templates and instructions specified by the Insurance Commissioner shall be used, and will be made available to carriers annually.

1. The binder/template section of the filing shall consist of the submittal of the "ECP/Network Adequacy Template" in each applicable binder. The "ECP Write-in Worksheet", if applicable, will be filed on the "Supporting Documentation" tab.

2. The network adequacy form filing section shall consist of filing the following documents on the "Supporting Documentation" tab in the network adequacy form filing filed with TOI code NA001.0004:

a. "Network Access Plans";

b. Dental enrollment documents;

c. Screen prints of provider directories for each network;

d. Maps;

e. "Essential Community Provider supplemental response form"; and

f. "ACA-Compliant Dental Carrier Network Adequacy Summary and Attestation Form".

B Elements of the Binder Filing.

1. All carriers shall submit network provider and facility listings on the "ECP/Network Adequacy Template" in the binder filing. All ECPs in each network shall be included in this template. The templates shall be completed and filed as described in the Division instructions, published on an annual basis. Templates require validation before submittal to the Division. Carriers shall submit a justification for any requirements that are not met in the network adequacy form filing.

2. The "ECP Write-in Worksheet", if applicable, shall be filed on the "Supporting Documentation" tab of the binder filing

C. Elements of the Network Adequacy Form Filing.

1. All carriers shall submit a "Network Access Plan" for each network, pursuant to § 10-16-704(9), C.R.S., as described in Appendix B. Network access plans shall be used by carriers to describe their policies and procedures for maintaining and ensuring that their networks are sufficient and consistent with state and federal requirements.

   a. Carriers shall prepare and file an access plan prior to offering a new dental network, and shall update an existing access plan, within fifteen (15) business days, whenever the carrier makes any material change to an existing dental network, and shall file the current access plan with the Division not less often than annually.

   b. A carrier shall make the access plans, absent confidential information, available and shall provide them within five (5) business days of request.

   c. All of a carrier's dental managed care plans and the associated marketing materials shall clearly disclose the existence and availability of the access plan.

   d. All rights and responsibilities of the covered person under the dental managed care plan shall be included in the contract provisions of the dental managed care plan, regardless of whether or not such provisions are also specified in the access plan.

   e. Network access plans and confidentiality.

      (1) All network access plans submitted in the network adequacy form filing shall be open to public inspection, unless a carrier asserts that specific information contained in the access plan should be held confidential pursuant to § 24-72-204, C.R.S.

      (2) If a carrier asserts that specific information contained in the network access plan is to be held confidential, a second network access plan must be filed with the Division that redacts the potentially confidential information. Statutory justifications for each redaction made must also be filed with the redacted network access plan.

      (3) Redacted network access plans shall be filed as separate SERFF components on the "Supporting Documentation" tab.

      (4) Redacted network access plans shall be made available through access to SERFF network adequacy filings on the Division of Insurance's (Division's) website, and on the carrier's website.

2. All carriers shall submit a "Dental Enrollment Document," containing separate spreadsheets for each network. Enrollment document instructions will be provided to each carrier by the Division. Enrollment documents shall be submitted in an Excel format using

the “DOI Dental Enrollment Document Template”. Counts used for this document shall be based on the projected enrollment of all members in the carrier’s individual, small group and large group dental plans utilizing that specific network.

3. Provider directories are comprehensive listings, produced and maintained by the carrier, made available to covered persons and the public, of the plan's participating providers in each of the carrier’s networks. Provider directories maintained by a carrier or its designee shall meet the general provider directory requirements, as applicable to dental managed care plans, required in Colorado statute and regulation. Provider directories shall be updated no less frequently than monthly. Documentation (screen shots) of provider directories for each carrier shall be filed with the Division annually. Instructions for preparation of the screen shots will be published by the Division on an annual basis.

4. All carriers shall submit maps showing geographic access standards for selected providers for each network. Instructions for preparation of these documents and the providers to be included will be published by the Division on an annual basis.

5. If a carrier does not meet the Colorado thirty percent (30%), as specified by Colorado, ECP standard, the carrier shall submit a copy of the completed “ECP Supplementary Response Form”, providing a justification for all requirements that are not met, as part of its annual network adequacy filing~~,~~. This form is found in Appendix C of this regulation. The justification shall include the reason that the requirement was not met and the corrective action(s) that shall be taken by the carrier. The Division will review the justification and provide feedback on a case-by-case basis.

Section 9 Required Attestations

A. A carrier shall attest that each of its dental managed care plans will maintain a provider network(s) that meets the standards contained in this regulation, and that each provider network is sufficient in number and types of providers, to assure that the services will be accessible without unreasonable delay.

B. A carrier shall attest that each of its ACA-compliant dental managed care plans will include in its provider network(s) a sufficient number and geographic distribution of ECPs, where available, to ensure reasonable and timely access to a broad range of such providers for low-income, medically underserved individuals in their service areas.

C. A carrier shall attest that each of its dental benefit plans will maintain adequate provider directories for each network.

D. Attestations for individual and small group ACA-compliant dental plans shall be made on the “ACA-Compliant Dental Carrier Network Adequacy Summary and Attestation Form” submitted with the network adequacy form filing. This document is available in SERFF and at the Division website. The instructions for its completion are found in Appendix D.

Section 10 Severability

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

Section 11 Incorporated Materials

The Patient Protection and Affordable Care Act, Pub. L. 111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152, published by the Government Printing Office shall mean The Patient Protection and Affordable Care Act, Pub. L. 111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152, as published on the effective date of this regulation and does not include later amendments to or editions of The Patient Protection and Affordable Care Act, Pub. L.

111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152. A copy of The Patient Protection and Affordable Care Act, Pub. L. 111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152 may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of The Patient Protection and Affordable Care Act, Pub. L. 111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152 may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.congress.gov.

45 CFR § 156.235(c) published by the Government Printing Office shall mean 45 CFR § 156.235(c) as published on the effective date of this regulation and does not include later amendments to or editions of 45 CFR § 156.235(c). A copy of 45 CFR § 156.235(c) may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of 45 CFR § 156.235(c) may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.ecfr.gov.

The Model QHP Addendum for Indian Health Care Providers published by the Department of Health and Human Services shall mean the Model QHP Addendum for Indian Health Care Providers as published on the effective date of this regulation and does not include later amendments to or editions of The Model QHP Addendum for Indian Health Care Providers. A copy of The Model QHP Addendum for Indian Health Care Providers may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado, 80202. A certified copy of The Model QHP Addendum for Indian Health Care Providers may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, CO 80202. A charge for certification or copies may apply. A copy may also be obtained online at www.cms.gov.

Section 12 Enforcement

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

Section 13 Effective Date

This amended regulation shall become effective on June 1, 2018.

Section 14 History

New regulation effective January 1, 2017.

Amended regulation effective June 1, 2018.

APPENDIX A – DESIGNATING COUNTY TYPES

The county type, Large Metro, Metro, Micro, Rural, or Counties with Extreme Access Considerations (CEAC), is a significant component of the network access criteria. The Centers for Medicare and Medicaid Services (CMS) uses a county type designation methodology that is based upon the population size and density parameters of individual counties.

Density parameters are foundationally based on approaches taken by the U.S. Census Bureau in its delineation of “urbanized areas” and “urban clusters”, and the Office of Management and Budget (OMB) in its delineation of “metropolitan” and “micropolitan”. A county must meet both the population and density thresholds for inclusion in a given designation. For example, a county with population greater than one million and a density greater than or equal to 1,000 persons per square mile (sq. mile) is designated “Large Metro.” Any of the population-density combinations listed for a given county type may be met for inclusion within that county type (i.e., a county would be designated “Large Metro” if any of the three (3) Large Metro population-density combinations listed in the following table are met; a county is designated as “Metro” if any of the five (5) Metro population-density combinations listed in the table are met; etc.).

Population and Density Parameters

County Type	Population	Density
Large Metro	≥ 1,000,000	≥ 1,000/sq. mile
---	500,000 – 999,999	≥ 1,500/ sq. mile
---	Any	≥ 5,000/ sq. mile
Metro	≥ 1,000,000	10 – 999.9/sq. mile
---	500,000 – 999,999	10 – 1,499.9/sq. mile
---	200,000 – 499,999	10 – 4,999.9/sq. mile
---	50,000 – 199,999	100 – 4,999.9/sq. mile
---	10,000 – 49,999	1,000 – 4,999.9/sq. mile
Micro	50,000 – 199,999	10 – 99.9 /sq. mile
---	10,000 – 49,999	50 – 999.9/sq. mile
Rural	10,000 – 49,999	10 – 49.9/sq. mile
---	<10,000	10 – 4,999.9/sq. mile
CEAC	Any	<10/sq. mile

COLORADO COUNTY DESIGNATIONS

County	Classification
Adams	Metro
Alamosa	Rural
Arapahoe	Metro
Archuleta	CEAC
Baca	CEAC
Bent	CEAC
Boulder	Metro
Broomfield	Metro
Chaffee	Rural
Cheyenne	CEAC
Clear Creek	Rural
Conejos	CEAC
Costilla	CEAC
Crowley	CEAC
Custer	CEAC
Delta	Rural
Denver	Large Metro
Dolores	CEAC
Douglas	Metro
Eagle	Micro
Elbert	Rural
El Paso	Metro

County	Classification
Fremont	Rural
Garfield	Micro
Gilpin	Rural
Grand	CEAC
Gunnison	CEAC
Hinsdale	CEAC
Huerfano	CEAC
Jackson	CEAC
Jefferson	Metro
Kiowa	CEAC
Kit Carson	CEAC
Lake	Rural
La Plata	Micro
Larimer	Metro
Las Animas	CEAC
Lincoln	CEAC
Logan	Rural
Mesa	Micro
Mineral	CEAC
Moffat	CEAC
Montezuma	Rural
Montrose	Rural

County	Classification
Morgan	Rural
Otero	Rural
Ouray	CEAC
Park	CEAC
Phillips	CEAC
Pitkin	Rural
Prowers	CEAC
Pueblo	Micro
Rio Blanco	CEAC
Rio Grande	Rural
Routt	CEAC
Saguache	CEAC
San Juan	CEAC
San Miguel	CEAC
Sedgwick	CEAC
Summit	Rural
Teller	Rural
Washington	CEAC
Weld	Metro
Yuma	CEAC

APPENDIX B – DENTAL NETWORK ACCESS PLAN INSTRUCTIONS

The carrier shall address the following in the network access plan for each dental network offered by the carrier:

1. Network Composition, Identification of Provider Criteria
   a. The factors a carrier uses to build its dental provider network, including a description of the network; and
   b. The carrier's quality assurance standards, which shall be adequate to identify, evaluate, and remedy problems relating to access, continuity, and quality of care criteria used to select and/or tier providers.
2. Network Standards and Adequacy
   a. The carrier's criteria for assessing network adequacy;
   b. A statement verifying the carrier's adequate networks; and
   c. The carrier's description of specific actions to be taken, including remedies, timeframes, schedule for implementation, and proposed notification and communications with the Division, providers and policyholders, if a network is found to be inadequate.
3. Network Monitoring and Corrective Action Processes
   a. The carrier's documented quantifiable and measureable process for monitoring and assuring the sufficiency of the network in order to meet the managed care needs of populations enrolled in dental managed care plans on an ongoing basis; and
   b. The carrier's process to assure that a covered person is able to obtain a covered benefit at the in-network level of benefit from a non-participating provider should the carrier's network prove to not be sufficient.
4. Referral Process
   a. A comprehensive listing, made available to covered persons and medical/dental providers, of the carrier's network participating providers;

   b. A provision that referral options cannot be restricted to less than all providers in the network that are qualified to provide covered specialty services; except that a managed care plan may offer variable deductibles, coinsurance and/or copayments to encourage the selection of certain providers;

   c. A managed care plan that offers variable deductibles, coinsurance, and/or copayments shall provide adequate and clear disclosure, as required by law, of variable deductibles and copayments to policyholders, and the amount of any deductible or copayment shall be reflected on the benefit card provided to the enrollees;

   d. Timely referrals for access to specialty care;

   e. A process for expediting the referral process when indicated by the health condition;

   f. A provision that referrals approved by the carrier cannot be retrospectively denied except for fraud or abuse;

   g. A provision that referrals approved by the carrier cannot be changed after the preauthorization is provided unless there is evidence of fraud or abuse; and

   h. The carrier's process allowing covered persons to access services outside the network when necessary.
5. Communications
   A carrier shall address its method for informing policyholders of the plan's services and features through disclosures and notices to policyholders in the network access plan for each network offered by the carrier.
6. Patients with Special Needs

The carrier's documented process to address the needs, including access and accessibility of services, of policyholders with limited English proficiency and illiteracy, with diverse cultural and ethnic backgrounds, and with physical and/or mental disabilities.

7. Grievance and Appeal Procedures

The carrier's grievance procedures, which shall be in conformance with Division rules concerning prompt investigation of claims involving utilization review and grievance procedures.

8. Coordination and Continuity of Care

Carriers shall ensure sufficient continuity of care provisions for their policyholders.

a. A carrier and participating provider shall provide at least sixty (60) days written notice to each other before a provider is removed or leaves the network without cause.

b. Irrespective of whether it is for cause or without cause or due to non-renewal of a contract, the carrier shall make a good faith effort to provide both written notice of a provider's removal, leaving, or non-renewal from the network, and the provider information contained in regulation, within fifteen (15) working days of receipt or issuance of a notice provided in accordance with this regulation. This notice shall be provided to all covered persons who are identified as patients by the provider, are on a carrier's patient list for that provider, or who have been seen by the provider being removed or leaving the network within the previous six (6) months.

c. A covered person shall have been undergoing treatment, or have been seen at least once in the previous twelve (12) months, by the provider being removed or leaving the network for that covered person to be considered in an active course of treatment.

d. A carrier shall establish reasonable procedures to transition the covered person who is in an active course of treatment to a participating provider in a manner that provides for continuity of care when a covered person's provider leaves or is removed from the network.

e. A carrier shall make available to the covered person a list of available participating providers who are accepting new patients in the same geographic area and specialty provider type, or a referral to a provider if there is no participating provider available, who is of the same provider or specialty type. The carrier shall provide information about how the covered person may request continuity of care as required by this regulation.

f. A carrier's transition procedures shall provide that:

(1) A carrier shall review requests for continuity of care made by the covered person or the covered person's authorized representative;

(2) Requests for continuity of care shall be reviewed by the carrier's Medical/Dental Director after consultation with the treating provider. This requirement applies to:

(a) Patients who meet the applicable criteria listed in this regulation; and

(b) Who are under the care of a provider who has not been removed or leaving the network for cause;

(3) The continuity of care period for covered persons what are undergoing an active course of treatment shall extend to the earlier of:

(a) The termination of the course of treatment by the covered person or the treating provider;

(b) Ninety (90) days after the effective date of the provider's departure or termination from the network, unless the carrier's Medical/Dental Director determines that a longer period is necessary;

(c) The date that care is successfully transitioned to a participating provider;

(d) Benefit limitations under the plan are met or exceeded;

(e) The date that the coverage is terminated; or

(f) The care is no longer medically necessary.

g. In addition to the provisions of item 8 of Appendix B of this regulation, a continuity of care request may only be granted when the provider departing or terminated from the network:

(1) Agrees in writing to accept the same payment from and abide by the same terms and conditions with respect to the carrier for that patient as provider in the original provider contract, or by the new payment and terms agreed upon and executed between the provider and the carrier; and

(2) Agrees in writing not to seek any payment from the covered person for any amount for which the covered person would not have been responsible if the provider were still a participating provider.

h. The obligation to hold the patient harmless for services rendered in the provider's capacity as a participating provider survives the termination of the provider contract. The hold harmless obligation does not apply to services rendered after the termination of the provider contract, except to the extent that the in-network relationship is extended to provide continuity of care.

APPENDIX C – ECP SUPPLEMENTARY RESPONSE FORM

Instructions for Submitting a Supplementary Response

Please answer the questions below regarding access to essential community providers in the carrier's proposed service area(s). Please be as complete and specific as possible in each of your responses. In order to be considered complete, the supplementary response shall contain an appropriate explanation for each applicable question. Please note that if the carrier is applying in multiple service areas, the response shall address each service area.

Carriers that do not qualify for the alternate ECP standard shall complete Section 1. Carriers that qualify for the alternate ECP standard shall complete Section 2.

Section 1: Instructions for Carriers Subject to the General ECP Standard

For carriers that qualify for the general ECP standard: Please indicate which portion of the general ECP standard that the carrier does not meet (check all that apply), and respond to each applicable question.

Instructions for Carriers Subject to the General ECP Standard	Instructions	Check all that apply
A. Does not offer a contract to all Indian health providers in the service area.	Complete Question #1	
B. Does not offer a contract to at least one ECP in each available ECP category in each county in the service area	Complete Question #2	
C. Carrier's plan network does not include at least thirty percent (30%) of available ECPs in the service area.	Complete Question #3	

1. The carrier does not offer a contract to all Indian health providers in the service area using the recommended "Model QHP Addendum for Indian Health Care Providers" developed by the Department of Health and Human Services. How will the carrier's provider network(s), as currently structured, provide adequate access to care for American Indians/Alaska Natives?

2. The carrier does not offer a contract to at least one (1) ECP in each available ECP category[1] in each county in the service area. How will the carrier's provider networks, as currently structured, provide access to a broad range of ECP types?

   [1] *ECP categories include: federally qualified health centers; Indian health providers; hospitals; and other providers. If the carrier's plans do not include at least thirty percent (30%) of available ECPs in the service area, please respond to questions 3-5.*

3. Describe why the carrier is unable to achieve the thirty percent (30%) standard for ECPs. The response must address the carrier's efforts to contract with additional ECPs (including provider information and contract offer dates, as applicable) and why those efforts have been unsuccessful. Please be as specific as possible in your response. Please be sure to indicate:

   a. Number of contracts offered to ECPs for the plan benefit year;

b. Names of the ECPs to which the carrier has offered contracts, but an agreement with the providers has not yet been reached. For example, the carrier may want to indicate whether contract negotiations are still in progress or the extent to which the carrier was not able to agree on contract terms with available ECPs (and if so, which terms).

4. Describe how the carrier plans to increase ECP participation in its provider networks in the future. Identify the number of additional contracts carrier expects to offer for the plan benefit year and the timeframe of those planned negotiations.

5. Describe how the carrier's provider networks, as currently structured; provide an adequate level of service for low-income and medically underserved individuals. Please be specific in your response.

    a. Describe how the carrier's current networks provide adequate access to care for individuals with HIV/AIDS and those with co-morbid behavioral health conditions.

    b. Describe how the carrier's current networks provide adequate access to care for American Indians and Alaska Natives.

Section 2: Instructions for Carriers that Qualify for the Alternate ECP Standard

For carriers that qualify for the alternate ECP standard: If the number of the carrier's providers that are located in, or contiguous to, Health Professional Shortage Areas (HPSA) or zip codes in which thirty percent (30%) or more of the population falls below 200 percent of the federal poverty level is fewer than the equivalent of thirty percent (30%) of available ECPs in the service area, please respond to each question below.

1. Describe why the carrier's plan does not meet the equivalent of the thirty percent (30%) threshold, and any plans to provide additional access to low-income and medically underserved consumers in the future.
2. Describe how the carrier's provider networks, as currently structured, provide an adequate level of service for low-income medically underserved individuals. Please be specific in your response.
3. Describe how the carrier's current networks provide adequate access to care for individuals with HIV/AIDS and those with co-morbid behavioral health conditions.
4. Describe how the carrier's current networks provide adequate access to care for American Indians/Alaska Natives.

APPENDIX D – ACA-COMPLIANT DENTAL CARRIER NETWORK ADEQUACY SUMMARY AND ATTESTATION FORM AND INSTRUCTIONS

The ACA-Compliant Dental Carrier Network Adequacy Summary and Attestation Form is a Colorado-specific consumer-facing three-page summary and attestations document. The form is available on SERFF and on the Division's website.

Network adequacy filings are filed by CARRIER NETWORK, not by plan type or group size. Multiple networks can be filed in one (1) filing. Please list all networks to which the form applies, by network name, on the first page of the form.

The summary document has been split into sections based on Colorado Insurance Regulation 4-2-57, followed by attachments.

Network Adequacy

The first questions specifically address the adequacy of each network, as specified in Colorado Insurance Regulation 4-2-57. If a "no" answer is provided for S-1. and/or S-2., further narrative explanation shall be provided in Attachment A, using the question number (S-x) to identify the appropriate response.

The next questions on page one apply to the network adequacy filing and "Applicable Geographic Access Standards." If "no" answers are provided regarding geographic access standards, Attachment B shall be completed with the listing of specific standards that are not being met. The instructions for each attachment follow these instructions.

Network Access Plans and Continuity of Care

This section consists of three (3) questions with "Yes/No" answers. If "no" answers are provided for any of the questions, further explanation shall be provided in Attachment A. The URL location of the carriers' network access plan(s) shall be listed on this page. The URL cannot be the general carrier website, but shall direct the reader within two (2) clicks of the network access plan. Access plans shall be clearly labeled with the network(s) that they cover.

Two (2) additional questions shall be completed in this section. The questions are as follows:

1. How does a consumer gain access to an out-of-network provider at in-network rates if an in-network provider is not available?

2. How does a consumer gain access to continuity of care if a provider is no longer in-network?

The carrier shall provide brief descriptions of processes a covered person should use to deal with either of these network access issues. This description shall be as simple as possible, and include customer service websites and/or phone numbers. The location (page number, section, etc.) of a more complete explanation of the process, in the non-confidential network access plan and/or evidence of coverage, or other document available to the covered person shall be listed as well. If additional space is required for the explanation, please reference an additional page and use the additional page so the entire explanation can be read by the consumer.

Provider Directories

The first question specifically addresses the provider directory for each network, as specified in Section 8.C.3. of Colorado Insurance Regulation 4-2-57. If a "no" answer is provided for this question, further narrative explanation shall be provided in Attachment A, using the question number (S-6.) to identify the appropriate response.

One additional question regarding consumer access to a print or hard copy of a provider directory shall be answered in this section. This access answer shall be as simple as possible and include customer service websites and/or phone numbers. The URL location of the carrier's provider directories shall be listed on this page. The Division will use the addresses listed here to access and review provider directories as specified in Section 8.C.3. of Colorado Insurance Regulation 4-2-57.

Attestation

The ACA-Compliant Dental Carrier Network Adequacy Summary and Attestation Form shall be signed and dated by an authorized officer of the filing entity. The carrier name shall also be entered. If the individual signing the attestation is other than the president, vice president, assistant vice president, corporate secretary, assistant corporate secretary, CEO, CFO, COO, general counsel, or an actuary who is also a corporate officer, include documentation that shows that the Board of Directors has appointed this individual as an officer of the organization. The signature shall be an original signature of an authorized officer of the filing entity. Electronic signatures are not acceptable unless provided through a signature verification provider such as VeriSign.

ATTACHMENTS

Attachment A – Statutory/Regulatory Requirements Not Met

If a "no" answer is made on any of the statutory questions, numbered S-1 through S-6, an explanation shall be included in Attachment A. While there is no limit on the size of the explanation, please remember these explanations need to be written for consumer review. References can/should be made to other attachments and to specific sections of network access plans as appropriate; however, explanation sufficient for consumers and the Division shall be included.

Attachment B – Network Geographic Access Standards Not Met and What Corrective Actions will be Taken

Attachment B shall be completed with the specific geographic access standards that are not being met. Individual networks shall be listed on separate rows. "Reasons standards are not met" shall also be listed on separate rows. Possible reasons for not meeting geographic access standards may include, but are not limited to, "not enough, or no providers within __ miles", or "not enough contracted providers within __ miles." Please remember that geographic access standards may require that a covered person cross county or state lines to reach a provider. Provider types and counties may be combined in single entries to reduce repetition; however, the Division reserves the right to request more detail if the entries are found to be confusing. Separating county types (large metro, metro, micro, rural, and CEAC) is suggested for clarity. If additional space is required for the explanation, please reference an additional page and use the additional page so the entire explanation can be read by the consumer.

Attachment B shall also provide a summary of the corrective actions that will be taken to remedy inadequate networks. The carrier shall explain/describe actions to be taken, as required by item 3. of Appendix B of Colorado Insurance Regulation 4-2-57. Attachment B may reference the non-confidential network access plan for additional details, but the attachment shall summarize the actions to be taken. If additional space is required for the explanation, please reference an additional page and use the additional page so the entire explanation can be read by the consumer.

NOTE: The submittal of Attachment B does not serve as notification or communication with the Division, providers and/or policyholders.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

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Office of the Attorney General

Tracking number: 2018-00080

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 04/12/2018

3 CCR 702-4 Series 4-2

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

The above-referenced rules were submitted to this office on 04/13/2018 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.

April 17, 2018 16:13:25

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Insurance

CCR number

3 CCR 702-4 Series 4-7

Rule title

3 CCR 702-4 Series 4-7 LIFE, ACCIDENT AND HEALTH, Series 4-7 1 - eff 06/01/2018

Effective date

06/01/2018

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-4

LIFE, ACCIDENT AND HEALTH

New Regulation 4-7-03

STANDARDS FOR HEALTH MAINTENANCE ORGANIZATIONS

Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 10-16-402, and 10-16-416, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish standards to ensure that each health maintenance organization (HMO) licensed in Colorado is delivering quality health care services and each HMO seeking licensure in Colorado has an ongoing quality assurance program and procedures to compile, evaluate and report measures and statistics relating to the costs of its operation, pattern of utilization of services, the availability and accessibility of services, outcomes of care, and such other matters as may be reasonably required by the Commissioner of Insurance.

Section 3 Applicability

This regulation shall apply to all HMOs that are licensed or seeking licensure in Colorado.

Section 4 Definitions

A. "Adverse determination" means, for the purposes of this regulation, a determination by an HMO that an admission, availability of care, continued stay or other health care service has been reviewed and, based upon the information provided, does not meet the HMO's requirement for medical necessity, appropriateness, health care setting, level of care or effectiveness, and the requested service or coverage for the requested service is therefore denied, reduced or terminated.

B. “Commissioner” means, for the purposes of this regulation, the Colorado Commissioner of Insurance.

C. "Facility" means, for the purposes of this regulation, an entity providing health care services or a health care setting, including but not limited to hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory and imaging centers, and rehabilitation and other therapeutic health settings.

D. "Health care professional" means, for the purposes of this regulation, a physician or other health care practitioner licensed, accredited, or certified to perform specified health services consistent with state and federal statutes.

E. “Health Maintenance Organization” or “HMO” shall have the same meaning as found at § 10-16-102(36), C.R.S.

F. "Provider" means, for the purposes of this regulation, a health care professional or a facility.

Section 5 Accreditation Reviews

A. The Commissioner may consider the results of a current accreditation review by a nationally recognized private accrediting entity or of another state entity, with established and maintained standards, as evidence of meeting some or all of the requirements concerning quality assurance, access to care, utilization review, and credentialing.

B. The submission of a current accreditation review does not exempt a HMO from the requirement to submit documentation, as requested by the Commissioner, to demonstrate that the HMO meets or exceeds all state statutory and regulatory requirements.

C. A HMO that has undergone an accreditation review is not exempt from compliance with all financial and market regulation exam requirements found at §§ 10-1-201, et seq., 10-1-301, et seq., and 10-16-416, C.R.S.

Section 6 Quality Assurance

A. Each HMO shall establish and maintain an ongoing program for quality assurance accountable to the HMO's governing body. The quality assurance program shall systematically monitor and evaluate the quality and appropriateness of health care services; shall develop and implement methods to resolve identified problems; and shall monitor the implementation of corrective measures to ensure their effectiveness. The evaluation of the quality and appropriateness of health care services shall be prospective, concurrent, and retrospective. The program shall be designed to improve the delivery of health care services and outcomes.

B. The quality assurance program shall implement a written plan that is evaluated at least annually and updated as necessary. The plan shall describe:

1. The program's mission, philosophy, goals and objectives;

2. The program's organizational structure and the job titles of the personnel responsible;

3. Specific diagnoses, conditions or treatments targeted for review by the program and focused studies designed to improve health care services and health outcomes;

4. Mechanisms to evaluate the health of enrollees and the results of treatment and outcomes of health care services in relation to reference data bases, such as current medical research, knowledge, standards and practice guidelines;

5. Mechanisms by which the findings generated by the quality assurance program, including preventive services, shall be used on a continuing basis by providers and other staff to improve the health of enrollees;

6. Mechanisms for the evaluation of the clinical performance of providers; and

7. Confidentiality policies and procedures for enrollee health information considered under the quality assurance program.

C. The quality assurance program shall be directed by a licensed physician or alternatively there shall be substantial input from one or more licensed physicians. The clinical elements of the quality assurance program shall be under the direction of a licensed physician.

D. The quality assurance program shall include preventive services for enrollees that are designed to reduce the rate of occurrence or the likelihood of morbidity, disability or mortality resulting from illness or injury. The program shall strive to meet public and community health goals as well as to improve the health of the plan's enrollees. Programs may include, but are not limited to:

1. Prevention, screening and treatment of environmental diseases;

2. Prevention and treatment of communicable diseases, including vaccine preventable diseases and tuberculosis;

3. Prevention and treatment of tobacco, alcohol or drug addictions;

4. Prevention and treatment of injuries; and

5. Prevention and treatment of chronic diseases and disabilities, and the prevention of complications directly caused thereby.

E. In order for the HMO to conduct effective quality assurance and utilization review programs, each HMO shall develop written medical record policies and procedures and implement a medical records monitoring system that requires the maintenance of medical records by providers that are current, organized, and detailed. Such medical records monitoring system shall facilitate documentation and retrieval of clinical information. The HMO shall institute procedures to safeguard the confidentiality of individual enrollee medical records. Such records shall include, at a minimum, the following information:

1. The enrollee's name, identification number, date of birth, gender and place of residence;

2. Services delivered, including when, where and by whom services were provided; and

3. Medical diagnoses, treatments and therapies prescribed, medications administered or prescribed, referrals and follow-up arrangements.

F. New, amended, and extended contracts between the HMO and providers managed, owned, under contract with or employed by the HMO shall include provisions requiring the sharing between providers, who are treating or who have treated the same enrollee, of medical record information which facilitates the continuity of health care services, consistent with state and federal statutes and regulations.

G. The quality assurance program shall foster the provision of enrollee education relating to the prevention of illness and injury and the management of chronic illnesses and disabilities.

H. Each HMO shall coordinate the quality assurance program with the utilization review and the credentialing functions conducted by the HMO.

I. Each HMO shall make available to the Commissioner, upon request and in the form prescribed, documentation demonstrating the capacity to implement and/or the implementation of the quality assurance program including, but not limited to, the quality assurance plan, policies and procedures, program minutes, annual summary reports of quality assurance activities and evaluations, and focused or special studies.

Section 7 Community Outreach

In order to increase access to care to enrollees, HMOs are encouraged to develop community outreach efforts, including but not limited to:

A. Making provisions for delivery of health care services, including community-based services, to persons with disabilities and chronic illnesses, and to high risk or underserved populations;

B. Establishing ongoing collaborative arrangements with public health services, school-based health centers, community clinics, social service agencies, or other health related services or agencies; and

C. Developing culturally competent systems of care.

Section 8 Utilization Review

A. Each HMO shall implement a written utilization review plan that describes all review activities for covered services provided. The utilization review program, which shall be accountable to the HMO governing body, shall be designed to improve health care outcomes; determine patterns of over- and under-utilization of tests, procedures, and services; monitor issues and data associated with adverse determinations; and implement improvements to health care services and delivery. The program shall include:

1. A medical director who is a licensed physician;

2. Procedures to evaluate concurrently, prospectively, and retrospectively the clinical necessity, appropriateness and efficacy of health services, procedures, or settings;

3. Review of medication usage;

4. Procedures to ensure that any denials of health care services are signed by a licensed physician as required by Colorado law;

5. Mechanisms to ensure consistent and fair application of utilization review criteria, including preauthorization criteria;

6. Data sources and documented clinical review criteria based on sound clinical evidence which are evaluated periodically to assure ongoing efficacy;

7. Mechanisms to assess periodically utilization review activities, report the results to providers and to the HMO's governing body and implement corrective measures as necessary; and

8. Confidentiality policies and procedures for enrollee health information considered under the utilization review program.

B. Each HMO shall make available to the Commissioner, upon request and in the form prescribed, documentation demonstrating the capacity to implement and/or the implementation of the utilization review program including, but not limited to, the utilization review plan, policies and procedures, program minutes, annual summary reports of its utilization review program activities and evaluations in different service areas.

C. Each HMO must comply with the requirements found at §§ 10-16-113 and 10-16-113.5, C.R.S.

Section 9 Credentialing and Organizational Structure

A. Each HMO shall:

1. Develop and implement a credentialing and recredentialing plan that verifies that all employed and contractual health care professionals who provide health care services to enrollees are licensed, if required, and have all the necessary and appropriate certification and accreditation. If the HMO contracts with health care professionals affiliated with an entity which conducts credentialing for its personnel, verification shall, at minimum, take the form of ascertaining that the entity's credentialing and recredentialing process is in compliance with the requirements of these regulations. The HMO shall reverify the credentials of health care professionals as often as necessary but not less frequently than once every three years. The HMO shall verify the credentials of health care professionals before employing or entering into contracts with such health care professionals;

2. Utilize health care facilities that are licensed, if required, and certified as a provider or supplier for Medicare or Medicaid, if required; and

3. Have, at minimum, a medical director who is a licensed physician designated by the governing body who shall oversee the quality of health care services rendered to enrollees.

B. Each HMO shall make available to the Commissioner upon request and in the form prescribed, documentation demonstrating the capacity to implement and/or the implementation of the credentialing and recredentialing plan, and of methods used to ensure that facilities are licensed or certified, as appropriate. Documentation includes, but is not limited to, policies and procedures and program minutes.

Section 10 Contracting

Whenever an HMO elects to perform functions or deliver services indirectly through contracts, agreements or other arrangements, the HMO shall monitor the activities of the entity with which it contracts for compliance with the requirements specified under these regulations and in statute concerning quality assurance, access to care, utilization review, and credentialing.

Section 11 Examinations

The Commissioner may conduct an examination concerning the quality of health care services of any HMO and its providers with whom such organization has contracts, agreements, or other arrangements pursuant to its health care plan as often as the Commissioner deems it necessary. The Commissioner may accept the results of an accreditation review, as described in Section 5, in order to meet this examination requirement.

Section 12 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 13 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 14 Effective Date

This regulation shall become effective on June 1, 2018.

Section 15 History

New regulation effective June 1, 2018.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
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Office of the Attorney General

Tracking number: 2018-00082

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Insurance

on 04/12/2018

3 CCR 702-4 Series 4-7

LIFE, ACCIDENT AND HEALTH, Series 4-7 Health Maintenance Organizations

The above-referenced rules were submitted to this office on 04/13/2018 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.

April 17, 2018 16:14:04

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Regulatory Agencies

Agency

Division of Professions and Occupations - State Boxing Commission

CCR number

4 CCR 740-1

Rule title

4 CCR 740-1 BOXING KICKBOXING AND MIXED MARTIAL ARTS 1 - eff 07/01/2018

Effective date

07/01/2018

CHAPTER I
GENERAL
RULES

1.1 DEFINITIONS

A. **Bout**. Match, exhibition or contest between two participants involving a combative sport.

B. **Boxing.** Any physical bout between two individuals striking with hands to outscore, knock out, or otherwise disable an opponent into submission.

C. **Contest.** A bout or match in which the participants strive earnestly to win.

D. **Chief Inspector.** An official assigned to carry out all duties as assigned by the Director.

E. **Combative sport**. Boxing, kickboxing, mixed martial arts, and martial arts.

F. **Commission**. The Colorado Commission of Combative Sports.

G. **Commission representative**: The Director or an official.

H. **Director.** The Director of the Colorado Office of Combative Sports.

I. **Division Director.** Director of the Division of Professions and Occupations, within the Colorado Department of Regulatory Agencies.

J. **Event.** A compilation of bouts that occur at one location during a single day.

K. **Fraud**. Any licensee who cheats, obtains money or some other benefit, or misrepresents facts by deliberate and willful deception.

L. **Kick.** A strike using the foot or feet.

M. **Kickboxing.** Any physical bout between two individuals striking with the hand and any part of the leg below the hip, including the feet to outscore, knock out or otherwise disable an opponent into submission.

N. **Official.** Any person who performs an official function during the supervision of a contest or exhibition. This includes referees, judges, timekeepers and inspectors.

O. **Martial Art**. Includes by way of example and not limitation aikido, judo, jujitsu, karate, kendo, kung fu, sumo wrestling, t' ai chi, tae kwon do, or wrestling.

P. **Mixed Martial Art.** Any physical contact bout between two or more individuals who attempt to outscore, knock out, or gain submission of the opponent by using any combination of boxing, kicking, choking techniques, or martial art.

Q. **Non-Sanctioned organization.** Is an organization that is not governed by a state or tribal athletic Commission.

R. **Participant.** Any individual who competes in a combative sport bout.

S. **Professional.** A contest or match in which participants compete for or receive a purse or anything of value.

T. **Promoter.** Any person, association, corporation, or organization licensed to promote events.

U. **Purse.** A bout earning, a financial guarantee or any other remuneration for which participants are participating in a contest or exhibition and includes the participant's share of any payment received for radio broadcasting, television or motion picture rights.

V. **Reinstatement.** The process by which an expired license is returned to Active status.

W. **Renewal.** The process of retaining an active license in accordance with the schedule established by the Division Director pursuant to Sections 12-10-106.5, C.R.S. and 24-34-102, C.R.S.

X. **Sanctioned Organization.** An organization that sanctions professional bouts of boxing, kickboxing or mixed martial arts and martial arts by a state or tribal athletic Commission.

1.2 APPLICABILITY OF RULES

These rules apply only to professional combative sports events where purses or prizes may be given. These rules do not apply to events that are exclusively amateur in nature.

1.3 VIOLATIONS OF RULES

Violations of any provision of these rules may result in immediate ejection from event, a ban from future events and subject the licensee to disciplinary action.

1.4 RESPONSIBILITY

All promoters, participants, seconds and officials associated with combative sport events shall acquaint themselves with and comply with all applicable laws and rules of the Commission.

1.5 IMPROPER CONDUCT, FOUL OR ABUSIVE LANGUAGE EJECTION

A. The use of foul or abusive language or mannerisms or threats of physical harm by any person at any permitted event shall not be tolerated. This includes all press conferences, weigh-ins and any aspect of an event. In addition, prohibited conduct includes unfair dealings, unsportsmanlike conduct, protesting the decisions of the officials, or violating any laws or rules.

B. If improper conduct occurs at any permitted event, the Director or chief inspector may eject the individual and forbid such person from acting in any capacity in connection with that or any subsequent permitted event. Any licensee who refuses to obey an order by the Director or chief inspector to leave the premises because of conduct prohibited in this paragraph, or any person who returns to the premises in violation of the Director's or chief inspector's order may be subject to further disciplinary action.

1.6 MODIFICATION OF BOUT RESULT

A. Should the Director determine one or more of the following factors exist, the Director may request a hearing on a result modification matter:

i. Indications of collusion affecting the result of the bout are present;

ii. The compilation of the scorecards of the judges disclosed an error which showed that the decision

was given to the wrong participant; or,

iii. An error interpreting the rules that may have resulted in an incorrect decision.

iv. A positive test result reveals the use of a prohibited drug, substance, or method.

1.7 USE OF INSTANT REPLAY

A. Should the Director approve the use of instant replay prior to an event, only the referee may determine if the use of instant replay is indicated.

B. The referee shall only use instant replay for the purpose of determining if a foul was committed that caused a “bout ending sequence” that brought about the final end of the fight.

C. Based on the instant-replay review, the referee may make the final call with respect to the bout that could result in the one of the following decisions: a winner of the bout; a “no-contest” determination; a disqualification; or a technical decision by the judges.

CHAPTER 2
REQUIREMENTS FOR PARTICIPANTS IN ALL BOUTS

2.1 LICENSE TO FIGHT APPLICATIONS

A license is required for a participant to fight in a professional combative sports contest. All participants shall submit an application for a license to fight in a manner prescribed by the Division Director. Incomplete or incorrect applications will not be accepted.

2.2 FEES

Each applicant for a license shall pay the required fee before the license to fight is granted. The license fee schedule is established by the Division Director pursuant to § 24-34-105, C.R.S.

2.3 MINIMUM AGE REQUIREMENT

Any person who wishes to apply for a participant license must be a minimum age of eighteen, unless a signed verification of approval and waiver is signed by the parent or legal guardian and the Director approves.

2.4 FEDERAL REGISTRATION REQUIREMENT

A. Pursuant to the “Professional Boxing Safety Act of 1996" all professional boxing participants must be registered with the recognized boxing federal registry and obtain a federal identification card in order to participate in boxing bouts anywhere in the United States. Therefore, all professional boxing participants shall show proof of registration. All Mixed Martial Arts participants must register for a National Identification card.

B. Any boxing debut participant must be registered with a federal identification card within seven days prior to the first bout. The participant shall not be permitted to box in any contest scheduled for more than four rounds for the participants first four bouts, and shall not be permitted to compete in any bout of more than six rounds until the participant has participated in ten or more professional bouts, unless approved by the Director.

C Each participant will present their identification card or completed application to the Director or chief inspector no later than the scheduled time of the weigh-in for a bout. A participant, who is unable to produce their identification card or establish with the Director or chief inspector that they have a current federal identification, will not be permitted to participate in the bout.

2.5 WEIGH-INS AND FIGHT APPEARANCE

A. Each participant must be weighed in the presence of a Commission representative as designated by the Director, on scales approved by the Director and at a place designated by the Director. The participants may have all items of weight stripped from their body before they are weighed in. All participants shall appear at the weigh-in and event on time as required by the Director. All participants must report to the Director or chief inspector as soon as they arrive to the weigh-in and event at a place designated by the Director. Failure to report to the Director or chief inspector on time may disqualify the participant from competing and may be subject the participant to disciplinary action. Unless a championship bout, participants’ weights will be rounded down to the nearest pound. The weigh-in shall be no less than six hours and no more than 36 hours prior to the scheduled event. The Director may require participants to be weighed more than once for major bouts/events.

B. Participants are not allowed to leave the designed weigh-in area until such time as they are

notified by the Director or the chief inspector.

2.6 FAILURE TO MAKE CONTRACTED WEIGHT

A participant who at the scheduled time of weigh-in fails to meet the weight specified in the contract between the promoter and the participant may be disqualified from competing and may be subject to disciplinary action.

2.7 PARTICIPANTS' APPEARANCE

A. Participants shall not be permitted to have excessive petroleum jelly, grease or foreign substances on any part of their body.

B. Participants' hair shall be cut or arranged in such a manner as not to interfere with the participant's vision. Hair may be secured using rubber bands or other banding devices but not hairpins or hairnets.
The hair must be free of all hair styling products (e.g., mousse, gel, or spray).

C. The Director or chief inspector shall determine whether head or facial hair (e.g., mustaches, goatees, sideburns) or hair length, or hair adornments (e.g. jewelry or other decorative items) presents any potential hazard to the safety of the participants, or may interfere with the supervision and conduct of the bout. The participant may not compete in the bout unless the circumstance creating the potential hazard or interference is corrected to the satisfaction of the Director or chief inspector.

D. Participants are prohibited from wearing facial or body adornments such as earrings, jewelry or body piercing accessories during the bout.

E. Any non-approved objects on or about the body of the participant during the bout may disqualify the participant.

2.8 APPROVED RING APPAREL

A. Participants in an event shall prepare themselves with appropriate ring apparel for the sport as approved by an official.

B. Male participants may be required to wear an abdominal guard, a protective cup, and have two pairs of trunks of contrasting color and shoes.

C. Female participants must wear a short sleeved (above the elbow), or sleeveless, form-fitting style top, breast protector, or sports bra. Loose fitting tops are a safety risk and shall not be permitted. Wrestling singlets are not permitted. Female competitors may also be required to have two pairs of trunks of contrasting color and shoes.

2.9 MOUTHPIECE REQUIREMENTS / FOREIGN OBJECTS

A. Participants are required to wear an approved, and properly fitted mouthpiece during competition. The round shall not begin without the proper placement of the mouthpiece. If the mouthpiece is dislodged during competition, the referee will call time and have the mouthpiece replaced at the first available opportunity, without interfering with the immediate action. Points may be deducted from the participant or the participant may be disqualified if the mouthpiece is purposely dislodged or if the mouthpiece continuously becomes dislodged.

B. The official may require participants to bring two approved and properly fitted mouth guards to the bout.

C. Participants are prohibited from having any removable object other than the required mouthpiece in their

mouth during competition. Participants are subject to inspection before, during or after a bout. Should the Director or chief inspector find any foreign object in a participant's mouth the participant may be subject to disciplinary action.

2.10 GLOVE REQUIREMENTS

A. The participant or the second is responsible for ensuring that gloves are not twisted or manipulated in any way. If a glove breaks or a string becomes untied during the bout, the referee will instruct the timekeeper to take time out while the glove is corrected. All gloves will be checked by a Commission representative prior to the start of a bout and any snagged, torn, or unfit gloves will not be approved for competition.

B. Participants must decide on the gloves the participant expects to use during the bout. After the Director

or chief inspector approves the gloves, there shall not be any changes unless or until the gloves are damaged and/or deemed unusable. Any additional gloves must also be approved by the Director prior to their use.

2.11 PROHIBITED SUBSTANCES

All participants are prohibited from using any drugs, alcohol, or stimulants, that could either impair or enhance their fight performance. The consumption of any substance other than plain water or a sports drink approved by the Director is prohibited during the event.

2.12 DELAY OF BOUTS

Participants shall be ready to enter the ring, cage, or competition area immediately prior to the start of their bout. Any participant, corner person or promoter causing a delay of more than five minutes when called may be subject to disciplinary action.

2.13 PARTICIPANTS DENIED PERMISSION TO FIGHT

A. The Director may deny or suspend permission for a participant to fight due to:

i. Medical or other non-disciplinary reasons as set forth in the 'Professional Boxing Safety Act of 1996";
ii. Administrative or other non-disciplinary actions imposed by another state regulatory body; or,
iii. A determination by the Director that the participant is unfit to fight due to a physical or mental condition.

B. Denials and suspensions for medical, administrative or other non-disciplinary reasons may be lifted when a participant furnishes proof:

i. Of a sufficiently improved medical, physical, or mental health condition; or
ii. That a suspension was not, or is no longer, merited by the facts.

C. The Director may consult with and report to the national record keeper all non-disciplinary medical and administrative denials or suspensions.

2.14 OUT OF STATE SUSPENSIONS

The Commission may enforce any suspension ordered by another state of tribal Commission. Participants must provide verification of license status prior to a bout. Acceptable verification of license status includes but is not limited to: a current official record approved by the Director showing that the participant is not on suspension or verification that the participant is not listed on the record keepers' database. The Commission may recognize any suspension ordered by another state of tribal Commission.

2.15 PARTICIPANTS WHO ENGAGE IN NON-SANCTIONED BOUTS

A. Any participant who engages in a bout that is not sanctioned by a state or tribal athletic Commission will not be approved to compete in a sanctioned bout for a minimum of 30 days from the date of the participant's last non-sanctioned bout. The participant is responsible for obtaining a written clearance any treating physician.

B. Any participant who wishes to engage in a sanctioned bout within 30 days from the date of the participant's last non-sanctioned bout must submit, within ten days of the non- sanctioned bout, written information that demonstrates that the non-sanctioned bout met all the requirements set forth in these Rules for a similar type of bout.

C. A participant who engages in a non- sanctioned bout while on suspension from a state or tribal athletic Commission may be required to provide written clearance from any treating physician before the participant is approved to compete.

2.16 ADDITIONAL REQUIREMENTS OF FEMALE PARTICIPANTS

A. Pregnancy Test

Participants shall submit a doctor's written verification of a negative pregnancy test dated within seven days of a scheduled event. The cost of the test is the responsibility of the participant.

B. Time Limits

Time limits for female participants may vary depending on the combative sport. In all contests, the number of rounds will be specified by the Director.

2.17 REINSTATEMENT OF AN EXPIRED LICENSE

The purpose of this rule is to establish the qualifications and procedures for reinstatement of an expired license pursuant to § 12-10-106.5, C.R.S. and § 24-34-105, C.R.S.

A. Conditions of Reinstatement: License expired for less than two years

i. An applicant seeking reinstatement of an expired license for less than two years shall complete a reinstatement application and pay a reinstatement fee.

B. Conditions of Reinstatement: License expired two years or more

i. An applicant seeking reinstatement of an expired license for two years or more shall complete a reinstatement application, pays a reinstatement fee and demonstrate competency for the specific position in a manner approved by the Director.

2.18 NOTICES FROM PARTICIPANTS

A. Address and Name Changes

i. Participants shall inform the Division Director of any name, address, telephone, or email change within 30 days of the change. The Division Director will not change a participant's information without explicit notification in a manner prescribed by the Director.

iii. One of the following forms of documentation is needed to change a name or correct a social security number:

a. Marriage license;
b. Divorce decree;
c. Court order; or
d. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Division Director.

2.19 REPORTING CONVICTIONS, JUDGMENTS AND ADMINISTRATIVE PROCEEDINGS

A. Participants shall notify the Division Director within 45 days of any of the following events:

i. The conviction of a felony under any state or federal law, which would be a violation of §12-10-107.1 C.R.S. A guilty verdict, a plea of guilty or a plea of nolo contendere (no contest) accepted by the court is considered a conviction;

ii. A disciplinary action imposed upon the licensee by another jurisdiction that licenses promoters, which would be a violation of § 12-10-107.1, C.R.S., including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license fee by the due date;

iii. Revocation or suspension by another state athlete Commission, municipality, federal or state agency or any association who oversees boxing, kickboxing, mixed martial arts or martial arts;

iv. Any judgment, award or settlement of a civil action or arbitration in which there was a final judgment or settlement against the licensee.

B. The notice to the Division Director shall include the following information;

i. If the event is an action by a governmental agency (as described above), the name of the agency, 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;

ii. If the event is a felony conviction, 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. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence within 45 days of such action;

iii. If the event concerns 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, or, if settled, the settlement agreement and court's order of dismissal;

C. The participant notifying the Director may submit a written statement with the notice to be included with the licensee's records.

CHAPTER 3
BOUT APPROVAL REQUIREMENTS

3.1 NUMBER OF BOUTS

The Director has the discretion to control and limit the number of bouts held in any one event. Bouts in which more than two participants appear in the ring or cage at the same time will not be approved.

3.2 BOUT REVIEW

The Director may refuse to permit a bout to proceed upon a determination that either or both participants should not compete because of one or more of the following factors:

A. Skill level and ability of their opponent;
B. Age disparity between opponents;
C. Consecutive losses or wins on recent record;
D. Fighting history, including recent TKO' or KO's;
E. Disqualifications and/or poor performances;
F. Recent injuries;
G. Failure to appear at any scheduled weigh-in or event;
H. Failure to compete at any event;
I. Request of a weight that may be unattainable given weight history, build, or physique;
J. Failing to make weight;
K. Lack of experience with consecutive rounds or bouts;
L. Medical test results;
M. Professional debut participants verify that they have trained for a minimum of 30 days prior to bout approval;
N. Recent positive drug or substance test or any known positive test result;
O. Failure to submit to a drug test in any jurisdiction;
P. Physical impairment(s), eye blindness, missing limb;
Q. Serious head or brain injury, trauma, impact or damage;
R. Age and date of most recent bout;
S. Overall physical and mental fitness;
T. Any action by any athletic or combative sports Commission in any jurisdiction;
U. History of bad faith or dealings with any promotions or Commissions;
V. Not completing the bout requirements in a timely manner;
W. Conduct that discredits or tends to discredit any sport regulated by the Commission in which the participant is competing.
X. Any related Medical condition that affects a participants ability to fight.

3.3 PRE-FIGHT PHYSICAL EXAMINATIONS

A. Participants must submit to a physical examination performed by a licensed physician and be

declared fit to compete prior to the bout at a time approved by the Director. Any participant deemed to be unfit to participate by the licensed physician will not be permitted to compete. In such instances, the promoter will be notified immediately buy the Director of Chief Official.

B. Promoters are responsible for providing a suitable place for Physicians to conduct the physical examinations. The Director may require additional medical tests prior to the weigh-in and may reject a participant for test results that are incomplete or unsatisfactory or deemed untimely prior to the weigh-in.

C. Examination Requirements

Participants must submit to a complete physical examinations which must include, at a minimum, examinations of the following: weight, temperature, pulse (sitting and standing), lungs, blood pressure, heart, or communicable diseases, urine analysis (when deemed necessary), scrotal evidence of hernia, and general physical condition. See Rule 2.16 for additional female participant examinations.

3.4 MEDICAL TESTS AND RESULTS

A. All participants must submit to acceptable HIV, Hepatits B and Hepatitis C testing within a timeframe prescribed by the Director and must provide the negative results no later than 48 hours prior to weigh in. Exceptions may be made for substitutions as determined by the Director. The Director may on a case by case basis require additional medical tests for participants.

B. Additional Test Requirements for Participants age 45 and Older.

1. Participants age 45 and older who have not been routinely fighting in permitted events for the past five years must undergo the following additional tests or examinations.
    a. General physical examination and Senior Athletes Fitness Examination (SAFE), to include a routine EKG and/or any other tests recommended by the physician.

3.5 PARTICIPANTS NOT SAFE TO COMPETE

Participants cannot safely engage or compete in a bout where there is the potential of an unfair advantage over their opponent. As such, if a participant has one or more medical conditions, the participant may not safely engage in combative sport activities and may not be permitted to compete. Such medical conditions will be reviewed by the Director after consultation with the licensed physician on a case by case basis.

3.6 ADVANCED NOTIFICATION, RANDOM, OR FOR-CAUSE TESTING OF PARTICIPANTS

A. **Noticed Testing**: All participants in bouts designated by the Director will be notified in advance that they will be tested for the use of any prohibited drugs, substances and methods identified by the World Anti-Doping Agency. If the Director determines that testing of the participants should occur, promoters may be verbally informed before the conclusion of the weigh-in.

B. **Random Testing**: All participants scheduled to compete on any upcoming event are subject to random testing for the use of any prohibited drugs, substances and methods identified by the World Anti-Doping Agency. Random testing shall be conducted in accordance with a process established by the Director.

C. **For Cause Testing**: If the Director has reason to believe that a participant scheduled to compete on any upcoming event may be under the influence of any prohibited drugs, substances and methods identified by the World Anti-Doping Agency, the Director may order testing of the participant to determine whether or not the participant has taken, used or ingested any drugs, substances and methods.

D. **Mandatory Testing**: Testing will be mandatory for participants in bouts determined by the Director to be championship bouts.

E. All testing identified above shall be conducted at the discretion of the Director. In any bout which the Director believes the interest of a combative sport so require, the Director may order both participants submit to testing.

F. **Prohibited drugs, substances and methods**: The Commission hereby adopts the edition, effective January 1, 2018, of the Prohibited List – International Standard published by the World Anti-Doping Agency. This Prohibited List is adopted to provide notice of this code to all participants. This rule does not include later amendments to or editions of the Prohibited List of the World Anti-Doping Agency.

A copy of the Prohibited List published by the World Anti-Doping Agency is available for public inspection during regular business hours at the Commission office at the Division of Professions and Occupations, Department of Regulatory Agencies, 1560 Broadway, Suite 1350, Denver, Colorado,80202, and at any state publications depository and distribution center. For further information regarding how this material can be obtained or examined, contact the Director for the Commission at 1560 Broadway, Suite 1350, Denver, Colorado, 80202, 303-894-2300. The Prohibited List may be obtained, free of charge, at the Internet address www.wada-ama.org. Address: Stock Exchange Tower, 800 Place Victoria (Suite 1700), PO Box 120, Montreal, Quebec H47 1B7, Canada.

3.7 CHAMPIONSHIP BOUTS

A bout shall not be advertised, promoted or called a championship bout unless it has the specific approval of the Commission. A promoter shall not advertise any participant in the State of Colorado as a champion or contender in any manner that is false or misleading.

3.8 PROFESSIONAL-AMATEUR BOUTS PROHIBITED

Bouts between professionals and amateurs are prohibited. Nothing in this rule would prohibit combined Professional-Amateur Events.

CHAPTER FOUR

DECLARATORY ORDERS

This rule establishes procedures for the handling of requests for declaratory orders filed pursuant to section 24-4-105(11), C.R.S.

4.1 Any person or entity may petition the Commission for a declaratory order to terminate controversies or remove uncertainties as to the applicability of any statutory provision or of any rule or order of the Commission.

4.2. The Commission will determine, at its discretion and without notice to petitioner, whether to rule upon any such petition. If the Commission determines that it will not rule upon such a petition, the Commission shall promptly notify the petitioner of its action and state the reasons for such decision.

4.3 In determining whether to rule upon a petition filed pursuant to this rule, the Commission will consider the following matters, among others:

A. Whether a ruling on the petition will terminate a controversy or remove uncertainties as to the applicability to petitioner of any statutory provisions or rule or order of the Commission.

B. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Commission or a court involving one or more petitioners.

C. Whether the petition involves any subject, question or issue that is the subject of a formal or informal matter or investigation currently pending before the Commission or a court but not involving any petitioner.

D. Whether the petition seeks a ruling on a moot or hypothetical question or will result in an advisory ruling or opinion.

E. Whether the petitioner has some other adequate legal remedy, other than an action for declaratory relief pursuant to the Colorado Rules of Civil Procedure 57, which will terminate the controversy or remove any uncertainty as to the applicability to the petitioner of the statute, rule or order in question.

4.4 Any petition filed pursuant to this rule shall set forth the following:

A. The name and address of the petitioner and whether the petitioner is licensed pursuant to Title 12, Article 10.

B. The statute, rule or order to which the petition relates.

C. A concise statement of all of the facts necessary to show the nature of the controversy or uncertainty and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner.

4.5. If the Commission determines that it will rule on the petition, the following procedures shall apply:

A. The Commission may rule upon the petition based solely upon the facts presented in

the petition. In such a case:

1. Any ruling of the Commission will apply only to the extent of the facts presented in the petition and any amendment to the petition.

2. The Commission may order the petitioner to file a written brief, memorandum or statement of position.

3. The Commission may set the petition, upon due notice to petitioner, for a non-evidentiary hearing.

4. The Commission may dispose of the petition on the sole basis of the matters set forth in the petition.

5. The Commission may request the petitioner to submit additional facts in writing. In such event, such additional facts will be considered as an amendment to the petition.

6. The Commission may take administrative notice of facts pursuant to the Administrative Procedure Act at § 24-4-105(8), C.R.S., and may utilize its experience, technical competence, and specialized knowledge in the disposition of the petition.

B. If the Commission rules upon the petition without a hearing, it shall promptly notify the petitioner of its decision.

C. The Commission may, at its discretion, set the petition for hearing, upon due notice to petitioner, for the purpose of obtaining additional facts or information or to determine the truth of any facts set forth in the petition or to hear oral argument on the petition. The notice to the petitioner shall set forth, to the extent known, the factual or other matters into which the Commission intends to inquire.

D. For the purpose of such a hearing, to the extent necessary, the petitioner shall have the burden of proving all the facts stated in the petition; all of the facts necessary to show the nature of the controversy or uncertainty; and the manner in which the statute, rule, or order in question applies or potentially applies to the petitioner and any other facts the petitioner desires the Commission to consider.

4.6 The parties to any proceeding pursuant to this rule shall be the Commission and the petitioner. Any other person including the Director may seek leave of the Commission to intervene in such a proceeding, and leave to intervene will be granted at the sole discretion of the Commission. A petition to intervene shall set forth the same matters as are required by Section 4.4 of this Rule. Any reference to a "petitioner" in this Rule also refers to any person who has been granted leave to intervene by the Commission.

4.7 Any declaratory order or other order disposing of a petition pursuant to this Rule shall constitute agency action subject to judicial review pursuant to the Colorado Administrative Procedures Act at § 24-4-106, C.R.S.

CHAPTER 5
REQUIREMENTS FOR BOXING PARTICIPANTS

5.1 WEIGHT ALLOWANCES

Before a participant will be permitted to fight an opponent, who exceeds the weight allowance as shown, the participant must first receive approval by the Director:

POUNDS	CLASSIFICATION	ALLOWANCE
191+	Heavyweight	No limit
176-190	Cruiserweight	15 lbs.
169-175	Light Heavyweight	8 lbs.
161-168	Super Middleweight	8 lbs.
155-160	Middleweight	7 lbs.
148-154	Junior Middleweight	7 lbs.
141-147	Welterweight	7 lbs.
136-140	Junior Welterweight	5 lbs.
131-135	Lightweight	5 lbs.
127-130	Junior Lightweight	5 lbs.
123-126	Featherweight	5 lbs.
119-122	Junior Featherweight	5 lbs.
116-118	Bantamweight	5 lbs.
113-115	Junior Bantamweight	5 lbs
109-112	Flyweight	5 lbs.
106-108	Junior Flyweight	5 lbs.
Below 105	Minimum Weight	5 lbs.

5.2 NUMBER AND DURATION OF ROUNDS

A bout will have a maximum of ten rounds with the exception of a championship bout, as determined by the Director, which may not exceed 12 rounds. Three minutes will constitute a round, with a rest period of one minute between rounds, which may be extended at the discretion of the Director. The timekeeper shall give warning to the seconds by suitable signal ten seconds before the beginning or the ending of each round.

5.3 PARTICIPATION RESTRICTIONS

Any participant, who has participated in a bout scheduled for four or more rounds, shall not participate in another bout for at least seven days unless specifically authorized by the Director.

5.4 RING OCCUPANTS

No person other than the participants and the referee shall enter the ring during a bout. Between rounds, one second may be inside the ring and the others on the ring apron. The licensed physician may enter the ring if asked by the referee. No participant shall leave the ring during any rest period between rounds. The referee may, at their discretion, stop a bout if an unauthorized person enters the ring during a round. The Director or chief inspector may also limit unauthorized people from entering the ring at any time during and after an event.

5.5 INTENTIONAL FOULS

A. If an intentional foul causes an injury, and the injury is severe enough to immediately terminate a bout, the participant causing the injury shall lose by disqualification.

B. If an intentional foul causes an injury, and the bout is allowed to continue, the referee will notify the authorities and deduct two points from the participant who caused the foul. Point deductions for intentional fouls will be mandatory.

C. If an intentional foul causes an injury that results in the bout being stopped in a later round, the injured participant shall win by Technical Decision if the recipient of an intentional foul is ahead on the score cards. If the injured participant is behind or even on the score cards, the bout will result in a Technical Draw.

D. If a participant injures themselves while attempting to intentionally foul their opponent, the referee will not take any action in their favor, and this injury is the same as one produced by a fair blow. If a participant has conducted themselves in an unsportsmanlike manner, the referee may stop the bout and disqualify the participant.

5.6 UNINTENTIONAL FOULS

A. If an unintentional foul causes an injury severe enough to immediately stop the bout before three completed rounds or four complete rounds for a championship bouts, , the bout will result in a No Contest

B. If an unintentional foul causes an injury severe enough to immediately stop the bout after three completed rounds and four rounds for championship bouts have occurred, the bout will result in a Technical Decision awarded to the participant who is ahead on the score cards at the time the bout is stopped. Partial or incomplete rounds will be scored.

C. If the judge(s) believes that a participant did not engage in any action, the round should be scored as an even round at the discretion of the judges. A fighter who is hit with an accidental low blow must continue after a reasonable amount of time but no more than five minutes or the participant will lose the bout by Technical Knockout (TKO).

5.7 TACTICS DEEMED FOULS

A. Hitting below the belt or after the bell has terminated the round;
B. Hitting an opponent who is down or who is getting up after being down;
C. Holding an opponent or deliberately maintaining a clinch;
D. Holding an opponent with one hand and hitting with the other hand;
E. Butting with the head or shoulder or using a knee;
F. Hitting with the glove laces or the heal of the hand, the wrist, or elbow and any back-hand blows;
G. Hitting or flicking with an open glove, or thumbing;
H. Wrestling, hitting on the break or pushing an opponent;
I. Spitting out the mouthpiece or going down without being hit;
J. Striking deliberately the part of the body over the kidneys;
K. Use of a pivot or rabbit punch;
L. Hitting an opponent during intervention by the referee;
M. Hitting an opponent who is entangled in the ropes;
N. Biting or any unsportsmanlike conduct;
O. Abusive or profane language;
P. Failure to obey the referee;
Q. Any physical action which may injure a participant, except by fair sportsmanlike boxing;
R. Passive defense by means of double cover.

5.8 PENALTY FOR FOULS

A. The referee may penalize a participant if they commit a foul.

B. Points may be deducted from the participant's score in the round or rounds such foul occurred. The referee shall notify the judges at the time of the foul and verify between rounds of the points deducted.

C. If a foul is of a serious nature, intentionally inflicted, or is continuous or repeated; the referee may award the bout to the participant who is fouled.

5.9 DETERMINATION OF A KNOCKDOWN

A. A knockdown will be ruled when a participant is hit with the padded knuckle part of the glove on the front or side of the head or the front or side of the body above the belt, and any part of the participant's body other than feet falls to the floor; or the participant is hanging over the ropes without the ability to protect himself or herself and cannot fall to the floor.

B. A referee may count a participant out if the participant is on the floor or is being held up by the ropes.

5.10 REFEREE COUNT

A. If a participant falls due to fatigue, or is knocked down by their opponent, the participant will be allowed ten seconds to rise unassisted. When such participant falls, their opponent shall go to the farthest neutral corner and remain there while the count is made.

B. A participant shall be deemed down when any part of their body other than their feet is on the floor, or the participant is being held up by the ropes. A referee may count a participant out either on the ropes or on the floor.

C. The referee shall stop counting should the opponent fail to go to the neutral corner, and will resume the count where the participant left off when the opponent goes to the neutral corner.

D. Should a participant who is down rise before the count of ten is reached, and goes back down immediately without being struck by the opponent, the referee shall resume the count where it was left off.

E. Before a participant resumes after having been knocked, fallen or slipped to the floor, the referee shall wipe any accumulated debris from the participant's gloves.

F. When a mouthpiece is knocked out, the referee may allow the exchange to continue until there is a break in the action. Timeout shall be called and the mouthpiece rinsed and replaced.

5.11 PARTICIPANT'S RETURN TO RING

A. A participant shall receive a 20 second count if they are knocked out of the ring and onto the floor by a legal strike. The participant is to be unassisted by the second(s). If assisted by the second(s), the participant shall be disqualified.

B. A participant who has been wrestled, pushed, or has fallen through the ropes during a contest may be helped back by anyone and the referee shall allow reasonable

time for the return.

C. When on the ring apron outside the ropes, the participant shall enter the ring immediately.

D. Should the participant stall for time outside the ropes, the referee shall start the count without waiting for the participant to reenter the ring.

E. When one participant has fallen through the ropes, the other participant shall retire to a designated corner and remain there until ordered to continue the bout.

F. A participant who deliberately wrestles or throws an opponent from the ring, or who punches their opponent when they are partly out of the ring and prevented by the ropes from assuming a position of defense may be penalized, disqualified, and subject to disciplinary action.

5.12 SAVED BY THE BELL

A participant who has been knocked down cannot be saved by the bell in any round.

5.13 THREE KNOCKDOWNS IN THE SAME ROUND – TKO

The contest may be stopped at any time by the referee to protect the health and safety of either participant. A participant who has been ruled by the referee to have been knocked down three times in the same round shall lose by TKO. The three-knockdown rule may be waived at the sole discretion of the Director.

5.14 BOUT TERMINATION DUE TO INJURY - TKO

If a participant sustains an injury from a fair blow and the injury is severe enough to terminate the bout, the injured participant will lose by TKO.

5.15 KNOCKDOWN EIGHT COUNT

A. In the case of a knockdown, the eight count is mandatory. A participant who is knocked out, or is technically knocked out shall be suspended for a minimum of 30 days from participating in any event.

B. If a participant is knocked out, or technically knocked out in two consecutive bouts, the participant shall be suspended for a minimum of 60 days from participating in any activity.

C. If a participant is knocked out or technically knocked out in three consecutive bouts, the participant may be suspended for a minimum of one year from participating in any activity.

D. The Director may require the suspended participant to undergo other medical examinations and submit proof of such examinations and physician clearance to compete in any future bouts.

CHAPTER 6
REQUIREMENT FOR KICKBOXING PARTICIPANTS

6.1 CONDUCT OF KICKBOXING EVENTS

A. All professional non-title bouts will be a minimum of three rounds and up to a maximum of twelve rounds.

B. All offensive kickboxing, striking, and kicking techniques are authorized, with the exception of those techniques specified as “fouls” in Rule 6.3, and may be executed according to the individual participant’s style or system of kickboxing.

C. Participants shall have the option of leg kicks when both participants have been properly trained for leg kicks and the contract explicitly states that leg kicks will be used.

D. If leg kicks are allowed, any kicking technique may be used as long as the kicks are not to any foul area, such as a knee joint. Allowable targets include kicks to the inside, outside and back of the thigh on either leg and kicks to the calf of either leg.

E. The Director may limit the number of leg kicks inside kicks.

F. A participant intentionally avoiding any physical contact with their opponent will receive a warning from the referee. If the participant continues to avoid a confrontation with their opponent after receiving a warning during that round, the participant may be penalized by the referee. If the participant continues to avoid confrontation or physical contact, either in the same round or in any other round, the referee may, at their discretion, impose additional penalties.

6.2 SWEEPS

A. A participant may execute sweeps only by making a sweeping motion to the padded area of opponent’s foot with the padded area of the participant’s foot, also known as “boot to boot”.

B. Contact to any other part of the leg (thigh, knee, shin and sides of the shin from any angle) while delivering a sweep shall constitute a foul and will be treated accordingly.

C. A sweep is not a kick and shall not be judged as such.

D. Any technique thrown following a sweep must land on the opponent prior to any part of the participant’s body touching the ring floor. If the technique lands after some part of the opponent’s body other than the soles of their feet has touched the floor, the referee may call a foul.

E. A successful sweep is not considered a knockdown.

6.3 TACTICS DEEMED FOULS

All general fouls of boxing apply to kickboxing, in addition to the following fouls.

A. Head-butts;
B. Striking the groin, the spine, the throat, collarbone, or the part of the body over the kidneys;
C. Kicking into the knee or striking below the belt in any unauthorized manner;
D. Anti-joint techniques (striking applying leverage against any joint);
E. Grabbing or holding onto an opponent's leg or foot;
F. Leg checking the opponent's leg or stepping on the opponent's foot to prevent the opponent from moving or kicking;
G. Throwing or taking an opponent to the floor in an unauthorized manner;
H. Failure to throw the minimum number of hard kicks in a given round as required by the Director;
I. Intentional evasion of contact; and,
J. Executing any techniques which are deemed malicious and beyond the scope of reasonably accepted techniques in an athletic event.

6.4 KICKING REQUIREMENTS

A. All participants must execute a minimum of hard kicks per round. The Director may waive this requirement or minimize the number of kicks required per round.

B. In the event a participant fails to execute the required minimum number of hard kicks per round, the referee may give one warning to that participant and their chief second during the rest period following the round.

C. If the participant fails to execute the minimum number of hard kicks in any round following the referee's warning, the participant shall be penalized one point for each kick short of the minimum requirement.

D. If a participant fails to achieve the minimum kicking requirement in a majority of the scheduled rounds, the participant shall be disqualified.

E. If a participant executes less than eight hard kicks in any one round, the Director or chief inspector shall immediately notify the referee the number of kicks thrown. The referee shall, in turn, notify the judges who shall record the appropriate penalty.

F. Contact must be attempted in order for a hard kick to be counted.

G. Slide kicks, push kicks, air kicks or any kick to a foul area on the body are not counted.

6.5 WEIGHT ALLOWANCES

Before a participant will be permitted to fight an opponent, who exceeds the weight allowance as shown, the participant must first receive approval by the Director:

POUNDS	CLASSIFICATION	ALLOWANCE
191+	Heavyweight	No limit
176-190	Cruiserweight	15 lbs.
169-175	Light Heavyweight	8 lbs.
161-168	Super Middleweight	8 lbs.
155-160	Middleweight	7 lbs.
148-154	Junior Middleweight	7 lbs.
141-147	Welterweight	7 lbs.
136-140	Junior Welterweight	5 lbs.
131-135	Lightweight	5 lbs.
127-130	Junior Lightweight	5 lbs.
123-126	Featherweight	5 lbs.
119-122	Junior Featherweight	5 lbs.
116-118	Bantamweight	5 lbs.
113-115	Junior Bantamweight	5 lbs.
109-112	Flyweight	5 lbs.
106-108	Junior Flyweight	5 lbs.
Below 105	Minimum Weight	5 lbs.

No participant shall engage in a bout where the weight difference exceeds the allowance shown above. Any greater weight spread requires the Director approval.

6.6 KICKBOXER APPAREL

A standard karate uniform consisting of jacket, long pants and belt, as traditionally worn in the sport of kickboxing or full contact karate may be worn by all participants upon entering the ring. Prior to the start of a bout, all participants must remove their uniform jackets and belts.

CHAPTER 7
REQUIREMENTS FOR MIXED MARTIAL ARTS (MMA) AND MARTIAL ARTS (MA) PARTICIPANTS

7.1 BOUT REQUIREMENTS

A. Each non-championship MMA bout shall be at least three rounds and up to a maximum of four rounds, five minutes each in duration, and one-minute rest periods between each round.

B. Each championship MMA bout shall be five rounds, five minutes each in duration, and one-minute rest periods between each round.

C. A bout may go an extra round if the bout is deemed a draw after the scheduled rounds.

D. The referee is the sole arbiter of a bout and is the only individual authorized to enter the ring or cage at any time during competition and to stop a contest.

E. The 10-Point Must System will be the standard system of scoring a bout. Half points may be used with the 10-Point Must System if approved prior to the event.

7.2 WARNINGS

A single warning will be issued for the following infractions and may not be limited to these infractions:

A. Holding or grabbing fence or ropes;
B. Holding opponent's shorts or gloves;
C. The presence of a second on the apron while the fight is in progress.

7.3 TACTICS DEEMED FOULS

A. Butting with the head.
B. Eye gouging of any kind.
C. Biting or spitting at an opponent.
D. Hair pulling.
E. Fish hooking.
F. Groin attacks of any kind.
G. Intentionally putting a finger in any opponent's orifice (includes laceration).
H. Downward point of elbow strikes.
I. Small joint manipulation.
J. Strikes to spine or back of the head.
K. Heel kicks to the kidney.
L. Throat strikes of any kind (includes grabbing trachea).
M. Clawing, pinching, twisting the flesh or grabbing the clavicle.
N. Kicking the head of a grounded fighter.
O. Kneeing the head of a grounded fighter.
P. Stomping of a grounded fighter.
Q. Holding the fence or a rope.
R. The use of abusive language in the cage or ring.
S. Any unsportsmanlike conduct that causes an injury to an opponent.
T. Attacking an opponent during a break.
U. Attacking an opponent under the referee's care.
V. Timidity (avoiding contact, intentional and/or consistent dropping of mouthpiece or faking an injury).
W. Corner interference.

X. Throwing an opponent out of the cage or ring.
Y. Flagrant disregard of the referee's instructions.
Z. Spiking an opponent to the canvas on his head or neck.
AA. Throwing in the towel during competition.
BB. Fingers outstretched toward an opponent's face/eyes.

7.4 PENALTY FOR FOULS

A. Referees may penalize or disqualify a participant after any foul or a flagrant foul.

B. Fouls result in a point being deducted by the official scorekeeper from the offending participant's score. (The judges may only make notations of points deducted by the referee, for each round).

C. If a foul is committed:

i. The referee shall call time.

ii. The referee shall check the fouled participant's condition and safety and provide adequate time to recuperate and resume fighting. Such time shall not exceed five minutes.

iii. The referee shall then assess the foul to the offending participant, deduct points, and notify the corner men, judges and official scorekeeper

D. If a bottom participant commits a foul, unless the top participant is injured, the fight will continue.

i. The referee will verbally notify the bottom participant of the foul.

ii. When the round is over, the referee will assess the foul and notify both corners, the judges and the official scorekeeper.

iii. The referee may terminate a bout based on the severity of a foul. If the referee determines that a foul is intentional and flagrant, a participant shall lose by disqualification.

7.5 INJURIES SUSTAINED BY FAIR BLOWS OR FOULS:

A. Fair Blows:

If injury is severe enough to terminate a bout, the injured participant loses by TKO.

B. Intentional Fouls:

i. If injury is severe enough to terminate a bout, the participant causing the injury immediately loses by disqualification.

ii. If an injury occurs and the bout is allowed to continue, the referee will notify the Director or the chief inspector and automatically deduct two points from the participant who committed the foul. Point deductions for intentional fouls will be mandatory.

iii. If injury (ii) above is the result of the bout being stopped in a later round, the injured participant will win by Technical Decision, if the participant is ahead on the score cards.

iv. If injury (ii) above is the result of the bout being stopped in a later round, the bout will result in a Technical Draw, if the injured participant is behind or even on the score cards.

v. If a participant injures themselves while attempting to foul their opponent, the referee will not take any action in their favor, and the injury will be the same as one that occurs by a fair blow.

C. Accidental Fouls:

i. Any injury severe enough for the referee to immediately stop the bout will result in a “No Contest” if stopped before two rounds have been completed in a three-round bout or if stopped before three rounds have been completed in a five-round bout.

ii. Any injury severe enough for the referee to immediately stop the bout after two rounds of a three-round bout, or three rounds of a five round bout will result in a “Technical Decision”, awarded to the participant who is ahead on the score cards at the time the bout is stopped.

iii. If injury (ii) above occurs, an incomplete round will be scored.

iv. If injury (ii) above occurs, and the referee penalizes either participant, the point(s) shall be deducted from the final score.

7.6 WEIGHT ALLOWANCES

Before a participant is permitted to fight an opponent, who exceeds the weight allowance as shown, the participant must first receive approval by the Director:

POUNDS	CLASSIFICATION	ALLOWANCE
Above 265	Super Heavyweight	No limit
231-265	Heavyweight	35 lbs.
106-230	Cruiserweight	25 lbs.
186-205	Light Heavyweight	20 lbs.
171-185	Middleweight	15 lbs.
156-170	Welterweight	15 lbs.
146-155	Lightweight	10 lbs.
136-145	Featherweight	10 lbs.
126-135	Bantamweight	10 lbs.
116-125	Flyweight	10 lbs.
Below 115	Minimum Weight	10 lbs.

The Director may allow participants over 205 lbs. to compete against an opponent up to 265 lbs.

7.7 PARTICIPANTS APPAREL RESTRICTIONS

A. A participant may not wear shirts or gis during competition.

B. A participant may not wear shoes during competition.

7.8 RECORDING OF BOUT RESULTS

A. Submissions occur by either a tap out or a verbal tap out.

B TKO's occur by a referee stopping the bout.

C. KO's occur by failing to rise from the canvas.

D. Decision via score cards occur by:

i. Unanimous: All three judges score the bout for the same participant

ii. Split Decision: Two judges score the bout for one participant and one judge scores for the opponent.

iii. Majority: Two judges score the bout for the same participant and one judge scores a draw.

iv. Draws:

a. Unanimous: All three judges score the bout a draw.
b. Majority: Two judges score the bout a draw.
c. Split: All three judges score differently.

E. Disqualification occurs by a referee disqualifying a participant.

7.9 MARTIAL ARTS

A. A contest of martial arts must be conducted pursuant to the official rules promulgated by the sponsoring organization for the martial art.

B. The promoter must file a copy of the official rules with the Director before approval will be given for the contest to be held.

C. Prior to the event, the Director will provide the promotor a list of specific requirements, including those concerning fouls. The promoter will be responsible for ensuring that all participants comply with the specific requirements.

D. Where applicable, provisions of Chapters 5, 6, and above sections of Chapter 7 may also constitute requirements for martial arts contests.

CHAPTER 8
REQUIREMENTS FOR SECONDS

8.1 LICENSE FOR SECONDS

A license is required in order to serve as a second in a professional combative sports contest. All seconds shall submit an application for a license to assist a fighter and must be licensed prior to the scheduled start of an event. Incomplete or incorrect application forms will not be accepted and will be returned to the applicant to be corrected.

8.2 FEES

Each applicant applying for a license shall pay the required fee before the license is granted. The license fee schedule is established by the Division Director pursuant to Section 24-34-105, C.R.S.

8.3 MINIMUM AGE REQUIREMENT

No person under the age of eighteen years shall be licensed to act as a second.

8.4 EQUIPMENT REQUIREMENTS

Seconds are required to provide all materials and equipment necessary to conduct themselves as a second. Such equipment includes water buckets, gauze and tape for hand wraps, spit buckets, scissors, towels, petroleum jelly, enswell, q-tips, mouthpieces and cut solutions. Water bottles must be clear and all hand wrapping materials must be white.

8.5 NUMBER OF SECONDS

A. Unless special permission is given by the Director, the number of seconds shall not exceed three, one of whom will announce to the referee at the start of the bout that they are the chief second. The Director may reduce the number of seconds per bout or event.

B. If at any time during a bout there are more seconds in a corner than allowed, the bout may be stopped until corrected or the chief second may be disqualified and may be subject to disciplinary action.

8.6 WRAP INSPECTION AND ACCEPTABLE MATERIAL

A. Hand wraps shall be applied in the dressing room in the presence of a Commission representative. Unless a championship bout, a representative of a participant must request in writing at the weigh-in or prior, to witness the wrapping of the opponent's hands.

B. White adhesive tape of no more than six feet and not over one and one-half inches wide can be placed directly on the hand to protect the hand near the wrist. The tape may cross the back of the hand but shall not extend within one inch of the knuckles when the hand is clenched in a fist. A single four-inch by four-inch white surgical pad or equivalent material must be approved by the Director or the chief inspector.

C. If equivalent material is approved it must be folded in half and may be used on the knuckles of each hand for added protection and safety.

D. Single strips of tape not wider than one-fourth inch and not longer than three inches may be placed between the knuckles in order to hold the white gauze in place.

E. Participants shall use soft white surgical bandage not over two inches wide and twenty yards in length, held in place by not more than six feet of white surgeon's adhesive tape to complete the wrappings for each hand. Bandages shall be adjusted in the dressing room in the presence of a Commission representative, who must sign across the back of the hand before gloves are secured on each participant.

F. For each foot wrapping, soft surgical bandages shall be used and must not be over two inches wide, held in place by surgeon's adhesive tape not over one and one-half inch wide.

G. Foot wrappings shall not exceed three to four windings of soft surgical bandage around the sole and instep, and no more than four windings around the ankle. Tape shall cross the foot once before being wrapped one more time around the sole and heel.

8.7 ENTERING THE RING OR CAGE

Only one second shall be inside the ring or cage between rounds. The other(s) may be on the ring platform outside the ropes. Seconds shall not enter the ring until the time keeper indicates the termination of the round and they shall leave when the timekeeper gives the ten second warning before the beginning of each round. If the chief second or another second enters the ring before the round ends, the participant may be disqualified and the violator may be subject to disciplinary action. If there are two entrances to a cage, two seconds may be in the cage at the same time.

8.8 CHIEF SECOND

The chief second of a participant may stand on the ring or cage apron and attract the attention of the referee in order to end the bout. The chief second shall not enter the ring unless the referee stops the bout and shall not interfere with a count that is in progress.

8.9 COACHING DURING A BOUT

While the bout is in progress, a second shall not excessively coach a participant during a round and shall remain seated and silent when directed by the referee or a Commission representative. Seconds shall not place or cause any items to be placed inside the ring or cage during a bout. They shall not continuously stand, lean or pound on the ring apron during the round. Excessive coaching may lead to point deductions, ejection from the venue, or subject to other disciplinary action.

8.10 USE OF ICE/WATER AND SUBSTANCES TO STOP HEMORRHAGING

A. A participant may be refreshed with a wet sponge or spray mist bottle that only contains water.

B. Excess water or ice on the ring or cage floor shall be wiped off immediately by the seconds.

C. Water discharged from the participant's mouth shall be caught in a bucket or other device furnished for that purpose.

D. A participant may not be given any stimulant.

E. Before leaving the ring or cage at the start of each round, the seconds shall remove all obstructions such as buckets, stools, bottles, towels and robes from the ring or cage floor.

F. If a participant is cut, a solution of adrenaline 1/1000, aventine, and thrombin can be used to heal

the cut.

G. No other bottle or container shall be allowed or used in the corners during a bout. Any other solution or substance is prohibited.

8.11 APPAREL AND SUBJECT TO SEARCHES

Seconds shall be neatly dressed while working the participant's corner and may be searched by a Commission representative for illegal substances or objects.

8.12 REINSTATEMENT OF AN EXPIRED LICENSE

The rule establishes the qualifications and procedures for reinstatement of an expired license pursuant to § 12-10-106.5, C.R.S. and § 24-34-105, C.R.S.

A. Conditions of Reinstatement: License expired for less than two years

i. An applicant seeking reinstatement of an expired license for less than two years shall complete a reinstatement application and pay a reinstatement fee.

B. Conditions of Reinstatement: License expired two years or more

i. An applicant seeking reinstatement of an expired license for two years or more shall complete a reinstatement application, pays a reinstatement fee and demonstrate competency for the specific position in a manner approved by the Director.

8.13 NOTICES FROM SECONDS

A. Address and Name Changes

i. Seconds shall inform the Director of any name, address, telephone, or email change within 30 days of the change. The Director will not change a second's information without explicit notification in a manner prescribed by the Director.

ii. One of the following forms of documentation is needed to change a name or correct a social security number:

a. Marriage license;
b. Divorce decree;
c. Court order; or
d. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Division Director.

8.14 REPORTING CONVICTIONS, JUDGMENTS AND ADMINISTRATIVE PROCEEDINGS

A. Seconds shall notify the Director within 45 days of any of the following events:

i. The conviction of a felony under any state or federal law, which would be a violation of §12-10-107.1 C.R.S. A guilty verdict, a plea of guilty or a plea of nolo contendere (no contest) accepted by the court is considered a conviction;

ii. A disciplinary action imposed upon the licensee by another jurisdiction that licenses promoters, which would be a violation of § 12-10-107.1, C.R.S., including, but not limited

to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a
license fee by the due date;

iii. Revocation or suspension by another state athlete Commission, municipality, federal or state agency or any association who oversees combative sports;

iv. Any judgment, award or settlement of a civil action or arbitration in which there was a final judgment or settlement against the licensee.

B. The notice to the Director shall include the following information;

i. If the event is an action by a governmental agency (as described above), the name of the agency, 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;

ii. If the event is a felony conviction, 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. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence with 45 days of such action;

iii. If the event concerns 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, or, if settled, the settlement agreement and court's order of dismissal;

C. The licensee notifying the Director may submit a written statement with the notice to be included with the licensee's records.

CHAPTER 9
REQUIREMENTS FOR PROMOTERS

9.1 LICENSE REQUIRED

A. A license is required for a promoter of a professional combative sport contest. Promoters shall apply for a license by submitting an application in the manner prescribed by the Director and must be licensed prior to the applying for a permit. Incomplete or incorrect applications will not be accepted.

B. Promoters are responsible for ensuring that all participants and seconds are licensed and all applicable fees are paid for each event.

9.2 FEES

Each applicant for a license or permit shall pay the required fees before the license or permit to fight is granted. The license and permit fee schedules are established by the Division Director pursuant to § 24-34-105, C.R.S.

9.3 MINIMUM AGE REQUIREMENT

A person who applies for a promoter license must be a minimum of eighteen years old.

9.4 PROMOTION PERMIT AND EVENT REQUIREMENTS

A. Promotion Permit Application and Fee

i. A promoter is required to have a permit for each event that includes a combative sport contest. A completed permit application and appropriate fee must be submitted to the Director at least 30 days prior to the scheduled date of the event.

ii. The Commission may approve a permit less than 30 days on a case by case basis.

iii. Promotion permits will not be granted to promoters who owe any fees from previous events.

iv. Any change to a previously approved permit will require a new permit application and may require a fee and must be submitted as expeditiously as possible.

v. Permit applications filed in excess of 150 days in advance of the event require Commission approval.

B. If a promoter promotes, advertises or sell tickets for an event before the promoter is licensed and appropriate permits have been granted for the event, the promoter may be subject to a fine or disciplinary action and the license or permit may not granted.

C. Limitations and Expectations on Permits

i. There are no limitations on the number of permits allowed at any one time. However, the Director may deny a permit for the following reasons:

a. Back-to-back events;
b. Same-day events;
c. Inadequate number of officials to properly regulate the event;
d. Failure of a promoter or any person connected with the promotion to comply with any

statute or rule;

e. A bout listed on the promotion permit application fails to meet the requirements of Chapter 3;

f. Inadequate or unsafe location, site or arena selection; or,

g. For other reasons indicating that the requested permit may not be in the best interest of the sport, the participants, spectators, or the officials.

ii. Promoters are expected to comply with the following:

a. Fulfill all obligations of the permit. Any promoter who cancels an event after a permit is granted may be subject to disciplinary action and future permits may be denied.

b. By completing the permit, promoters agree to pay in guaranteed funds all officials' fees established by the Division Director within the time frames established by the Director.

c. No weigh-in will begin without official fees paid in full. If the official fees have not been paid in full, the weigh-in cannot be rescheduled and the event will be canceled.

D. Minimum Requirements of Rounds

i. Promoters shall not schedule less than twenty rounds nor more than forty rounds for any one event. A standby bout shall be provided in the event an arranged bout falls through and it is necessary to put on another bout in order to meet the minimum requirements. Any exception to the number of rounds requires approval of the Director.

ii. The promoter is expected to feature a main event bout. The number of rounds that qualify as a main event bout is at least five rounds for boxing and at least three rounds for kickboxing and MMA.

iii. A promoter may appeal a permit denial to the Combative Sports Commission by submitting a written request within 10 days of the denial.

9.5 COMPLIANCE BOND OR CERTIFIED CHECK REQUIRED

A. Promoters shall either submit proof of a surety bond or submit a certified check to the Director in an amount to be determined by the Director before a scheduled event.

i. All bonds must be current and list the office of Combative Sports as the obligee.

ii. Bonds and certified checks must be verified and approved by the Director.

iii. Failure to comply may result in the cancellation of the event and disciplinary action.

9.6 INSURANCE REQUIREMENTS

A. Promoters are required to provide participants with at least $10,000 of life insurance covering deaths caused by injuries sustained during a bout.

B. Promoters are required to provide participants in each event with at least $10,000 of insurance coverage for medical, surgical, and hospital care as a result of injuries sustained

during a bout.

C. Promoters are required to provide the Director with proof of the above insurance coverage at least seven days prior to the scheduled event. Failure to provide timely proof may result in cancellation of the event and/or disciplinary action.

9.7 APPROVED ANNOUNCEMENTS

A. Promoters are responsible for ensuring that an announcement is made prior to the start of the main event which includes a statement that the event is regulated by the Commission.

B. Other announcements must be limited to those pertaining to present and future permitted bouts unless additional information in the announcement is specifically authorized by the Director or chief inspector.

C. Political announcements or references are not allowed under any circumstances.

9.8 SUBSTITUTION ANNOUNCEMENTS

Promoters are required to publicly announce all substitutions for participants advertised for bouts as soon as the substitutions are known. Prior to the announcement of a substitution, the substitute participant must be approved by Director or the chief inspector. If the substitute appears for the bouts and is not used for any reason other than medical disqualification, the substitute will be reimbursed by the promoter a minimum of one hundred dollars for training expenses and transportation. Failing to announce substitutions or pay the required reimbursement may result in disciplinary action against the promoter.

9.9 DELAY OF BOUTS

Promoters are responsible for having participants ready to enter the ring or cage immediately after the conclusion of the preceding bout. Any promoter causing a delay of more than five minutes may be subject to disciplinary action.

9.10 SECURITY AT EVENTS

The promoter is responsible for working with owner or operator of the premises in which the event and weigh-in is held to ensure that adequate security is provided for the participants and other persons who are present.

9.11 REINSTATEMENT OF AN EXPIRED LICENSE

This rule establishes the qualifications and procedures for reinstatement of an expired license pursuant to § 12-10-106.5, C.R.S. and § 24-34-105, C.R.S.

A. Conditions of Reinstatement: License expired for less than two years

i. An applicant seeking reinstatement of an expired license for less than two years shall complete a reinstatement application and pay a reinstatement fee.

B. Conditions of Reinstatement: License expired two years or more

i. An applicant seeking reinstatement of an expired license for two years or more shall complete a reinstatement application, pays a reinstatement fee and provide proof of a compliance bond in a manner approved by the Director.

9.12 NOTICES FROM PROMOTERS

A. Address and Name Changes

i. Promoters shall inform the Director of any name, address, telephone, or email change within 30 days of the change. The Director will not change a promoter's information without explicit notification in a manner prescribed by the Director.

ii. One of the following forms of documentation is needed to change a name or correct a social security number:

a. Marriage license;
b. Divorce decree;
c. Court order; or
d. A driver's license or social security card with a second form of identification may be acceptable at the discretion of the Division Director.

9.13 REPORTING CONVICTIONS, JUDGMENTS AND ADMINISTRATIVE PROCEEDINGS

A. Promoters shall notify the Director within 45 days of any of the following events:

i. The conviction of a felony under any state or federal law, which would be a violation of §12-10-107.1 C.R.S. A guilty verdict, a plea of guilty or a plea of nolo contendere (no contest) accepted by the court is considered a conviction;

ii. A disciplinary action imposed upon the licensee by another jurisdiction that licenses promoters, which would be a violation of § 12-10-107.1, C.R.S., including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a
license fee by the due date;

iii. Revocation or suspension by another state athlete Commission, municipality, federal or state agency or any association who oversees combative sports;

iv. Any judgment, award or settlement of a civil action or arbitration in which there was a final judgment or settlement against the licensee.

B. The notice to the Director shall include the following information;

i. If the event is an action by a governmental agency (as described above), the name of the agency, 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;

ii. If the event is a felony conviction, 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. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence with 45 days of such action;

iii. If the event concerns 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, or, if settled, the settlement agreement and court's order of dismissal;

C. The licensee notifying the Director may submit a written statement with the notice to be included with the licensee's records.

CHAPTER 10
GUIDELINES FOR CONTRACT, FINANCIAL ARRANGEMENTS AND REPORTING FRAUD

10.1 CONTRACT BETWEEN THE PROMOTERS AND THE PARTICIPANT – WRITING REQUIRED

No professional bout will be approved without a contract with the promoter and the participant. The contracts must contain a minimum of the following:

A. Name and signature of promoter or an authorized designee of the promoter.
B. Name and signature of participant.
C. Name of the opponent.
D. Type of Bout.
E. Date and start time of the event.
F. Date and start time of weigh-in.
G. Location of event and weigh-in.
H. Number of rounds in the bout.
I. Time limit of each round.
J. Maximum and minimum weight allowable.
K. Purse amount (Includes show and win money and ticket amount given).
L. Statement that participant will be present and on time to the weigh-in and the event.
M. Statements that the purse may be held by the Commission for violations.
N. Any deducted fees must be listed (this does not include Commission permit or license fees.
O. Statement that indicates participants will be paid by the promoter immediately following the event.
P. Statement that indicates a substitute participant will be paid by the promoter if they do not engage in a bout.
Q. Statement whereby the participant acknowledges the inherent risk of engaging in the sport. The participant, agrees to waive any claim that they or the participant's heirs may have against the State of Colorado, or any of its employees or official representatives as the result of any injury the participant may suffer while engaging in any bout.

10.2 MAXIMUM EFFORT

A participant shall not be fully paid a fee who does not complete the terms of the contract or compete in good faith or maximum effort during the bout as determined by the Director or chief inspector.

10.3 VIOLATION OF CONTRACT

Violation of the terms of a contract by any party may be grounds for disciplinary action.

10.4 GUIDELINES FOR REPORTS OF FRAUD

A. If any person has reason to believe that fraud has occurred, such person must report the issue to the Director in writing within 10 days of the event, unless otherwise extended by the Director.

B. Any licensee who fails to report to the Director any fraud, violation of the law or rule may be subject to disciplinary action.

C. If a licensee is approached with a request or suggestion that an event not be conducted honestly, that licensee must immediately report the matter to the Director. Failure to do so may be subject to disciplinary action.

D. Any licensee, who directly or indirectly holds, participates in, aids or abets any sham or fake contest or match may be subject to disciplinary action.

CHAPTER 11
PERSONNEL, FACILITY AND EQUIPMENT REQUIREMENTS

Promoters and others involved in an event have the responsibility to understand and comply with the following rules.

11.1 PERSONNEL REQUIRED DURING BOUTS

A. Physician

i. A bout shall not start or continue unless the physician(s) are actively licensed in Colorado and approved for the event is seated at ring or cage side, and the physician shall not leave until after the decision in a final bout.

ii. Televised bouts may require two physicians so that bouts may continue as one physician attends to a participant in the dressing rooms or in the near proximity.

iii. Physicians shall be prepared to assist if any serious emergency arises, and shall render temporary or emergency treatments for cuts and minor injuries sustained by the participants.

B. Emergency Medical Technician (EMT)

i. Promoters are responsible for ensuring that all bouts have a minimum two EMT's onsite and must ensure that the EMT's have medical equipment that at a minimum contains the following items and is located within twelve feet of the ring or cage:

a. A resuscitator;
b. An oxygen tank properly charged with suitable masks;
c. A stretcher;
d. An airway.

ii. Promoters must arrange for an ambulance to be onsite throughout the entire event and must arrange for and give advance notice to the nearest hospital and persons in charge of its emergency room of such event.

iii. The Director may require additional medical equipment and personnel as appropriate.

C. Security

i. Promoters are responsible for ensuring that public safety is maintained at all events by hiring a minimum of one certified peace officer.
ii. Additional officers may be required as determined by the Director.
iii. Any peace officer hired for this purpose must be Colorado State certified and must be employed by the local agency having jurisdiction in that area.
iv. The decision of whether a uniform is not worn by the peace officer shall be a joint decision of the law enforcement agency and the Director.
v. Failure to comply may result in the cancellation of the event and may result in disciplinary action.

11.2 FACILITY REQUIREMENTS

Promoters are responsible for ensuring that all local laws and fire codes are adhered to where an event occurs. Additionally, promoters are responsible for ensuring that the facility selected for the event and the weigh-in is a family-friendly environment. Facility selection is subject to the approval of the Director or chief inspector.

A. Dressing Rooms

i. Promoters are responsible for limiting the dressing room area to authorized personnel and shall furnish a person to enforce this limitation.

ii. Female weigh-in participants may request separate dressing rooms from male participants.

iii. The promoter shall furnish a private room for officials at the event.

iv. The dressing rooms and immediate area must:

a. Provide privacy for the participants;
b. Be properly lighted;
c. Be clean and free of clutter, trash, etc.;
d. Be free of alcoholic beverages or illegal drugs;
e. Comply with local health department requirements.

B. Smoking area and Prohibited Objects

i. Smoking is not permitted within twelve feet of the ring or cage.

ii. Beverages shall not be dispensed in cans or glass.

iii. Food or serving items used by the patrons shall not be made of hard substances that could reasonably cause harm if thrown.

iv. Any objects considered harmful to patrons as determined by Director or chief inspector are prohibited.

C. Ring, Cage, or Competition Area Safety Zone

A physical barrier surrounding the entire ring, cage, or competition area shall be placed at a minimum nine feet away from the outside edge of the apron or competition area. Anything within this area is the safety zone.
The safety zone shall be under the control and jurisdiction of the Director or the chief inspector assigned to supervise the event.

i. The safety zone is to be used for designated working officials, participants, seconds, physicians, announcers, Commission members and their guests and media representatives as approved by the Director or chief inspector.

ii. Promoters must ensure that the safety zone is controlled and free of nonessential individuals and the only beverage allowed is water.

iii. At no time during the bout may any items be on the ring apron.

iv. The tables next to the ring or cage must be free of any obstructions and shall not be

higher than the fighting area platform. All areas surrounding the ring or cage must be suitable and safe as approved by the Director or chief inspector.

v. Spectator seats shall be a minimum of ten feet away from the outside edge of the apron.

vi. The ring or cage safety zone must be completely set up at least three hours prior to the start of the first bout. This includes properly tightened ropes and all necessary equipment at ring or cage side.

11.3 RING AND CAGE REQUIREMENTS

A. Ring and Cage Size

i. The ring shall be not less than 16 feet nor more than 25 feet square within the ropes. The ring must have three sets of suitable steps. It shall be elevated no less than three and one-half feet nor more than four feet from the floor.

ii. The cage shall be not less than 18 feet nor more than 32 feet square within the fighting area. The cage must have a set of suitable steps for each entrance. It shall be elevated no more than four feet from the floor.

iii. The ring or cage posts shall be made of metal not less than three inches or more than four inches in diameter extending from the floor to the height of 58 inches above the ring floor.

iv. The ring or cage entry onto the fighting area canvas must be sufficient to allow easy access to the fighting area.

B. Ring Ropes and Fencing

i. Four ropes are required for boxing and kickboxing. The lower rope shall be 18 inches above the ring floor, the second rope 30 inches, the third rope 42 inches, and the fourth rope 54 inches above the ring floor. The ropes shall not be less than one inch in diameter and wrapped in soft material, with the corners padded with protective covers.

ii. A fifth or bottom rope is required for MMA bouts in a ring. The bottom rope shall not be more than six inches from the ring floor. The requirements for the top four ropes are the same as for boxing and kickboxing.

iii. The fencing that encloses a cage shall be made of materials that will not allow a participant to easily fall out of the space or break through it onto the floor or spectators.

iv. Acceptable materials for ring ropes or fencing include but are not limited to:

a. Vinyl-coated chain link fencing;
b. Metal parts of the enclosure and fighting that are covered and padded;
c. Any material that is not abrasive to the participants;
d. Any material that does not obstruct or limit the supervision and regulation of the bout.

v. The ropes shall be connected to the posts with extensions not shorter than 18 inches.

vi. All ring ropes and fencing is subject to the approval of the Director or the chief inspector.

C. Materials for the Ring and Cage Floor

i. Floor.

a. The ring floor shall extend beyond the lower rope no less than 24 inches.
b. The entire floor and apron must be padded with insulate, felt, matting, or a similar material with a thickness of at least one-inch.
c. A canvas or similar material covering, stretched tightly and laced or fastened to the outer edge of the floor shall cover the padding.
d. Boards shall be of sufficient strength to hold the weight and ensure the safety of all who enter the ring.
e. The padding thickness of any material is subject to the approval of the Director.

ii. Prohibited Floor Materials.

a. Vinyl or any plastic rubberized covering.
b. Materials that gather in lumps or ridges.

D. Additional Required Equipment

Promoters are required to provide all equipment and materials necessary to conduct all bouts. The equipment must be clean and in good condition. Such required equipment includes which are subject examination and approval by a Commission representative the following:

i. Steps;
ii. Two similar stools;
iii. Water buckets;
iv. Bell;
v. Buzzer or whistle;
vi. Timers;
vii. Gloves;
viii. Head gear;
ix. Foot pads;
x. Shin pads;
xi. Gauze and tape;
xii. Scale;
xiii. Any other associated material and equipment as determined by the Director.

E. Pairs of Gloves Required for all competing participants.

Promoters are responsible for having pairs of gloves on hand equal to the number of participants competing. The gloves may be used multiple times during an event. Promoters must be prepared for differing glove sizes.

F. Gloves

All gloves shall be furnished by the promoter and shall be new or in-tact and in good clean condition without lumps or imperfections. All participants in the main event, championship bouts and bouts of six rounds or more shall use new gloves. The specific glove size for each event shall be as follows:

i. In boxing or kickboxing bouts, the following requirements apply:

a. Participants weighing 147 pounds or less shall use at least eight-ounce gloves.
b. Participants weighing over 147 pounds shall use at least ten-ounce gloves.
c. When two participants differ in weight classes, participants shall use at least ten-ounce gloves.
d. The Director may approve or require glove size increases.
e. Participants in each bout shall wear the same brand gloves. The Director may approve gloves of different -brands.

ii. In MMA bouts, the following requirements apply:

a. Gloves must weigh at least four ounces.
b. Gloves weighing over eight ounces must be approved by the Director or the chief inspector.

iii. All gloves will be examined and approved by the Director or the chief inspector any time before, during and after a bout.

iv. If gloves are not approved by the Director or the chief inspector, they will be discarded before the bout starts, and the bout will not proceed until proper gloves are approved.

v. Gloves that are manipulated in such a manner as breaking, skinning, roughing or twisting shall not be approved for use, and such conduct is subject to disciplinary action.

CHAPTER 12
TICKETS AND SALES REPORTING REQUIREMENTS

12.1 ADMISSION TO EVENTS AND TICKETS REQUIRED

A. Every person admitted to an event shall have a ticket or a pass, complimentary or otherwise. Officials, participants, and seconds do not require a ticket or a pass. Every admission ticket or complimentary ticket or pass must be tracked.

B. The retail price of the tickets shall be printed in large type and displayed prominently above or near all ticket sellers or ticket windows.

C. The promoter shall disclose the retail ticket prices to the Director no later than the time the application for the permit is filed.

D. Tickets of different prices shall be printed in different colors, or state the retail price on the face value of the ticket. Retail ticket prices shall not be changed.

E. The Director shall be provided with all information and materials necessary for an accurate accounting, including the printers' manifest showing the total number of tickets printed and the admission prices of each within seven days of an event.

F. Advance tickets, as well as tickets sold at the time of the event, must be accounted for as part of the gross receipts.

G. The number of tickets sold shall not exceed the actual capacity of the location or facility where the event is to be held.

12.2 OTHER TICKETS AND TICKET LIMIT

The Director, Commissioners, chief inspectors, and designated employees of the Department of Regulatory Agencies shall be admitted without charge to any event over which the Commission has jurisdiction. These individuals may be required to present their state identification

12.3 NOTICE OF CHANGE - TICKET REFUNDS

A. Notice of any change in the announced advertised bouts must be conspicuously posted at the box office and announced prior to the scheduled start of the bouts.

B. Any patrons requesting a refund of the ticket price must present the tickets or the ticket stubs at the box office or to a designated person who is handling the refunds.

C. All returned ticket stubs must be held for an accurate accounting of the gross receipts.

12.4 SURCHARGE

The promoter is responsible for all surcharge matters below:

A. An event surcharge on gross receipts, less applicable taxes, may be assessed on each event. If tickets or passes are priced so that the applicable surcharge results in less than $1.00 per ticket or pass, a surcharge of $1.00 per ticket or pass may be assessed.
B. An additional surcharge may be assessed on each ticket or pass issued to the event as determined by the Division Director.
C. No later than ten business days after the event, promoters are responsible for filing an accurate surcharge report with the appropriate surcharge payment. Payment shall be in the form of a cashier's check, money order, or other acceptable methods as determined by the Director.
D. The Director has the discretion to verify the surcharge report submitted.
E. Failing to submit an accurate surcharge report and appropriate payment may result in disciplinary action.

CHAPTER 13
REQUIREMENTS FOR ELIMINATION BOUTS

All rules in Chapter 2 and in Chapter 5 apply to elimination bouts unless otherwise noted in this Chapter.

13.1 ELIGIBILITY

A. A participant is eligible to compete if they have NOT been a competitor in professional combative sports.
B. Promoters are required to call to the attention of the Director any concerns. The Director may not accept a participate due to conduct or safety concerns. The Director will determine whether the fighter is fit to continue.
C. Elimination tournament debut participants must be medically cleared by the Director upon consultation with a physician a minimum of three days prior to the event.

13.2 GLOVE SIZE

A. For all boxing and kickboxing elimination bouts, boxing gloves of at least 12 ounces shall be worn.
B. For all MMA elimination bouts, gloves of a least four ounces shall be worn.

13.3 EQUIPMENT – HEADGEAR

A. Boxing:
The Promoter shall provide head gear which shall be worn by all participants. The Director has the sole discretion to waive the headgear requirement on a bout by bout basis.

B. Kickboxing:
The promoter shall provide headgear, foot pads and shin pads which shall be worn by all participants. The Director has the discretion to limit the amount of equipment required.

13.4 ROUNDS AND TIME LENGTH

A. Elimination boxing and kickboxing bouts shall consist of three, two-minute rounds or three, one-minute rounds with a one-minute rest period between each round.

B. Elimination MMA bouts shall consist of three, three-minute rounds with a one-minute rest period between each round.

13.5 ELIMINATION TOURNAMENT FORMAT

A. Tournaments shall be single elimination events. A participant who has lost a bout may not participate in another bout in the same event.

B. Tournaments may be between only two participants.

13.6 ELIMINATION TOURNAMENT LENGTH

A. Elimination tournaments are a one-day event. Participants may not participate in more than three matches per event.

13.7 WEIGHT CATEGORIES

A. There shall be two weight classes for all participants in boxing and kickboxing:

i. Light heavyweight - up to 185 lbs.
ii Heavyweight - over 185 lbs. or more.

B. The Director may create weight classes other than those listed above.

C. There shall be 11 weight categories for all participants in MMA as shown below:

POUNDS	CLASSIFICATION	ALLOWANCE
Above 265	Super Heavyweight	No limit
231-265	Heavyweight	35 lbs.
206-230	Cruiserweight	25 lbs.
186-205	Light Heavyweight	20 lbs.
171-185	Middleweight	15 lbs.
156-170	Welterweight	15 lbs.
146-155	Lightweight	10 lbs.
136-145	Featherweight	10 lbs.
126-135	Bantamweight	10 lbs.
115-125	Flyweight	10 lbs.
Below 124	Minimum Weight	10 lbs.

D. No participant shall engage in a bout where the weight difference exceeds the allowance shown above for MMA. Any greater weight spread requires approval of the Director.

13.8 ELBOW AND KNEE STRIKES PROHIBITED

Elbows strikes of any kind or knee strikes to the head are prohibited in any type of elimination bout. The participant may be disqualified and may be subject to disciplinary action.

CHAPTER 14
REQUIREMENTS FOR OFFICIALS

14.1 OFFICIALS - CONTROL

A. All officials involved in an event shall be under the direct control and supervision of the Director or the chief inspector assigned to supervise the event. The Director has the discretion to determine whether clothes, facial or body adornments (long mustaches, goatees, beards sideburns) and length of hair comply with the professional dress code for officials for that particular event.

B. No official shall in any manner display bias for one participant over the other or against any participant.

C. The official may not consume, or be under the influence of, alcohol, marijuana, or any controlled substance while acting as an official.

D. Failure to comply may result in disciplinary action and prohibition from officiating future events.

E. Any written complaint made to the Director regarding officiating conduct, or officials conduct during and outside of an event, will be evaluated on a case-by-case basis if reported within two weeks after an event or incident.

14.2 MINIMUM QUALIFICATIONS FOR AN OFFICIAL LICENSE

A license is required to serve as an official in a professional combative sport contest. All officials shall submit an application for a license to officiate in a manner prescribed by the Director. Incomplete or incorrect applications will not be accepted.

Each applicant for a license shall pay the fee established by the Division Director pursuant to Section 24-34-105, C.R.S. Any person wishing to apply for an official's license must demonstrate the following qualifications in combative sport.

A. Referee Qualifications:

i. Referee experience may be demonstrated by one of the following:

a. Four years of amateur experience as a referee at the highest classification level, or,
b. One year of professional experience as a referee from a State Athletic Commission, or a Tribal Commission that is a member of the Association of Boxing Commissions.

ii. Other requirements for Referees:

a. Prior to licensure, a referee must attest that they have read and understand the laws and rules covering professional combative sports in this state.
b. The referee must also read and understand the rules of the various sanctioning bodies.
c. A written test and a physical examination may be required at the discretion of the Director to determine fitness to perform.

B. Judge Qualifications:

i. Judge experience may be demonstrated by one of the following:

a. Three years of amateur experience as a judge at the highest level of accomplishment.
b. One year of professional experience as a judge from a State Athletic Commission or a Tribal Commission that is a member of the Association of Boxing Commissions.

C. Inspector Qualifications:

There are three positions within the inspector category: timekeepers, tally judge and knock down judge.

i. Inspector experience may be demonstrated by one of the following:

a. Three years of amateur experience as an inspector, timekeeper, tally judge or knock down judge.
b. One year of professional experience in any of the positions listed above from a State Athletic Commission or a Tribal Athletic Commission that is a member of the Association of Boxing Commissions, or upon approval of the Director.

14.3 CONDITIONS OF REINSTATEMENT OF AN EXPIRED LICENSE

The purpose of this rule is to establish the qualifications and procedures for reinstatement of an expired official's license pursuant to § 12-10-106.5, C.R.S. and § 24-34-105, C.R.S.

A. Conditions of Reinstatement: License expired less than two years

i. An applicant seeking reinstatement of an expired license for less than two years shall complete a reinstatement application and pay a reinstatement fee.

B. Conditions of Reinstatement: License expired two years or more

i. An applicant seeking reinstatement of an expired license for two years or more shall complete a reinstatement application, pay a reinstatement fee and demonstrate competency for the specific position in a manner approved by the Director.

An applicant for reinstatement who has actively practiced in Colorado with an expired license in violation of § 12-10-106.5 C.R.S., is subject to denial of application, disciplinary action, and/or other penalties as authorized in the Professional Combative Sports Safety Act at § 12-10-101 et seq., C.R.S., and in accordance with § 24-34-102 et seq., C.R.S.

14.4 NOTICES FROM OFFICIALS

A. Address and Name Changes

i. Officials shall inform the Director of any change in name, address, telephone, email, or financial institution that may affect timely payments within 30 days of the change. The Director will not change information without explicit notification in a manner prescribed by the Director.

ii. One of the following forms of documentation is needed to change a name or correct a social security number:

a. marriage license;
b. divorce decree;
c. court order; or
d. a driver's license or social security card with a second form of identification may be acceptable at the discretion of the division of registrations.

14.5 REPORTING CONVICTIONS, JUDGMENTS AND ADMINISTRATIVE PROCEEDINGS

A. Officials shall notify the Director within 45 days of any of the following events:

i. The conviction of a felony under any state or federal law, which would be a violation of §12-10-107.1 C.R.S. A guilty verdict, a plea of guilty or a plea of nolo contendere (no contest) accepted by the court is considered a conviction;

ii. A disciplinary action imposed upon the licensee by another jurisdiction that licenses officials, which would be a violation of § 12-10-107.1, C.R.S., including, but not limited to, a citation, sanction, probation, civil penalty, or a denial, suspension, revocation, or modification of a license whether it is imposed by consent decree, order, or other decision, for any cause other than failure to pay a license fee by the due date;

iii. Revocation or suspension by another state athlete Commission, municipality, federal or state agency or any association who oversees combative sports;

iv. Any judgment, award or settlement of a civil action or arbitration in which there was a final judgment or settlement against the licensee.

B. The notice to the Director shall include the following information;

i. If the event is an action by a governmental agency (as described above), the name of the agency, 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;

ii. If the event is a felony conviction, 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. The licensee shall also provide to the Director a copy of the imposition of sentence related to the felony conviction and the completion of all terms of the sentence with 45 days of such action;

iii. If the event concerns 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, or, if settled, the settlement agreement and court's order of dismissal;

C. The licensee notifying the Director may submit a written statement with the notice to be included with the licensee's records.

14.6 CONFLICT OF INTEREST

A. Officials may not act in any other capacity during an event, unless given permission by the Director.

B. Officials shall be excluded from officiating as a referee or a judge in any bout involving participants with whom they have worked as manager, trainer, or had a recent business relationship.

C. Officials shall notify the Director or chief inspector immediately of any conflict or potential conflict in writing and as set forth in policy.

14.7 CHIEF INSPECTOR DEFINITION AND DUTIES

A. A chief inspector is a licensed official who is authorized by the Director to supervise an event on behalf of the Office of Combative Sports.

B. The Director shall set the amount of compensation the official will receive for each supervised event.

C. The chief inspector must ensure that the laws and rules are properly applied and enforced.

D. Chief inspectors must report to the Director any violations of the law or rule that occur during an event within 24 hours.

14.8 REFEREE ENFORCEMENT

A. The referee is charged with the enforcement of all Office of Combative Sports rules which apply to the execution of performance and the conduct of participants' seconds while in the ring.

B. Referees shall not wear glasses of any kind while refereeing a bout.

14.9 REFEREE DUTIES

A. Before the start of each bout, the referee will check each judge and the timekeeper to determine if they are prepared to start the bout.

B. The referee is responsible for determining who will act as the chief second in each corner and shall hold them responsible for all conduct in the corners.

C. The referee in their discretion shall warn the seconds of rule violations, and if they do not comply, the referee shall warn them that further violations will result in point deductions, disqualification of their participant, and subject to disciplinary action.

D. The referee shall instruct the judges to mark their scorecards accurately at all times.

E. The referee shall ensure that a bout moves to its proper conclusion. It should not be stopped or delayed, except in cases of damaging fouls or health and safety concerns.

F. The referee shall penalize participants who delay or use avoiding tactics by deducting points or by immediate disqualification.

G. At the conclusion of all bouts and upon the announcement of the winner, the referee shall raise the winner's hand.

14.10 APPROVAL AND PAYMENT

The Director shall select the referee for each bout and the decision shall be final. The amount of money paid to the referee shall be fixed by the Director. Depending on the bout, a referee may be paid by the promoter or sanctioning organization.

14.11 SOLE ARBITER

A. The referee is the sole arbiter of a bout and is the only individual authorized to stop a bout.

B. Referees shall stop a bout when they deem the following:

i. The physical condition of a participant so requires,
ii. When a participant is out-classed;
iii. A participant is not demonstrating their best efforts.

C. In the event of serious cuts, the referee may seek a recommendation from the physician whether the bout

should be stopped.

14.12 FORFEITURE AND WITHHOLDING OF A PARTICIPANT'S PURSE

The referee shall recommend to the Director or chief inspector, the forfeiture or the withholding of half of a participant's purse whenever a participant fails to perform in good faith or maximum effort when competing.

14.13 GLOVE INSPECTION

A. The referee shall inspect the gloves of the participants in all events and make sure that no foreign substances have been applied to the gloves or bodies of the participants that might be detrimental to an opponent.

B. Whenever the gloves of a boxing or kickboxing participant touches the canvas floor, the referee shall inspect the gloves and wipe them clean before the bout proceeds.

14.14 LOSS OF BODILY FUNCTION

If a participant, during a round, visibly loses control of a bodily function (vomit, urine, bowels), the bout shall be stopped by the referee, and the participant shall lose the contest by TKO. In the event a loss of control of a bodily function occurs in the rest period between rounds, the ringside physician shall be called in to evaluate if the combatant can continue. If the participant is not cleared by the ringside physician to continue, that participant shall lose by TKO. In these situations, the result shall be recorded as TKO due to Medical Stoppage.

14.15 KNOCKDOWN COUNTS

A. When a participant is knocked down as a result of a punch in a boxing bout or a legal kick or punch in a kickboxing bout, the referee shall order the opponent to a neutral corner and may pick up the count from the timekeeper.

B. The referee shall audibly announce the passing of the count. The participant may take the eight count either on the floor or standing. The referee's count is the official count.

C. Should the opponent fail to stay in the neutral corner, the referee shall cease the count until the participant returns to the corner, then the referee shall continue with the count from the point at which the count was interrupted.

D. The eight count is mandatory for a knockdown in a boxing and kickboxing bout and a participant may not resume fighting until the referee has finished counting to eight.

E. During any count, the opponent shall go to the farthest neutral corner and remain in that neutral corner until signaled by the referee.

14.16 FALLEN PARTICIPANT WHO RISES AND FALLS AGAIN WITHOUT BEING HIT AGAIN

A. When a fallen participant rises and falls again, without being hit again, in a boxing or kickboxing bout the referee shall continue the original count, rather than starting a new count.

B. If the bell rings ending the round during the count, the count shall continue.

14.17 COUNT OF TEN - INDICATION OF KNOCKOUT

If the referee calls the count of ten during a knockdown in a boxing or kickboxing bout or the referee determines that

a participant is not able to continue, the referee shall wave both arms to indicate a knockout.

14.18 PARTICIPANTS DOWN AT THE SAME TIME

If both participants are considered down at the same time in a boxing or kickboxing bout, the count shall continue as long as one of them is still down. If both participants remain down until the count of ten, the bout shall be stopped and the result shall be a technical draw.

14.19 ASSESSING FOULS

A. The referee must weigh the cause as well as the act in assessing fouls.

B. When a foul is unintentionally inflicted, but intentionally received, it is applied to the deliberate recipient.

C. If a participant receives a low blow as determined by the referee, the referee may use their discretion to permit a rest period for the recipient. Such period shall not exceed five minutes. During the rest period, seconds or may not assist or coach either participant.

D. The offending participant shall go to a neutral corner.

E. The referee will give a warning for a low blow to the offending participant if the participant who received the low blow indicates they are ready to continue the bout.

F. The referee will give the command to continue after the end of the rest period**.** If the offended participant refuses to continue after the rest period, their opponent may be named the winner.

14.20 LOW BLOWS - RECIPIENT NAMED WINNER

A participant cannot be named the winner of a bout as a result of receiving a low blow unless the referee determines the blow was delivered deliberately and was of such force to seriously incapacitate the offended participant so that they could not continue to compete. Under this condition, the offender shall be disqualified immediately.

14.21 DELIBERATE ACTIONS TO GAIN ADVANTAGE – PENALTIES

A. The referee shall warn or penalize participants who use the ropes or deliberately dislodge their mouthpiece or use other unfair tactics to gain an advantage.

B. The referee shall not permit unfair tactics that may cause injuries to participants.

C. In a boxing bout, the only fair blow is a blow delivered with the padded knuckle part of the glove on the front or sides of the head and body above the hip line.

14.22 JUDGE APPROVAL

The Director shall select the judges for each bout and the decision shall be final. The amount of money paid the judges for services rendered shall be fixed by the Director. Depending on the bout, a judge may be paid by the promoter or sanctioning organization.

14.23 JUDGE DUTIES

A. Judges are responsible to familiarize themselves with and review the method to be used when scoring bouts which may vary by sport.

B. The bouts shall be scored to determine the winner with the ten-point must system. In this system, the winner of each round receives ten points and the opponent a proportionately lower number. If the round is

even, each participant receives ten points.

C. Scorecards are provided by the Director and only those shall be used.

D. Each judge shall accurately complete their scorecard and in accordance with the provisions of the rules governing the sport they are judging.

E. At the end of each round the scorecard shall be totaled and signed by each judge.

14.24 NUMBER OF JUDGES

All bouts will be evaluated and scored by three judges.

14.25 JUDGE POSITION

The judges shall sit alone at ring or cage side and will reach their own decision without conferring in any manner with any other official or person

14.26 REMOVAL OF JUDGES

Judges of bouts will be under the control and jurisdiction of the office of Combative Sports. The Director or chief inspector reserves the right to remove a judge, if, the judge is inefficient or is otherwise unable to act as a judge.

14.27 INSPECTOR PERFORMING TIMEKEEPER DUTIES

The timekeeper is responsible for keeping accurate time of all bouts. The timekeeper shall keep an exact record of the time taken out at the request of the referee for the examination of a participant by the physician, replacing a glove, or adjusting equipment during a round, and report the exact time of the bout being stopped. The timekeeper shall use an audible device to indicate the conclusion of every round.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
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FREDERICK R. YARGER
Solicitor General

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Office of the Attorney General

Tracking number: 2017-00592

Opinion of the Attorney General rendered in connection with the rules adopted by the

Division of Professions and Occupations - State Boxing Commission

on 04/12/2018

4 CCR 740-1

BOXING KICKBOXING AND MIXED MARTIAL ARTS

The above-referenced rules were submitted to this office on 04/16/2018 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.

April 25, 2018 09:30:26

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Animal Health Division

CCR number

8 CCR 1201-18

Rule title

8 CCR 1201-18 BUREAU OF ANIMAL PROTECTION RULES 1 - eff 05/30/2018

Effective date

05/31/2018

Colorado Department of Agriculture

Animal Industry Division

Bureau of Animal Protection Rules

8 CCR 1201-18

Part 1. Definitions

1.1. "Abandon" means the leaving of an animal without adequate provisions for the animal's proper care by its owner or caretaker, the person responsible for the animal's care or custody, or any other person having possession of such an animal.

1.2. "Animal" means any living dumb creature.

1.3. "Animal Protection Act" means the article describing the scope of, agents responsible for enforcement of, and conditions that elicit animal protection in the Colorado Revised Statutes § 35-42-101, C.R.S. et seq.

1.4. "Assessment" means to make an on-site determination of: whether an animal is confined without an adequate supply of food and water and may be mistreated, neglected, or abandoned or whether an animal is the subject of Cruelty to Animals.

1.5. "Assist" means to work under the direction and authority of law enforcement.

1.6. "Commissioned agent" or "agent" means an agent of the Bureau of Animal Protection approved by the Colorado Agricultural Commission and appointed by the Commissioner.

1.6.1. "Non-profit agent" means a commissioned agent of the Bureau of Animal Protection who is employed by a non-profit agency.

1.6.2. "Municipal agent" means a commissioned agent of the Bureau of Animal Protection who is employed by a county, city, or other municipal organization.

1.6.3. "Law enforcement agent" means a commissioned agent of the Bureau of Animal Protection who is employed by a law enforcement agency and whose employment relationship defines the scope of the agent's authorities.

1.6.4. "Department of Agriculture agent" means an agent of the Bureau of Animal Protection who is employed by the Colorado Department of Agriculture.

1.7. "Commissioner" means the Colorado Commissioner of Agriculture or his designee.

1.8. "Companion or Domestic Animal" means domestic dogs, domestic cats, pet birds, and other non-livestock species.

1.9. "Criminal investigation" means a fact-finding process that follows an initial assessment and that is for the purpose of gathering evidence to support a criminal charge for cruelty to animals or neglect, mistreatment, or abandonment of an animal which fact-finding process occurs pursuant to the authority of and at the direction of law enforcement.

1.10. "Cruelty to Animals" means actions against an animal, including but not limited to subjecting an animal to: knowing, reckless, or criminally negligent mistreatment or neglect; intentional

abandonment; or knowing, reckless, or criminally negligent torture, needless mutilation, or needless death, as set forth in the Colorado Revised Statutes at § 18-9-201, C.R.S. et seq.

1.11. “Dangerous Dog” means any dog that:

1.11.1. Inflicts bodily or serious bodily injury upon or causes the death of a person or domestic animal, or livestock; or

1.11.2. Demonstrates tendencies that would cause a reasonable person to believe that the dog may inflict bodily or serious bodily injury upon or cause the death of any person or domestic animal or livestock; or

1.11.3. Is trained or used for animal fighting.

1.12. “Department” means the Colorado Department of Agriculture.

1.13. “Inspection” means a fact-finding process that follows an initial assessment, undertaken when the initial assessment yields concerns that an animal may be the subject of Cruelty to Animals or that an animal may be the subject of neglect, mistreatment, or abandonment. Inspection may include interviewing, visual observations, and taking photographs.

1.14. “Investigation” means a fact-finding process that follows an initial assessment for the purpose of gathering evidence to support a criminal charge for cruelty to animals or neglect, mistreatment, or abandonment of an animal or to support a civil charge for neglect, mistreatment, or abandonment of an animal.

1.15. “Law enforcement” means a fully P.O.S.T.-certified peace officer, within their jurisdiction. “Law enforcement” includes but is not limited to a sheriff, undersheriff, or deputy sheriff; a police officer; a town marshal or deputy town marshal; a Colorado State Trooper; or a Colorado Bureau of Investigation agent.

1.16. ”Law enforcement agency” means any agency of the state or its political subdivisions that is responsible for enforcing the laws of this state. "Law enforcement agency" includes but is not limited to any police department, sheriff's department, and the district attorney's office.

1.17. “Livestock” means cattle, swine, sheep, goats, and such horses, mules, asses, and other animals used in the farm or ranch production of food, fiber, or other products defined by the Commissioner as agricultural products.

1.18. “Mistreat/Mistreatment” means every act or omission which causes or unreasonably permits the continuation of unnecessary or unjustifiable pain or suffering.

1.19. “Neglect” means failure to provide food, water, protection from the elements, or other care generally considered to be normal, usual, and accepted for an animal’s health and well-being consistent with species, breed, and type of animal.

1.20. “Site” means the location of an animal.

1.21. “Statistics” means each commissioned agent’s number of animal assessments (as set forth in this Rule), the number of dogs seized and impounded as a result of an agent’s issuing a summons and complaint for a charge of Unlawful Ownership of a Dangerous Dog, and the number of all summonses issued on a monthly basis.

1.22. “Unlawful Ownership of a Dangerous Dog” means owning, possessing, harboring, keeping, having financial or property interest in, or having control or custody of a dangerous dog.

Part 2. Process and Procedures

2.1. Assessment. A Commissioned Agent may conduct an assessment at a site when the Commissioned Agent learns, whether by complaint or by tip or by direct contact with Department personnel, that an animal may be confined without an adequate supply of food or water, that an animal may be the subject of mistreatment, neglect, or abandonment, or that an animal may be the subject of Cruelty to Animals.

2.1.1. Inadequate supply of food and water. A Commissioned Agent who finds an animal confined without an adequate supply of food and water may enter into the location where the animal is confined and provide it with food and water.

2.1.1.1. No Commissioned Agent may enter into a person's private residence.

2.1.1.2. A Commissioned Agent who enters into property to provide food and water to an animal confined without an adequate supply of food and water shall post notification of said entry at an entrance to or at a conspicuous place upon such area or building where such animal is confined.

2.1.1.3. In the case of companion animals, if such animal is not cared for by a person other than the Commissioned Agent or other peace officer or a veterinarian within 72 hours of the posting of the notification, such companion animal shall be presumed to have been abandoned under circumstances in which the animal's life or health is endangered.

2.1.1.4 After consultation with the Department, and upon direction and approval from the Department, a Commissioned Agent may take charge of any companion animal presumed to have been abandoned pursuant to this section.

2.2. Inspection.

2.2.1. Mistreatment, Neglect, or Abandonment: Companion Animal. A Commissioned Agent, whose assessment gives the agent reasonable grounds to believe that a companion animal is the subject of mistreatment, neglect, or abandonment, may perform the following actions without the assistance of law enforcement:

2.2.1.1. Interview the companion animal's owners or caretakers;

2.2.1.2. Interview any witnesses who may have information related to the alleged mistreatment, neglect, or abandonment;

2.2.1.3. Visually observe the companion animal if such visual observation can be achieved without entering illegally into or onto private property, or when a Commissioned Agent has entered the property to provide food or water where such companion animal is confined without adequate food or water.

2.2.1.4. Take any photographs necessary to aid the agent with recollection of the alleged mistreatment, neglect, or abandonment.

2.2.1.5. Issue a summons and complaint to the owner, caretaker, or other person who has possession of the companion animal.

2.2.1.6. Contact the Colorado Department of Agriculture if the agent has reasonable cause to believe that the animal has been mistreated, neglected, or abandoned so that the animal's life or health is endangered, and that the person in control of

the animal is unable to adequately provide for the animal and is not a fit person to own the animal.

2.2.2. Mistreatment, Neglect, or Abandonment: Livestock. A Commissioned Agent, whose assessment gives the Commissioned Agent reasonable grounds to believe that livestock is the subject of mistreatment, neglect, or abandonment, may perform the following actions without the assistance of law enforcement:

2.2.2.1. Interview the livestock's owners or caretakers;

2.2.2.2. Interview any witnesses who may have information related to the alleged mistreatment, neglect, or abandonment;

2.2.2.3. Visually observe the livestock if such visual observation can be achieved without entering illegally into or onto private property, or when a Commissioned Agent has entered the property to provide food or water where such livestock is confined without adequate food or water.

2.2.2.4. Take any photographs necessary to aid the Commissioned Agent with recollection of the alleged mistreatment, neglect, or abandonment.

2.2.2.5. Contact law enforcement to proceed with criminal investigation pursuant to the direction and under the authority of law enforcement.

2.2.2.6. Contact the Colorado Department of Agriculture if the agent has reasonable cause to believe that the animal has been mistreated, neglected, or abandoned so that the animal's life or health is endangered, and that the person in control of the animal is unable to adequately provide for the animal and is not a fit person to own the animal.

2.2.3. Cruelty to Animals: Companion Animal. A Commissioned Agent, whose assessment gives the agent reasonable grounds to believe that a companion animal is the subject of Cruelty to Animals, may perform the following actions without the assistance of law enforcement:

2.2.3.1. Interview the companion animal's owners or caretakers;

2.2.3.2. Interview any witnesses who may have information related to the alleged Cruelty to Animals;

2.2.3.3. Visually inspect the companion animal if such visual inspection can be achieved without entering illegally into or onto private property, or when a Commissioned Agent has entered the property to provide food or water where such companion animal is confined without adequate food or water.

2.2.3.4. Take any photographs necessary to aid the agent with recollection of the alleged Cruelty to Animals.

2.2.3.5. Issue a summons and complaint to the owner, caretaker, or other person who has possession of the companion animal.

2.2.3.6. Contact law enforcement to proceed with criminal investigation pursuant to the direction and under the authority of law enforcement.

2.2.4. Cruelty to Animals: Livestock. A Commissioned Agent, whose assessment gives the Agent reasonable grounds to believe that livestock is the subject of Cruelty to Animals, may perform the following actions without the assistance of law enforcement:

2.2.4.1. Interview the livestock's owners or caretakers;

2.2.4.2. Interview any witnesses who may have information related to the alleged Cruelty to Animals;

2.2.4.3. Visually observe the livestock if such visual observation can be achieved without entering illegally into or onto private property, or when a Commissioned Agent has entered the property to provide food or water where such livestock is confined without adequate food or water.

2.2.4.4. Take any photographs necessary to aid the Commissioned Agent with recollection of the alleged Cruelty to Animals.

2.2.4.5. Contact law enforcement to proceed with criminal investigation pursuant to the direction and under the authority of law enforcement.

2.3. Investigation.

2.3.1. Mistreatment, Neglect, or Abandonment: Companion Animal. A Commissioned Agent, whose assessment gives the agent reasonable grounds to believe that a companion animal is the subject of mistreatment, neglect, or abandonment, may not proceed beyond the inspection outlined in Section 2.2.1, including seizing and impounding the companion animal, without direction from and under the authority of law enforcement or the Department.

2.3.2. Mistreatment, Neglect, or Abandonment: Livestock. A Commissioned Agent, whose assessment gives the agent reasonable grounds to believe that livestock is the subject of mistreatment, neglect, or abandonment, may not proceed beyond the inspection outlined in Section 2.2.2 without direction from and under the authority of law enforcement or the Department.

2.3.3. Cruelty to Animals: Companion Animal. A Commissioned Agent, whose assessment gives the agent reasonable grounds to believe that a companion animal is the subject Cruelty to Animals, may not proceed beyond the inspection outlined in Section 2.2.3, including seizing and impounding the companion animal, without direction from and under the authority of law enforcement.

2.3.4. Cruelty to Animals: Livestock. A Commissioned Agent, whose assessment gives the agent reasonable grounds to believe that livestock is the subject Cruelty to Animals, may not proceed beyond the inspection outlined in Section 2.2.4 without direction from and under the authority of law enforcement.

2.4. Unlawful Ownership of a Dangerous Dog. A Commissioned Agent, who is acting under the authority of applicable local or county ordinances, may conduct an investigation of an allegation of unlawful ownership of a dangerous dog.

2.4.1. Summons and Complaint: Where reasonable grounds exist to believe that a person has committed the unlawful ownership of a dangerous dog, a Commissioned Agent may issue to the owner or caretaker of that dog a summons and complaint for an alleged violation of § 18-9-204.5, C.R.S. Unlawful Ownership of a Dangerous Dog.

2.4.2. Seize and Impound: Where a Commissioned Agent has issued a summons and complaint for an alleged violation of § 18-9-204.5, C.R.S. Unlawful Ownership of a Dangerous Dog, that Commissioned Agent may take the dog into custody and place it into a public animal shelter.

2.4.3. Warrant: Where a Commissioned Agent has issued a summons and complaint for an alleged violation of § 18-9-204.5, C.R.S. Unlawful Ownership of a Dangerous Dog, and where the owner or caretaker or other person in possession of the dog refuses to permit the agent to seize and impound the dog, the agent may contact law enforcement for assistance with obtaining and executing a search warrant to seize the dog.

Part 3. Agent Training Requirements

In addition to the applicable requirements set forth in § 35-42-107 C.R.S., each applicant must satisfy these training and experience requirements as set forth below to be eligible to receive a commission, unless the Commissioner determines that an applicant's experience and training constitute equivalent qualification for a commission.

3.1. 40 hours of prior training, to include:

3.1.1. Legal authority for investigations, assessments, and inspections (this can include but does not require evidence collection and chain of custody);

3.1.2. Animal care, behavior, and handling;

3.1.3. Occupational safety;

3.1.4. Crisis intervention and conflict resolution;

3.1.5. Report writing;

3.1.6. Professionalism and ethics;

3.1.7. Animal husbandry and body condition scoring; and

3.1.8. Optional training, which may include but is not limited to:

3.1.8.1. Cost of Care;

3.1.8.2. Evidence collection and chain of custody;

3.1.8.3. Courtroom preparation; and

3.1.8.4. Cross reporting.

3.2. Training provided by the Colorado Department of Agriculture, to include, at minimum:

3.2.1. Colorado Laws including Colorado Revised Statutes Titles 18 and 35;

3.2.2. Scope of authority; and

3.2.3. Bureau of Animal Protection Rule 8 CCR 1201-1218.

3.3. One year experience in regulatory or code enforcement, animal care and control, or animal cruelty Investigations.

Part 4. Continuing Education, Terms of Commissions and of Renewals, and Revocation

4.1. Continuing Education: 32 hours of continuing education and training shall be completed every 2 years.

4.1.1. Continuing education course information must be submitted to the Colorado Department of Agriculture for approval and must be submitted and approved prior to a training course being offered as continuing education.

4.1.2. No training course submitted for approval will be considered valid until it receives the Commissioner's approval. A wide variety of training falls within the scope of BAP agent authority, and will be considered by the Commissioner.

4.2. Term of Commission: Each commission shall remain valid for the period of one calendar year from the date it is issued.

4.3. Renewal of Commission: A commissioned agent who desires to continue as a commissioned agent must apply for renewal annually, providing with such application for renewal, at a minimum:

4.3.1. Employment Information: Current employer name, address, phone, category, and supervisor information;

4.3.2. Continuing Education: Evidence of completed, approved, continuing education credits, if applicable;

4.3.3. Statistics: Fully submitted statistics for the agent's previous year's activities; and

4.3.4. Additional Requirements of Commissioner: Any additional requirements or information that the Commissioner may request must be provided.

4.3.5. Term of Renewal: Recommissioned agents will be recommissioned for one year, subject to any subsequent determination by the Commissioner to revoke an agent's commission.

4.4. Suspension or Revocation of Commission: The Commissioner may suspend or revoke a commissioned agent's commission at the Commissioner's discretion.

Part 5. Statistics and Reporting

5.1.1. At least one representative from each agency shall be designated to submit statistics to the Bureau of Animal Protection.

5.1.2. Statistics for each commissioned agent shall be compiled and reported as part of the agency statistics.

5.1.3. Statistics for any given month shall be due on the 15th day of each successive month.

5.1.4. Statistics to be reported for the month shall include:

5.1.4.1. Total number of companion animals for which an agent conducted an assessment per authority provided by the Commissioner;

5.1.4.2. Total number of livestock animals for which an agent conducted an assessment per authority provided by the Commissioner;

5.1.4.3. Total number of dogs seized and impounded as a result of an agent issuing a summons and complaint for a charge of Unlawful Ownership of a Dangerous Dog; and

5.1.4.4. Total number of summonses issued.

Parts 6-8. Reserved

Part 9. Statements of Basis, Specific Statutory Authority and Purpose

9.1. Adopted April 4, 2003 – Effective June 30, 2003

The Colorado State Agricultural Commission adopts these rules pursuant to Section C.R.S. 35-42-106.

The purpose of rule 1 is to inform the State Veterinarian's Office before any animal is impounded, and to protect the owner from having his animal(s) unnecessarily impounded, or to require an owner to post bond for an unnecessary impoundment.

The purpose of rule 2 is to have minimum education/experience requirements for BAP commission applicants.

The purpose of rule 3 is to provide choices in disciplinary action, other than commission revocation, for any problem that may arise regarding legal authority.

9.2. Adopted March 5, 2007 – Effective May 1, 2007

The Commissioner of Agriculture adopts these rules pursuant to § 35-42-106, C.R.S.

The purpose of rule 4 is to establish reporting requirements to aid the Bureau of Animal Protection in compiling accurate statistics to be reported to the Commissioner of Agriculture and other entities as requested. These statistics reflect work done by all agents of the Bureau as commissioned law enforcement officers as defined in § 35-42-107, C.R.S.

9.3. Adopted November 9, 2016- Effective December 30, 2016

The Commissioner of Agriculture adopts these Rules pursuant to the authorities located at § 35-42-106, C.R.S.

The purpose of these Rules is to identify and articulate the Commissioner's authority with regard to administration of the Animal Protection Act. This Rule establishes how the Commissioner's authority is to be exercised with regard to assessment, inspection, and investigation of companion animals and of livestock. This Rule further establishes the processes and procedures in place for such inspections and investigations related to potential violations of the Animal Protection Act. Additionally, this Rule sets forth the training requirements and continuing education for individuals who desire to be agents and who are currently agents of the Bureau of Animal Protection. Finally, this Rule establishes the statistics that the Commissioner requires be kept with regard to enforcement of this Animal Protection Act and the manner by which those statistics must be reported to the Commissioner.

The Rules previously adopted pursuant to the Animal Protection Act had not been revised or updated since 2007. This rule-making completely replaces those Rules with updated, more user-friendly, and expanded Rules for enforcement of the Animal Protection Act.

9.4. Adopted April 11, 2018 – Effective May 30, 2018

The Commissioner of Agriculture adopts these Rules pursuant to the authorities located at §35-42-106, C.R.S.

The purpose of this Rule is to make the statistics required for submission by Part 5 consistent with the definition of statistics as set forth in Part 1. This remedy not only streamlines reporting, but will more accurately capture how each unique agency utilizes the Commissioner's authority. In addition, because there is no substantive need for agents to return expired BAP commission cards to CDA that requirement is eliminated.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

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Office of the Attorney General

Tracking number: 2018-00062

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 04/11/2018

8 CCR 1201-18

BUREAU OF ANIMAL PROTECTION RULES

The above-referenced rules were submitted to this office on 04/11/2018 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.

April 16, 2018 08:29:58

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Agriculture

Agency

Markets Division

CCR number

8 CCR 1204-8

Rule title

8 CCR 1204-8 RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE COLORADO AGRICULTURAL MARKETING ACT OF 1939 1 - eff 05/30/2018

Effective date

05/31/2018

DEPARTMENT OF AGRICULTURE
MARKETS DIVISION

RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE COLORADO AGRICULTURAL MARKETING ACT OF 1939

8 CCR 1204-8

Part 1.

The fiscal year for the Marketing Order Regulating the Handling of Wheat Grown in the Counties of Colorado covered by the Order, issued May 5, 1958, and as amended on May 27, 1959, June 1, 1988, and March 16, 1992, shall begin July 1, and of each year and end June 30 of the following year.

Part 2. Statement of Basis and Purpose

2.1. Adopted June 26, 1992 – Effective July 30, 1992

The following rules and regulations are hereby promulgated under the authority of the Colorado Agricultural Marketing Act of 1939, 35-28-113 (4), C.R.S. (House Bill 92-1044). This rule establishes a fiscal year beginning July 1 of each year and ending June 30 of the following year for the Wheat Marketing Order, said marketing order having been established pursuant to 35-28-107 (1), C.R.S. (1984).

House Bill 92-1044 requires in Section 2 that the commissioner of agriculture establish a fiscal year for the Wheat Marketing Order after consideration of recommendations by the board of control of such order. Said board of control has recommended a fiscal year beginning July 1 of each year and ending June 30 of the following year.

2.2. Adopted April 11, 2018 – Effective May 30, 2018

The purpose of these amendments is to reformat the rule to make it consistent with other Department rules.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
Chief of Staff

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Office of the Attorney General

Tracking number: 2018-00064

Opinion of the Attorney General rendered in connection with the rules adopted by the

Commissioner of Agriculture

on 04/11/2018

8 CCR 1204-8

RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE COLORADO AGRICULTURAL MARKETING ACT OF 1939

The above-referenced rules were submitted to this office on 04/11/2018 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.

April 16, 2018 08:29:03

Frederick R. Yarger

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 05/31/2018

Effective date

05/31/2018

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning the Hospice Benefit, Section 8.550

Rule Number: MSB 18-01-05-A

Division / Contact / Phone: Operations Section / Russ Zigler / 303-866-5927

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 18-01-05-A, Revision to the Medical Assistance Rule concerning the Hospice Benefit, Section 8.550
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) 8.550, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)?	No
If yes, state effective date:	
Is rule to be made permanent? (If yes, please attach notice of hearing).	<Select One>

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.550 with the proposed text beginning at 8.550.1 through the end of 8.550.9. This rule is effective May 31, 2018.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning the Hospice Benefit, Section 8.550

Rule Number: MSB 18-01-05-A

Division / Contact / Phone: Operations Section / Russ Zigler / 303-866-5927

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The proposed rule codifies existing practice by incorporating the policies documented in the Hospice Benefit Coverage Standard, with no substantive policy changes.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 USC 1396d(o)

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2017);

   25.5-5-304, C.R.S.

Initial Review Final Adoption

Proposed Effective Date Emergency Adoption

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning the Hospice Benefit, Section 8.550

Rule Number: MSB 18-01-05-A

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REGULATORY ANALYSIS

5. 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.

   Medicaid clients receiving hospice care will be affected by the proposed rule.

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

   The proposed rule codifies existing practice by incorporating the policies documented in the Hospice Benefit Coverage Standard, with no substantive policy changes. Therefore, the proposed rule will not impose a quantitative or qualitative impact on the affected class.

7. 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.

   Since the proposed rule codifies existing practice, it does not impose additional costs or effect state revenues.

8. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

   There are no costs to the proposed rule. The benefit of the proposed rule is codifying existing practice and policy into rule. The cost of inaction is keeping Hospice policy in the Benefit Coverage Standard, rather than in rule. There are no benefits to inaction.

9. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Since the proposed rule codifies existing practice, there are no less costly methods or less intrusive methods for achieving its purpose.

10. 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.

    Since the proposed rule codifies existing practice, there are no alternative methods for achieving its purpose.

8.550 HOSPICE BENEFIT

8.550.1 DEFINITIONS

Alternative Care Facility (ACF) means an assisted living residence that is enrolled as a Medicaid provider.

Assisted Living Residence means an assisted living residence as defined in 6 CCR 1011-1 Chapter VII.

Benefit Period means a period during which the client has made an Election to receive Hospice care defined as one or more of the following:

1. An initial 90-day period.

2. A subsequent 90-day period.

3. An unlimited number of subsequent 60-day periods.

The periods of care are available in the order listed and may be Elected separately at different times.

Certification means that the client's attending physician and/or the Hospice Provider's medical director have affirmed that the client is Terminally Ill.

Client Record means a medical file containing the client's Election of Hospice, eligibility documentation, and other medical records.

Department means the Colorado Department of Health Care Policy and Financing. The Department is designated as the single state Medicaid agency for Colorado, or any divisions or sub-units within that agency.

Election/Elect means the client's written expression to choose Hospice care for Palliative and Supportive Medical Services.

Home Care Services means Hospice Services that are provided primarily in the client's home but may be provided in a residential facility and/or licensed or certified health care facility.

Hospice means a centrally administered program of palliative, supportive, and Interdisciplinary Team services providing physical, psychological, sociological, and spiritual care to Terminally Ill clients and their families.

Hospice Provider means a Medicaid and Medicare-certified Hospice provider.

Hospice Services means counseling, certified nurse aide, personal care worker, homemaker, nursing, physician, social services, physical therapy, occupational therapy, speech therapy, and trained volunteer services.

Interdisciplinary Team means a group of qualified individuals, consisting of at least a physician, registered nurse, clergy, counselors, volunteer director or trained volunteers, and appropriate staff who collectively have expertise in meeting the special needs of Hospice clients and their families.

Intermediate Care Facility for People with Intellectual Disabilities means a care facility which is designed, and functions, to meet the needs of four or more individuals with developmental disabilities, or related conditions, who require twenty-four hour active treatment services.

Medical Necessity or Medically Necessary is defined in Section 8.076.1.8.

Palliative and Supportive Medical Services means those services and/or interventions which are not curative but which produce the greatest degree of relief from the symptoms of the Terminal Illness.

Room and Board includes a place to live and the amenities that come with that place to live, including but not limited to provision of:

1. Meals and additional nutritional requirements, as prescribed;

2. Performance of personal care services, including assistance with activities of daily living;

3. Provision of social activities;

4. Equipment necessary to safely care for the client and to transport the client, as necessary;

5. Administration of medication;

6. Maintenance of the cleanliness of a client's room; and

7. Supervision and assistance in the use of durable medical equipment and prescribed therapies.

Terminally Ill/Terminal Illness means a medical prognosis of life expectancy of nine months or less, should the illness run its normal course.

8.550.2 INITIATION OF HOSPICE

8.550.2.A. Certification

The Hospice Provider must obtain Certification that a client is Terminally Ill in accordance with the following procedures:

1. For the first Benefit Period of Hospice coverage or re-Election following revocation or discharge from the Hospice benefit, the Hospice Provider must obtain:

   a. A written Certification signed by either the Hospice Provider's medical director or the physician member of the Interdisciplinary Team and the client's attending physician. The written Certification must be obtained and placed in the Client Record within two calendar days after Hospice Services are initiated. The written Certification must include:

      i) A statement of the client's life expectancy including diagnosis of the terminal condition, other health conditions whether related or unrelated to the terminal condition, and current clinically relevant information supporting the diagnoses and prognosis for life expectancy and Terminal Illness;

      ii) The approval of the client's physician(s) for Hospice Services; and

      iii) The approval of the Hospice Provider of Hospice Services for the client.

   b. A verbal Certification statement from either Hospice Provider's medical director or the physician member of the Interdisciplinary Team and the client's attending physician, if written certification cannot be obtained within two calendar days after Hospice Services are initiated. The verbal Certification must be documented, filed in the Client Record, and include the information described at

Section 8.550.2.A.1.a.i, ii, and iii. Written Certification documentation must follow and be filed in the Client Record prior to submitting a claim for payment.

2. At the beginning of each subsequent Benefit Period, the Hospice Provider must obtain a written re-Certification prepared by either the attending physician, the Hospice Provider's medical director or the physician member of the Interdisciplinary Team.

8.550.2.B. Election Procedures

1. An Election of Hospice Services continues as long as there is no break in care and the client remains with the Elected Hospice Provider.

2. If a client Elects to receive Hospice Services, the client or client representative must file an Election statement with the Hospice Provider that must be maintained in the Client's Record and must include:

   a. Designation of the Hospice Provider. A client must choose only one Hospice Provider as the designated Hospice Provider;

   b. Acknowledgment that the client or client representative has a full understanding of the palliative rather than curative nature of Hospice Services;

   c. Designation by the client or client representative of the effective date for the Election period. The first day of Hospice Services must be the same or a later date;

   d. An acknowledgement that for the duration of the Hospice Services, the client waives all rights to Medicaid payments for the following services:

      i) Hospice Services provided by a Hospice Provider other than the provider designated by the client (unless provided under arrangements made by the designated Hospice Provider);

      ii) Any Medicaid services that are related to the treatment of the terminal condition for which Hospice Services were Elected, or a related condition, or that are equivalent to Hospice Services, except for services that are:

         1) Provided by the designated Hospice Provider;

         2) Provided by another Hospice Provider under arrangements made by the designated Hospice Provider;

         3) Provided by the individual's attending physician if that physician is not an employee of the designated Hospice Provider or receiving compensation from the Hospice Provider for those services; and,

         4) Services provided to clients ages 20 and under.

   e. A signature of either the client or client representative as allowed by Colorado law.

3. A client or client representative may revoke the Election of Hospice Services by filing a signed statement of revocation with the Hospice Provider. The statement must include

the effective date of the revocation. The client must not designate an effective date earlier than the date that the revocation is made. Revocation of the Election of Hospice Services ends the current Hospice Benefit Period.

a. Clients who are dually eligible for Medicare and Medicaid must revoke the Election of Hospice Services under both programs.

4. The client may resume coverage of the waived benefits as described at 8.550.2.B.2.d. upon revoking the Election of Hospice Services.

5. The client may re-Elect to receive Hospice Services at any time after the services are discontinued due to discharge, revocation, or loss of Medicaid eligibility, should the client thereafter become eligible.

6. The client may change the designation of the Hospice Provider once each Benefit Period. A change in designation of Hospice Provider is not a revocation of the client's Hospice Election. To change the designation of the Hospice Provider, the client must file a statement with the current and new provider which includes:

a. The name of the Hospice Provider from which the client is receiving care and the name of the Hospice Provider from which he or she plans to receive care;

b. The date the change is to be effective; and

c. The signature of the client or client representative.

8.550.3 HOSPICE RELATED TO HCBS WAIVERS

8.550.3.A. Provision of Services

1. Hospice Services may be provided to a client who is enrolled in one of the Colorado Medicaid home and community-based services (HCBS) waivers, including the children with life limiting illness waiver.

2. HCBS waiver services may be provided for conditions unrelated to the client's terminal diagnosis. For children ages 20 and under, HCBS waivers services may be provided for conditions related or unrelated to the client's terminal diagnosis.

3. HCBS waiver services may also be provided to the client when these services are not duplicative of the services that are the responsibility of the Hospice Provider. HCBS waivers are those waivers as defined at Sections 8.500 through 8.599.

8.550.3.B. Waiver Coordination

1. The Hospice Provider must notify the HCBS waiver case manager or support coordinator of the client's Election of Hospice Services and the anticipated start date.

2. The Hospice Provider must coordinate Hospice Services and HCBS waiver services with the HCBS waiver case manager or support coordinator and must document coordination of these services in the Client Record. Documentation must include:

a. Identification of the Hospice Services that will be provided;

b. Identification of the HCBS waiver services that will be provided under the waiver; and

c. Integration of Hospice Services and HCBS waiver services in the Hospice plan of care.

3. The Hospice Provider must invite the HCBS waiver case manager or support coordinator to participate in the Interdisciplinary Team meetings for the client when possible.

8.550.4 BENEFITS

8.550.4.A. Hospice Standard of Care

1. Hospice Services must be reasonable and Medically Necessary for the palliation or management of the Terminal Illness as well as any related condition, but not for the prolongation of life.

2. Clients ages 20 and under are exempt from the restriction on care for the prolongation of life.

8.550.4.B. Covered Services

Covered Hospice Services include, but are not limited to:

1. Nursing care provided by or under the supervision of a registered nurse.

2. Medical social services provided by a qualified social worker or counselor under the direction of a physician.

3. Counseling services, including dietary and spiritual counseling, provided to the Terminally Ill client and his or her family members or other persons caring for the client.

4. Bereavement counseling delivered through an organized program under the supervision of a qualified professional. The plan of care for these services should reflect family needs, as well as a clear delineation of services to be provided and the frequency of service delivery (up to one year following the death of the client).

5. Short-term general inpatient care necessary for pain control and/or symptom management up to 20 percent of total Hospice Service days.

6. Short-term inpatient care of up to five consecutive days per Benefit Period to provide respite for the client's family or other home caregiver.

7. Medical appliances and supplies, including pharmaceuticals and biologicals which are used primarily for symptom control and relief of pain related to the Terminal Illness.

8. Intermittent certified nurse aide services available and adequate in frequency to meet the needs of the client. Certified nurse aides practice under the general supervision of a registered nurse. Certified nurse aide services may include unskilled personal care and homemaker services that are directly related to a visit.

9. Occupational therapy, physical therapy, and speech-language pathology appropriate to the terminal condition, provided for the purposes of symptom control or to enable the terminal client to maintain activities of daily living and basic functional skills.

10. Trained volunteer services.

11. Any other service that is specified in the client's plan of care as reasonable and Medically Necessary for the palliation and management of the client's Terminal Illness and related conditions and for which payment may otherwise be made under Medicaid.

8.550.4.C. [Expired 05/15/2014 per House Bill 14-1123]

8.550.4.D. Non-Covered Services

Services not covered as part of the Hospice Benefit include, but are not limited to:

1. Services provided before or after the Hospice Election period.

2. Services of the client's attending or consulting physician that are unrelated to the terminal condition which are not waived under the Hospice Benefit.

3. Services or medications received for the treatment of an illness or injury not related to the client's terminal condition.

4. Services which are not otherwise included in the Hospice benefit, such as electronic monitoring, non-medical transportation, and home modification under a Home and Community-Based Services (HCBS) program.

5. Personal care and homemaker services beyond the scope provided under Hospice Services which are contiguous with a certified nurse aide visit.

6. Hospice Services covered by other health insurance, such as Medicare or private insurance.

7. Hospice Services provided by family members.

8.550.4.E. Prior Authorization

Prior authorization is not required for Hospice Services.

8.550.4.F. Intermittent Home Health Certified Nurse Aide Services

Intermittent home health certified nurse aide services may be utilized with Hospice Services coordination for treatment of conditions that are not related to the terminal diagnosis and are not meant to cure the client's terminal condition. Children under 20 are exempt from this requirement.

8.550.4.G. Included Activities

Medicaid does not separately reimburse for activities that are the responsibility of the Hospice Provider, including coordination of care for the client and bereavement counseling.

8.550.5 ELIGIBLE PLACE OF SERVICE

8.550.5.A. Place of Service

1. Hospice Services are provided in a client's place of residence, which includes:

   a. A residence such as, but not limited to, a house, apartment or other living space that the client resides within;

b. An assisted living residence including an Alternative Care Facility;

c. A temporary place of residence such as, but not limited to, a relative's home or a hotel. Temporary accommodations may include homeless shelters or other locations provided for a client who has no permanent residence to receive Hospice Services;

d. Other residential settings such as a group home or foster home;

e. A licensed Hospice Facility or Nursing Facility (NF);

f. An Intermediate Care Facility for the Intellectually Disabled (ICF/ID), or Nursing Facility (NF), unless the client is in a waiver program which does not allow residency in an ICF/ID or NF; or

g. An Individual Residential Services & Supports (IRSS) or a Group Residential Services & Supports (GRSS) host home setting.

2. For Hospice clients residing in a NF, ICF/ID, IRSS or GRSS, the client must meet both the Hospice requirements and the requirements for receipt of those Medicaid-covered services.

3. Colorado Medicaid does not reimburse Hospice Services provided in hospitals except when the client has been admitted for respite services.

8.550.5.B. Hospice Setting Requirements

1. Nursing Facilities:

a. Hospice Services may be provided to a client who resides in a Medicaid participating NF.

b. When a client residing in a NF Elects Hospice Services, the client is considered a Hospice client and is no longer a NF client with the exception of the facility's responsibility to provide Room and Board to the client.

c. In order for a client to receive Hospice Services while residing in a NF, the Hospice Provider must:

i) Notify the NF that the client has Elected Hospice and the expected date that Hospice Services will commence;

ii) Ensure the NF concurs with the Hospice plan of care;

iii) Ensure the NF is Medicaid certified; and

iv) Execute a written agreement with the NF, which must include the following:

1) The means through which the NF and the Hospice Provider will communicate with each other and document these communications to ensure that the needs of clients are addressed and met 24 hours a day;

2) An agreement on the client's Hospice Service plan of care by the NF staff;

3) A means through which changes in client status are reported to the Hospice Provider and NF;

4) A provision stating that the Hospice Provider is considered the primary provider and is responsible for any Medically Necessary routine care or continuous care related to the Terminal Illness and related conditions;

5) A provision stating that the Hospice Provider assumes responsibility for determining the appropriate course of Hospice Services, including the determination to change the level of services provided;

6) An agreement that it is the NF provider's responsibility to continue to furnish 24 hour Room and Board care, meeting the personal care, durable medical equipment and nursing needs that would have been provided by the NF at the same level of care provided prior to Hospice Services being Elected;

7) An agreement that it is the Hospice Provider's responsibility to provide services at the same level and to the same extent that those services would be provided if the client were residing in his or her own residence;

8) A provision that the Hospice Provider may use NF personnel, where permitted by State law and as specified by the agreement, to assist in the administration of prescribed therapies included in the plan of care only to the extent that the Hospice Provider would routinely use the services of a client's family in implementing the plan of care;

9) The NF remains responsible for compliance with mandatory reporting of such violations to the State's protective services agency. As such, the Hospice Provider and its staff or subcontractors must report all alleged violations of a client's person involving mistreatment, neglect, or verbal, mental, sexual and physical abuse, including injuries of unknown source, and misappropriation of client property to the NF administrator within 24 hours of the Hospice Provider becoming aware of the alleged violation;

10) Bereavement services that the Hospice Provider will provide to the NF staff;

11) The amount to be paid to the NF or ICF/ID by the Hospice Provider; and

12) An agreement describing whether the Hospice Provider or the NF will be responsible for collecting the client's patient payment for his or her care.

2. Intermediate Care Facilities, Independent Residential Support Services, and Group Residential Support Services settings:

   a. Hospice Services may be provided to a client who resides in a Medicaid participating ICF/ID, IRSS or GRSS residential settings. When a client resides in one of the settings, the client remains a resident of the ICF/ID, IRSS or GRSS residence. The Hospice Provider must provide services as if treating a client in his or her place of residence.

   b. The Hospice Provider is not responsible for reimbursing the IRSS or GRSS for the client's Room and Board.

   c. In order for a client to receive Hospice Services while residing in these settings, the Hospice Provider must work with the ICF/ID, IRSS or GRSS to:

      i) Notify the ICF/ID, IRSS or GRSS that the client has Elected Hospice and the expected date that Hospice Services will commence;

      ii) Ensure the ICF/ID, IRSS or GRSS concurs with the Hospice plan of care;

      iii) Determine the responsibilities covered under the ICF/ID, IRSS or GRSS so that the Hospice Provider does not duplicate service (to include medication and supplies), including:

         1) An agreement that the Hospice Provider will be responsible to provide services at the same level and to the same extent as those services would be provided if the client were residing in his or her private residence; and

         2) An agreement of the services the ICF/ID, IRSS or GRSS personnel will perform, where permitted by State law, to assist in the administration of prescribed therapies included in the plan of care only to the extent that the Hospice Provider would routinely use the services of a client's family in implementing the plan of care;

      iv) Develop a coordinated plan of care to ensure that the client's needs are met;

      v) Develop a communication plan through which the Hospice Provider and the ICF/ID, IRSS or GRSS will communicate changes in the client's condition or changes in the client's care plan to ensure that the client's needs are met; and

      vi) Ensure bereavement services are available to the staff and caregivers of the client.

3. In settings other than nursing facilities and ICF/IDs, the Hospice Provider and assisted living residence or foster home must develop an agreement related to the provision of care to the client, including;

   a. Hospice Provider staff access to and communication with staff or caregivers in these facilities or homes;

   b. Developing an integrated plan of care;

c. Documenting both respective entities' records, or other means to ensure continuity of communication and easy access to ongoing information;

d. Role of any Hospice vendor in delivering and administering any supplies and medications;

e. Ordering, renewing, delivering and administering medications;

f. Role of the attending physician and process for obtaining and implementing orders;

g. Communicating client change of condition; and

h. Changes in the client's needs that necessitate a change in setting or level of care.

8.550.6 ELIGIBLE CLIENTS

8.550.6.A. Requirements

To be eligible to Elect Hospice Services, all of the following requirements must be met:

1. Clients must be Medicaid eligible on the dates of service for which Medicaid-covered Hospice Services are billed. The services must be Medically Necessary, including certification of the client's Terminal Illness, and appropriate to the client's needs in order for Hospice Services to be covered by Medicaid.

2. The client has been certified as being Terminally Ill by an attending physician or the Hospice Provider's medical director.

3. Before services are provided, an initial plan of care must be established by the Hospice Provider in collaboration with the client and anyone else that the client wishes to have present for care planning. When the client is unable to direct his or her own care, care planning must involve the client's family or caregiver.

4. The client has agreed to cease any and all curative treatment. Clients ages 20 and younger are exempt from this requirement.

5. Hospice clients residing in an ICF/ID or NF must meet the Hospice eligibility criteria pursuant to Section 8.550 et. seq., together with functional eligibility, medical eligibility criteria, and the financial eligibility criteria for institutional care as required by Sections 8.400, 8.401, and 8.482.

6. Clients who do not meet eligibility requirements for State Plan Medicaid may be eligible for Medicaid through the long-term care eligibility criteria, which may require the client to pass a level of care assessment through a designated case management agency.

8.550.6.B. Special Requirements

1. Eligibility for, and access to, Hospice Services does not fall within the purview of the long term care Single Entry Point system for prior authorization.

2. Nursing facility placement for a client who has Medicaid and has Elected Hospice Services in a nursing facility does not require a long term care ULTC 100.2 assessment.

The nursing facility must complete a Pre Admission Screening and Resident Review (PASRR).

8.550.7 DISCHARGE

8.550.7.A. A Hospice Provider may discharge a client when:

1. The client moves out of the Hospice Provider's service area or transfers to another Hospice Provider;

2. The Hospice Provider determines that the client is no longer Terminally Ill; or

3. The Hospice Provider determines, under a policy set by the Hospice Provider for the purpose of addressing discharge for cause that meets the requirements of 42 C.F.R. Section 418.26(a)(3) (2018), that the client's (or other person in the client's home) behavior is disruptive, abusive, or uncooperative to the extent that delivery of care or the Hospice Provider's ability to operate effectively is seriously impaired. No amendments or later editions are incorporated. Copies are available 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, Colorado 80203-1818.

    a. The Hospice Provider must:

        i) Advise the client that a discharge for cause is being considered;

        ii) Make a serious effort to resolve the problem presented by the situation;

        iii) Ascertain that the proposed discharge is not due to the client's use of necessary Hospice Services;

        iv) Document the problem and the effort made to resolve the problem; and

        v) Enter this documentation into the client's medical record.

4. The Hospice Provider must obtain a written discharge order from the Hospice Provider's medical director prior to discharging a client for any of the reasons in this section.

5. The Hospice Provider medical director must document that the attending physician involved in the client's care has been consulted about the discharge and include the attending physician's review and decision in the discharge note.

6. The Hospice Provider must have in place a discharge planning process that takes into account the prospect that a client's condition might stabilize or otherwise change such that the client cannot continue to be certified as Terminally Ill. The discharge planning process must include planning for any necessary family counseling, patient education, or other services before the client is discharged because he or she is no longer Terminally Ill.

7. The Hospice Provider must implement the discharge planning process to ensure to the maximum extent feasible, that the client's needs for health care and related services upon termination of Hospice Services will be met.

8. The Hospice Provider must document whether the client or client's authorized representative was involved in the discharge planning.

9. The Hospice Provider must document the transition plan for the client.8.550.8 PROVIDER REQUIREMENTS

8.550.8.A. Licensure

The Hospice Provider must be licensed by the Colorado Department of Public Health and Environment, have a valid provider agreement with the Department and be Medicare certified as being in compliance with the conditions of participation for a Hospice Provider as set forth at 42 C.F.R. §§ 418.52 through 418.116 (2018). No amendments or later editions are incorporated. Copies are available for inspection from the Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1818.

8.550.8.B. Qualified Personnel

Hospice Services must be performed by appropriately qualified personnel:

1. Physicians who are a doctor of medicine or osteopathy licensed in accordance with the Colorado Medical Practice Act (C.R.S. § 12-36-101, et seq.);

2. Advanced Practice Nurses and Physician Assistants licensed in accordance with the Colorado Nurse Practice Act and the Colorado Medical Practice Act;

3. Registered Nurses (RN) and Licensed Practical Nurses (LPN), licensed in accordance with the Colorado Nurse Practice Act (C.R.S. § 12-38-101,et seq.);

4. Physical therapists who are licensed in accordance with the Colorado Physical Therapy Practice Act (C.R.S. § 12-41-101et seq.);

5. Occupational therapists who are licensed in accordance with the Colorado Occupational Therapy Practice Act (C.R.S. § 12-40.5-101, et seq.);

6. Speech language pathologists who are certified by the American Speech-Language-Hearing Association (ASHA);

7. Licensed clinical social workers who have a baccalaureate degree in social work from an institution accredited by the Council on Social Work Education, or a baccalaureate degree in psychology, sociology, or other field related to social work and who are supervised by a social worker with a Master's Degree in Social Work and who have one year of social work experience in a health care setting;

8. Certified nurse aides who are certified in accordance with the Colorado Nurse Aide Practice Act (C.R.S. § 12-38-101, et seq.) and who have appropriate training. At the option of the Hospice Provider, homemakers with appropriate training may provide homemaking services, which is included as a component of Hospice Services;

9. Hospice volunteers who have received volunteer orientation and training that is consistent with Hospice industry standards;

10. Members of the clergy or religious support services; and

11. Members of the Hospice Interdisciplinary Team acting within the scope of his or her license, as determined by the Hospice Provider.

8.550.8.C. Laboratory Services

1. Laboratory services provided by Hospice Providers are subject to the requirements of 42 U.S.C. § 263a (2012) entitled the Clinical Laboratory Improvement Act of 1967 (CLIA). No amendments or later editions are incorporated. Copies are available for inspection from the Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1818.

2. Hospice Providers must obtain a CLIA waiver from the Department of Public Health and Environment to perform laboratory tests. A Hospice Provider that collects specimens, including drawing blood, but does not perform testing of specimens is not subject to CLIA requirements.

8.550.8.D. Provider Responsibilities

1. A Hospice Provider must routinely provide all core services by staff employed by the Hospice Provider. These services must be provided in a manner consistent with acceptable standards of practice. Core services include nursing services, certified nursing aide services, medical social services, and counseling.

2. The Hospice Provider may contract for physician services. The contracted provider(s) will function under the direction of the Hospice Provider's medical director.

3. A Hospice Provider may use contracted staff, if necessary, to supplement Hospice Provider employees in order to meet the needs of the client. A Hospice Provider may also enter into a written arrangement with another Colorado Medicaid and Medicare certified Hospice program for the provision of core services to supplement Hospice Provider employees/staff to meet the needs of clients. Circumstances under which a Hospice Provider may enter into a written arrangement for the provision of core services include:

    a. Unanticipated periods of high client loads, staffing shortages due to illness or other short-term, temporary situations that interrupt client care;

    b. Temporary travel of a client outside of the Hospice Provider's service area; and

    c. When a client resides in a NF, ICF/ID, IRSS or GRSS.

4. The Hospice Provider must ensure, prior to the provision of Medicaid Hospice Services, that clients are evaluated to determine whether or not they are Medicare eligible. Hospice Services are not covered by Medicaid during the period when a client is Medicare eligible, except for clients residing in a NF in which case Medicaid pays to the Hospice Provider an amount for Room and Board.

5. The Hospice Provider must ensure a client, or his or her legally authorized representative, completes the Hospice Election form prior to or at the time Medicaid Hospice Services are provided.

6. Medicare Hospice Election may not occur retroactively. Therefore, clients with retroactive Medicare eligibility may receive Medicaid covered services during the retroactive coverage period. The Hospice Provider must make reasonable efforts to determine a client's status concerning Medicare eligibility or a client's application for Medicare and must maintain documentation of these efforts. These efforts must include routine and regular inquiry to determine Medicare eligibility for clients who reach the age of sixty-five and regular inquiry for clients who indicate they receive Supplemental Security Disability Income (SSDI) and are approaching the 24th month of receipt of SSDI. See also Section 8.550.3.

7. Clients who are eligible for Medicare and Medicaid must Elect Hospice Services under both programs.

8. If a client becomes eligible for Medicaid while receiving Medicare Hospice benefits, Medicare Hospice coverage continues under its current Election period and Medicaid Hospice coverage begins at Medicaid's first Election period.

9. An individual Client Record must be maintained by the designated Hospice Provider and must include:

    a. Documentation of the client's eligibility for and Election of Hospice Services including the physician certification and recertification of Terminal Illness;

    b. The initial plan of care, updated plans of care, initial assessment, comprehensive assessment, updated comprehensive assessments, and clinical notes;

    c. The amount, frequency, and duration of services delivered to the client based on the client's plan of care;

    d. Documentation to support the care level for which the Hospice Provider has claimed reimbursement; and

    e. Medicaid provider orders.

10. Incomplete documentation in the Client Record shall be a basis for recovery of overpayment.

11. Notice of the client's Election and Benefit Periods must be provided to the Medicaid fiscal agent in such form and manner as prescribed by the Department.

12. The Hospice Provider must provide reports and keep records as the Department determines necessary including records that document the cost of providing care.

13. The Hospice Provider must perform case management for the client. Medicaid will not reimburse the Hospice Provider separately for this responsibility.

14. The Hospice Provider must designate an Interdisciplinary Team composed of individuals who work together to meet the physical, medical, psychosocial, emotional, and spiritual needs of the clients and his or her family facing Terminal Illness and bereavement. Interdisciplinary Team members must provide the care and services offered by the Hospice Provider. The Interdisciplinary Team, in its entirety, must supervise the care and services.

15. The Interdisciplinary Team includes, but is not limited to:

    a. A doctor of medicine or osteopathy, advanced practice nurse, or physician assistant (who is an employee or under contract with the Hospice Provider);

    b. A registered nurse or licensed practical nurse;

    c. A social worker;

    d. A pastoral or other counselor; and

    e. The volunteer coordinator or designee.

16. The Hospice Provider must designate a member of the Interdisciplinary Team to provide coordination of care and to ensure continuous assessment of each client's and family's needs and implementation of the interdisciplinary plan of care. The designated member must oversee coordination of care with other medical providers and agencies providing care to the client.

17. All Hospice Services and services furnished to clients and their families must follow an individualized written plan of care established by the Hospice Interdisciplinary Team in collaboration with the client's primary provider (if any), the client or his or her representative, and the primary caregiver in accordance with the client's needs and desires.

18. The plan of care must be established prior to providing Hospice Services and must be based on a medical evaluation and the written assessment of the client's needs and the needs of the client's primary caregiver(s).

19. The plan of care must be maintained in the client's record and must specify:

    a. The client's medical diagnosis and prognosis;

    b. The medical and health related needs of the client;

    c. The specific services to be provided to the client through Hospice and when necessary the NF, ICF/ID, IRSS or GRSS;

    d. The amount, frequency and duration of these services; and

    e. The plan of care review date.

20. The plan of care must be reviewed as needed, but no less frequently than every 15 days. The Interdisciplinary Team leader must document each review. The Interdisciplinary Team members, including the Medicaid provider who is managing the client's care, must sign the plan of care.

21. The Hospice Provider must ensure that each client and his or her primary care giver(s) receive education and training provided by the Hospice Provider as appropriate based on the client's and primary care giver(s)' responsibilities for the care and services identified in the plan of care.

22. The Hospice Provider is responsible for paying for medications, durable medical equipment, and medical supplies needed for the palliation and management of the client's Terminal Illness.

8.550.9 REIMBURSEMENT

8.550.9.A. Reimbursement Determination

Reimbursement follows the method prescribed in 42 C.F.R. §§ 418.301 through 418.309 (2018). No amendments or later editions are incorporated. Copies are available for inspection from the Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1818.

1. Reimbursement rates are determined by the following:

a. Rates are published by the Department annually in compliance with the Centers for Medicare and Medicaid Services (CMS) state Medicaid Hospice reimbursement.

b. Each care-level per-diem rate is subject to a wage index multiplier, to compensate for regional differences in wage costs, plus a fixed non-wage component.

c. The Hospice wage indices are published annually by October 1 in the Federal Register.

d. Rates are adjusted for cost-of-living increases and other factors as published by the Centers for Medicare and Medicaid Services.

e. Continuous home care is reimbursed at the applicable hourly rate, the per-diem rate divided by 24 hours, multiplied by the number of hourly units billed from eight up to 24 hours per day of continuous care (from midnight to midnight).

f. Reimbursement for routine home care and continuous home care must be based upon the geographic location at which the service is furnished and not on the business address of the Hospice Provider.

2. Reimbursement for Hospice Services must be made at one of four predetermined care level rates, including the routine home care rate, continuous home care rate, inpatient respite care rate, and general inpatient care rate. If no other level of care is indicated on a given day, it is presumed that routine home care is the applicable rate.

a. Care levels and reimbursement guidelines:

i) The routine home care rate is reimbursed for each day the client is at home and not receiving continuous home care. This rate is paid without regard to the volume or intensity of Home Care Services provided. This is the service type that must be utilized when a client resides in a NF, ICF/ID, IRSS or GRSS unless the client is in a period of crisis.

ii) The continuous home care rate is reimbursed when continuous home care is provided and only during a period of medical crisis to maintain a client at home. A period of crisis is a period in which a client requires continuous care, which is primarily nursing care, to achieve palliation or for the management of acute medical symptoms. Either a registered nurse or a licensed practical nurse must provide more than half of the billed continuous homecare hours. Homemaker and certified nurse aide services may also be provided to supplement nursing care. The continuous home care rate is divided by 24 hours in order to arrive at an hourly rate. A minimum of eight hours must be provided. For every hour or part of an hour of continuous care furnished, the hourly rate shall be reimbursed up to 24 hours a day. Continuous home care must not be utilized when a client resides in a NF, ICF/ID, IRSS or GRSS unless the client is in a period of crisis.

iii) The inpatient respite care rate is paid for each day on which the client is in an approved inpatient facility for respite care. Payment for respite care may be made for a maximum of five days at a time including the date of admission but not counting the date of discharge. Payment for the sixth and any subsequent days is to be made at the routine home care rate.

Payment for inpatient respite care is subject to the Hospice provider's 20 percent aggregate inpatient days cap as outlined in 8.550.9.B.

iv) The general inpatient rate must be paid only during a period of medical crisis in which a client requires 24 hour continuous care, which is primarily nursing care, to achieve palliation or for the management of acute medical symptoms. Payment for general inpatient care is subject to the Hospice provider's 20 percent aggregate inpatient days cap as outlined in 8.550.9.B.

3. The Hospice Provider is paid a Room and Board fee in addition to the Hospice per diem for each routine home care day and continuous care day provided to clients residing in an ICF/ID or NF.

   a. The payment for Room and Board is billed by and reimbursed to the Hospice provider on behalf of the client residing in the facility. The Department reimburses 95 percent of the facility per diem amount less any patient payments.

   b. Payments for Room and Board are exempt from the computation of the Hospice payment cap.

   c. The Hospice Provider must forward the Room and Board payment to the NF or ICF/ID.

   d. Clients who are eligible for Post Eligibility Treatment of Income (PETI) shall be eligible for PETI payments while receiving services from a Hospice Provider. The Hospice Provider must submit claims on behalf of the client and nursing facility or ICF/ID.

   e. Patient payments for Room and Board charges must be collected for Hospice clients residing in a NF or ICF/ID as required by Section 8.482. While the Medicaid NF and ICF/ID Room and Board payments must be made directly to the Hospice Provider, the patient payment must be collected by the nursing facility or ICF/ID.

   f. Nursing facilities, ICF/IDs, and Hospice Providers are responsible for coordinating care of the Hospice client and payment amounts.

4. The Hospice Provider is reimbursed for routine home care or continuous home care provided to clients residing in a NF or ICF/ID. If a client is eligible for Medicare and Medicaid and the client resides in a NF or ICF/ID, Medicare reimburses the Hospice Services, and Medicaid reimburses for Room and Board.

5. Reimbursement for date of discharge:

   a. Reimbursement for date of discharge must be made at the appropriate home care rate for the day of discharge from general or respite inpatient care, unless the client dies at an inpatient level of care. When the client dies at an inpatient level of care, the applicable general or respite inpatient rate is paid for the discharge date.

   b. Reimbursement for nursing facility and ICF/ID residents is made for services delivered up to the date of discharge when the client is discharged, alive or deceased, including applicable per diem payment for the date of discharge.

8.550.9.B. Reimbursement Limitations

1. Aggregate payment to the Hospice Provider is subject to an annual indexed aggregate cost cap. The method for determining and reporting the cost cap must be identical to the Medicare Hospice Benefit requirements as contained in 42 C.F.R. Sections 418.308 and 418.309 (2018). No amendments or later editions are incorporated. Copies are available for inspection from the Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1818.

2. Aggregate days of care provided by the Hospice Provider are subject to an annual limitation of no more than 20 percent general and respite inpatient care days. The method for determining and reporting the inpatient days percentage shall be identical to the Medicare Hospice Benefit requirements as contained in 42 C.F.R. Section 418.302 (2018). No amendments or later editions are incorporated. Copies are available for inspection from the Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1818. Inpatient days in excess of the 20 percent limitation must be reimbursed at the routine home care rate.

3. The Hospice Provider must not collect co-payments, deductibles, cost sharing or similar charges from the client for Hospice Services including biological and respite care.

4. The Hospice Provider must submit all billing to the Medicaid fiscal agent within such timeframes and in such form as prescribed by the Department.

5. Specific billing instructions for submission and processing of claims is provided in the Department’s Hospice billing manual.

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning Citizenship and Identity Documentation Requirements

Rule Number: MSB 18-01-16-A

Division / Contact / Phone: Health Information Office / Jennifer VanCleave / 303-866-6204

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 18-01-16-A, Revision to the Medical Assistance Eligibility Rules Concerning Citizenship and Identity Documentation Requirements
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) 8.100.3.H, 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.H with the proposed text starting at 8.100.3.H through the end of 8.100.3.H.10. This rule is effective May 31, 2018.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning Citizenship and Identity Documentation Requirements

Rule Number: MSB 18-01-16-A

Division / Contact / Phone: Health Information Office / Jennifer VanCleave / 303-866-6204

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The proposed rule change will amend 10 CCR 2505-10 8.100.3.H to incorporate changes to acceptable document types to verify citizenship and identity, as detailed in 42 C.F.R. §435.407. In particular, 42 C.F.R. §435.407(f) states that photocopies, facsimile, scanned, or other copies of citizenship and identity documents must now be accepted to the same extent as an original document, unless the copy submitted is inconsistent with other information available to the agency, or the agency otherwise has reason to question the validity of the information contained in the document. Other updates will include reorganizing the hierarchy of acceptable citizenship documentation, to mirror the types of documents as listed in federal regulations as stand-alone evidence of citizenship and evidence of citizenship that must also be accompanied by an acceptable identity document.

2. An emergency rule-making is imperatively necessary

   ☐ to comply with state or federal law or federal regulation and/or

   ☐ for the preservation of public health, safety and welfare.

   Explain:

3. Federal authority for the Rule, if any:

   42 C.F.R. §435.407

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2016);

Initial Review **03/09/18** Final Adoption **04/13/18**

Proposed Effective Date **05/31/18** Emergency Adoption

DOCUMENT #04

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25.5-4-205, C.R.S. (2017)

Initial Review	**03/09/18**	Final Adoption	**04/13/18**
Proposed Effective Date	**05/31/18**	Emergency Adoption	

DOCUMENT #04

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Title of Rule: Revision to the Medical Assistance Eligibility Rules Concerning Citizenship and Identity Documentation Requirements

Rule Number: MSB 18-01-16-A

Division / Contact / Phone: Health Information Office / Jennifer VanCleave / 303-866-6204

REGULATORY ANALYSIS

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

   With the proposed rule, applicants and/or recipients of Medical Assistance will now be allowed to submit photocopies, facsimiles, scans, or other copies, instead of only originals or certified copies, of citizenship and identity documentation. The hierarchy of acceptable forms of citizenship and identity documents will also be eliminated, and the section will be reorganized to mirror federal regulations. There will be no change to the citizenship requirements for eligibility.

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

   The proposed rule will remove the requirement that applicants and/or recipients of Medical Assistance may only submit originals or certified copies of citizenship and identity documents, as well as eliminating the hierarchy of acceptable forms of citizenship and identity documents currently listed in 8.100.H. This change may remove potential barriers to submitting requested verifications, which could lead to eligible individuals being approved for, and receiving Medical Assistance sooner.

7. 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.

   While this change may result in individuals becoming eligible for medical assistance slightly faster, the Department does not expect significant impacts to caseload due to no changes in eligibility requirements. Therefore, the Department does not anticipate a change in cost for the implementation and enforcement of the proposed rule.

8. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

If the rule is not changed, the Department will be out of compliance with federal regulation under 42 C.F.R. §435.407.

9. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   There are no less costly or less intrusive methods for achieving the purpose of the proposed rule.

10. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

    There were no alternative methods considered for the proposed rule.

8.100 MEDICAL ASSISTANCE ELIGIBILITY

8.100.3. Medical Assistance General Eligibility Requirements

8.100.3.H. Citizenship and Identity Documentation Requirements

1. For determinations of initial eligibility and redeterminations of eligibility for Medical Assistance made on or after July 1, 2006, citizenship or nationality and identity status must be verified unless such satisfactory documentary evidence has already been provided, as described in 8.100.3.H.4.b. This requirement applies to an individual who declares or who has previously declared that he or she is a citizen or national of the United States.

    a. The following electronic interfaces shall be accepted as proof of citizenship and/or identity as listed and should be used prior to requesting documentary evidence from applicants/clients:

        i) SSA Interface is an acceptable interface to verify citizenship and identity. An automated response from SSA that confirms that the data submitted is consistent with SSA data, including citizenship or nationality, meets citizenship and identity verification requirements. No further action is required for the individual and no additional documentation of either citizenship or identity is required.

        ii) Department of Motor Vehicles (DMV) Interface is an acceptable interface to verify identity. An automated response from DMV confirms that the data submitted is consistent with DMV data for identity verification requirements. No further action is required for the individual and no additional documentation of identity is required.

    b. This requirement does not apply to the following groups:

        i) Individuals who are entitled to or who are enrolled in any part of Medicare.

        ii) Individuals who receive Supplemental Security Income (SSI).

        iii) Individuals who receive child welfare services under Title IV-B of the Social Security Act on the basis of being a child in foster care.

        iv) Individuals who receive adoption or foster care assistance under Title IV-E of the Social Security Act.

        v) Individuals who receive Social Security Disability Insurance (SSDI).

        vi) Children born to a woman who has applied for, has been determined eligible, and is receiving Medical Assistance on the date of the child's birth, as described in 8.100.4.G.5. This includes instances where the labor and delivery services were provided before the date of application and were covered by the Medical Assistance Program as an emergency service based on retroactive eligibility.

1) A child meeting the criteria described in 8.100.3.H.1.f. shall be deemed to have provided satisfactory documentary evidence of citizenship or nationality and shall not be required to provide further documentary evidence at any time in the future, regardless of any subsequent changes in the child's eligibility for Medical Assistance.

2) Special Provisions for Retroactive Reversal of a Previous Denial

a) If a child described at 8.100.3.H.1.f. was previously determined to be ineligible for Medical Assistance solely for failure to meet the citizenship and identity documentation requirements, the denial shall be reversed. Eligibility shall be effective retroactively to the date of the child's birth provided all of the following criteria are met:

(1) The child was determined to be ineligible for Medical Assistance during the period between July 1, 2006 and October 1, 2009 solely for failure to meet the citizenship and identity documentation requirements as they existed during that period;

(2) The child would have been determined to be eligible for Medical Assistance had 8.100.3.H.1.f. and/or 8.100.3.H.1.f.ii.1) been in effect during the period from July 1, 2006 through October 1, 2009; and

(3) The child's parent, caretaker relative, or legally appointed guardian or conservator requests that the denial of eligibility for Medical Assistance be reversed. The request may be verbal or in writing.

b) A child for whom denial of eligibility for Medical Assistance has been retroactively reversed shall be subject to the eligibility redetermination provisions described at 8.100.3.P.1. Such redetermination shall occur twelve months from the retroactive eligibility date determined when the denial was reversed pursuant to this subsection 1.

c) A child granted retroactive eligibility for Medical Assistance shall be subject to the requirements described at 8.100.4.G.2. for continued eligibility.

vii) Individuals receiving Medical Assistance during a period of presumptive eligibility.

2. Satisfactory documentary evidence of citizenship or nationality includes the following:

a. Stand-alone documents for evidence of citizenship and identity. The following evidence shall be accepted as satisfactory documentary evidence of both identity and citizenship:

i) A U.S. passport issued by the U.S. Department of State that:

1) includes the applicant or recipient, and

2) was issued without limitation. A passport issued with a limitation may be used as proof of identity, as outlined in 8.100.3.H.3.

ii) A Certificate of Naturalization (DHS Forms N-550 or N-570) issued by the Department of Homeland Security (DHS) for naturalized citizens.

iii) A Certificate of U.S. Citizenship (DHS Forms N-560 or N-561) issued by the Department of Homeland Security for individuals who derive citizenship through a parent.

iv) A document issued by a federally recognized Indian tribe, evidencing membership or enrollment in, or affiliation with, such tribe (such as a tribal enrollment card or certificate of degree of Indian blood).

1) Special Provisions for Retroactive Reversal of a Previous Denial

a) For a member of a federally recognized Indian tribe who was determined to be ineligible for Medical Assistance solely for failure to meet the citizenship and identity documentation requirements, the denial of eligibility shall be reversed and eligibility shall be effective as of the date on which the individual was determined to be ineligible provided all of the following criteria are met:

(1) The individual was determined to be ineligible for Medical Assistance on or after July 1, 2006 solely on the basis of not meeting the citizenship and identity documentation requirements as they existed during that period;

(2) The individual would have been determined to be eligible for Medical Assistance had 8.100.3.H.2.a.iv) been in effect on or after July 1, 2006; and

(3) The individual or a legally appointed guardian or conservator of the individual requests that the denial of eligibility for Medical Assistance be reversed. The request may be verbal or in writing.

b) A member of a federally recognized Indian tribe for whom denial of eligibility for Medical Assistance has been retroactively reversed shall be subject to the eligibility redetermination provisions described at 8.100.3.P.1. Such redetermination shall occur twelve months from the retroactive eligibility date determined when the denial was reversed as provided in this subsection 2.

b. Evidence of citizenship. If evidence from the list in 8.100.3.H.2.a. is not provided, an applicant or recipient shall provide satisfactory documentary evidence of citizenship from the list specified in this section to establish citizenship AND satisfactory documentary evidence from the documents listed in section 8.100.3.H. 3. to establish identity. Evidence of citizenship includes:

i) A U.S. public birth certificate.

1) The birth certificate shall show birth in any one of the following:

a) One of the 50 States,

b) The District of Columbia,

c) Puerto Rico (if born on or after January 13, 1941),

d) Guam (if born on or after April 10, 1899),

e) The Virgin Islands of the U.S. (if born on or after January 17, 1917),

f) American Samoa,

g) Swain's Island, or

h) The Northern Mariana Islands (NMI) (if born after November 4, 1986 (NMI local time)).

2) The birth record document shall have been issued by the State, Commonwealth, Territory or local jurisdiction.

3) The birth record document shall have been recorded before the person was 5 years of age. A delayed birth record document that is recorded at or after 5 years of age is considered fourth level evidence of citizenship, as described in 8.100.3.H.2.d.

ii) A Certification of Report of Birth (DS-1350) issued by the U.S. Department of State to U.S. citizens who were born outside the U.S. and acquired U.S. citizenship at birth.

iii) A Report of Birth Abroad of a U.S. Citizen (Form FS-240) issued by the U.S. Department of State consular office overseas for children under age 18 at the time of issuance. Children born outside the U.S. to U.S. military personnel usually have one of these.

iv) A Certification of birth issued by the U.S. Department of State (Form FS-545 or DS-1350) before November 1,1990.

v) A U.S. Citizen I.D. card issued by the U.S. Immigration and Naturalization Services (INS):

1) Form I-179 issued from 1960 until 1973, or

2) Form I-197 issued from 1973 until April 7, 1983.

vi) A Northern Mariana Identification Card (I-873) issued by INS to a collectively naturalized citizen of the U.S. who was born in the NMI before November 4, 1986.

vii) An American Indian Card (I-872) issued by the Department of Homeland Security with the classification code “KIC.”

viii) A final adoption decree that:

1) shows the child's name and U.S. place of birth, or

2) a statement from a State approved adoption agency that shows the child's name and U.S. place of birth. The adoption agency must state in the certification that the source of the place of birth information is an original birth certificate.

ix) Evidence of U.S. Civil Service employment before June 1, 1976. The document shall show employment by the U.S. government before June 1, 1976.

x) U.S. Military Record that shows a U.S. place of birth such as a DD-214 or similar official document showing a U.S. place of birth.

xi) Data verification with the Systematic Alien Verification for Entitlements (SAVE) Program for naturalized citizens.

xii) Child Citizenship Act. Adopted or biological children born outside the United States may establish citizenship obtained automatically under section 320 of the Immigration and Nationality Act (8 USC § 1431), as amended by the Child Citizenship Act of 2000 (Pub. L. 106-395, enacted on October 30, 2000). section 320 of the Immigration and Nationality Act (8 USC § 1431), as amended by the Child Citizenship Act of 2000 (Pub. L. 106-395, enacted on October 30, 2000) is incorporated herein by reference. No amendments or later editions are incorporated. Copies are available for inspections from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203-1818. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library.

Documentary evidence must be provided at any time on or after February 27, 2001, if the following conditions have been met:

1) At least one parent of the child is a United States citizen by either birth or naturalization (as verified under the requirements of this part);

2) The child is under the age of 18;

3) The child is residing in the United States in the legal and physical custody of the U.S. citizen parent;

4) The child was admitted to the United States for lawful permanent residence (as verified through the Systematic Alien Verification for Entitlements (SAVE) Program); and

5) If adopted, the child satisfies the requirements of section 101(b)(1) of the Immigration and Nationality Act (8 USC § 1101(b)(1)) pertaining to international adoptions (admission for lawful permanent residence as IR-3 (child adopted outside the United States), or as IR-4 (child coming to the United States to be adopted) with final adoption having subsequently occurred. 8 USC § 1101(b)(1) is incorporated herein by reference. No amendments or later editions are incorporated. Copies are available for inspections from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203-1818. Any material that has been incorporated by reference in this rule may be examined at any state publications repository library.

xiii) Extract of a hospital record on hospital letterhead.

1) The record shall have been established at the time of the person's birth;

2) The record shall have been created at least 5 years before the initial application date; and

3) The record shall indicate a U.S. place of birth;

4) For children under 16 the document shall have been created near the time of birth or at least 5 years before the date of application.

5) Souvenir “birth certificates” issued by a hospital are not acceptable.

xiv) Life, health, or other insurance record.

1) The record shall show a U.S. place of birth; and

2) The record shall have been created at least 5 years before the initial application date.

3) For children under 16 the document must have been created near the time of birth or at least 5 years before the date of application.

xv) Religious record.

1) The record shall have been recorded in the U.S. within 3 months of the date of the individual's birth;

2) The record shall show that the birth occurred in the U.S.;

3) The record shall show either the date of birth or the individual's age at the time the record was made; and

4) The record shall be an official record recorded with the religious organization.

xvi) Early school record that meets the following criteria:

1) The school record shows the name of the child;

2) The school record shows the child's date of admission to the school;

3) The school record shows the child's date of birth;

4) The school record shows a U.S. place of birth for the child; and

5) The school record shows the name(s) and place(s) of birth of the applicant's parents.

xvii) Federal or State census record showing U.S. citizenship or a U.S. place of birth and the applicant's age.

xviii) One of the following documents that shows a U.S. place of birth and was created at least 5 years before the application for The Medical Assistance Program. For

children under 16 the document must have been created near the time of birth or at least 5 years before the date of application.

1) Seneca Indian tribal census record;

2) Bureau of Indian Affairs tribal census records of the Navajo Indians;

3) U.S. State Vital Statistics official notification of birth registration;

4) A delayed U.S. public birth record that is recorded more than 5 years after the person's birth;

5) Statement signed by the physician or midwife who was in attendance at the time of birth; or

6) The Roll of Alaska Natives maintained by the Bureau of Indian Affairs.

xix) Institutional admission papers from a nursing facility, skilled care facility or other institution created at least 5 years before the initial application date that indicate a U.S. place of birth.

xx) Medical (clinic, doctor, or hospital) record.

1) The record shall have been created at least 5 years before the initial application date; and

2) The record shall indicate a U.S. place of birth.

3) An immunization record is not considered a medical record for purposes of establishing U.S. citizenship.

4) For children under 16 the document shall have been created near the time of birth or at least 5 years before the date of application.

xxi) Written affidavit. Affidavits shall only be used in rare circumstances. They may be used by U.S. citizens or nationals born inside or outside the U.S. If documentation is by affidavit, the following rules apply:

1) There shall be at least two affidavits by two individuals who have personal knowledge of the event(s) establishing the applicant's or recipient's claim of citizenship (the two affidavits could be combined in a joint affidavit);

2) At least one of the individuals making the affidavit cannot be related to the applicant or recipient. Neither of the two individuals can be the applicant or recipient;

3) In order for the affidavit to be acceptable the persons making them shall provide proof of their own U.S. citizenship and identity.

4) If the individual(s) making the affidavit has (have) information which explains why documentary evidence establishing the applicant's claim of citizenship does not exist or cannot be readily obtained, the affidavit shall contain this information as well;

5) The applicant/recipient or other knowledgeable individual (guardian or representative) shall provide a separate affidavit explaining why the evidence does not exist or cannot be obtained; and

6) The affidavits shall be signed under penalty of perjury pursuant to 18 U.S.C. §1641 and Title 18 of the Criminal Code article 8 part 5 and need not be notarized.

c. Evidence of citizenship for collectively naturalized individuals. If a document shows the individual was born in Puerto Rico, the Virgin Islands of the U.S., or the Northern Mariana Islands before these areas became part of the U.S., the individual may be a collectively naturalized citizen. A second document from 8.100.3.H.3. to establish identity shall also be presented.

i) Puerto Rico:

1) Evidence of birth in Puerto Rico on or after April 11, 1899 and the applicant's statement that he or she was residing in the U.S., a U.S. possession or Puerto Rico on January 13, 1941; OR

2) Evidence that the applicant was a Puerto Rican citizen and the applicant's statement that he or she was residing in Puerto Rico on March 1, 1917 and that he or she did not take an oath of allegiance to Spain.

ii) US Virgin Islands:

1) Evidence of birth in the U.S. Virgin Islands, and the applicant's statement of residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927; OR

2) The applicant's statement indicating residence in the U.S. Virgin Islands as a Danish citizen on January 17, 1917 and residence in the U.S., a U.S. possession or the U.S. Virgin Islands on February 25, 1927, and that he or she did not make a declaration to maintain Danish citizenship; OR

3) Evidence of birth in the U.S. Virgin Islands and the applicant's statement indicating residence in the U.S., a U.S. possession or Territory or the Canal Zone on June 28, 1932.

iii) Northern Mariana Islands (NMI) (formerly part of the Trust Territory of the Pacific Islands (TTPI)):

1) Evidence of birth in the NMI, TTPI citizenship and residence in the NMI, the U.S., or a U.S. Territory or possession on November 3, 1986 (NMI local time) and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); OR

2) Evidence of TTPI citizenship, continuous residence in the NMI since before November 3, 1981 (NMI local time), voter registration prior to January 1, 1975 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time); OR

3) Evidence of continuous domicile in the NMI since before January 1, 1974 and the applicant's statement that he or she did not owe allegiance to a foreign state on November 4, 1986 (NMI local time).

4) If a person entered the NMI as a nonimmigrant and lived in the NMI since January 1, 1974, this does not constitute continuous domicile, and the individual is not a U.S. citizen.

d) Referrals for Colorado Birth Certificates

i) An applicant or client who was born in the State of Colorado who does not possess a Colorado birth certificate shall receive a referral to the Department of Public Health and Environment by the county department to obtain a birth certificate at no charge, pursuant to C.R.S. § 25-2-117(2)(a)(I)(C).

ii) The referral shall be provided on county department letterhead and shall include the following:

1) The name and address of the applicant or client;

2) A statement that the county department requests that the Department of Public Health and Environment waive the birth certificate fee, pursuant to C.R.S. § 25-2-117(2)(a)(I)(C); and

3) The name and contact telephone number for the county caseworker responsible for the referral.

iii) An applicant or client who has been referred to the Department of Public Health and Environment to obtain a birth certificate shall not be required to present a birth certificate to satisfy the citizenship documentation requirement at 8.100.3.H.2. The applicant or client shall have the right to use any of the documents listed under 8.100.3.H.2. to satisfy the citizenship documentation requirement.

3. The following documents shall be accepted as proof of identity and shall accompany a document establishing citizenship from the groups of documentary evidence outlined in 8.100.3.H.2.b. through d.

a) A driver's license issued by a State or Territory either with a photograph of the individual or other identifying information such as name, age, sex, race, height, weight, or eye color;

b) School identification card with a photograph of the individual;

c) U.S. military card or draft record;

d) Identification card issued by the Federal, State, or local government with the same information included on driver's licenses;

e) Military dependent's identification card;

f) U.S. Coast Guard Merchant Mariner card;

g) Certificate of Degree of Indian Blood, or other U.S. American Indian/Alaska Native Tribal document with a photograph or other personal identifying information relating to the individual. The document is acceptable if it carries a photograph of the individual or has

other personal identifying information relating to the individual such as age, weight, height, race, sex, and eye color; or

h) Three or more documents that together reasonably corroborate the identity of an individual provided such documents have not been used to establish the individual's citizenship and the individual submitted evidence of citizenship listed under 8.100.3.H.2.b. or 8.100.3.H.2.c. The following requirements must be met:

i) No other evidence of identity is available to the individual;

ii) The documents must at a minimum contain the individual's name, plus any additional information establishing the individual's identity; and

iii) All documents used must contain consistent identifying information.

iv) These documents include, but are not limited to, employer identification cards, high school and college diplomas from accredited institutions (including general education and high school equivalency diplomas), marriage certificates, divorce decrees, and property deeds/titles.

i) Special identity rules for children. For children under 16, the following records are acceptable:

i) Clinic, doctor, or hospital records; or

ii) School records.

1) The school record may include nursery or daycare records and report cards; and

2) The school, nursery, or daycare record must be verified with the issuing school, nursery, or daycare.

3) If clinic, doctor, hospital, or school records are not available, an affidavit may be used if it meets the following requirements:

a) It shall be signed under penalty of perjury by a parent or guardian;

b) It shall state the date and place of birth of the child; and

c) It cannot be used if an affidavit for citizenship was provided.

d) The affidavit is not required to be notarized.

e) An affidavit may be accepted on behalf of a child under the age of 18 in instances when school ID cards and drivers' licenses are not available to the individual until that age.

j) Special identity rules for disabled individuals in institutional care facilities.

i) An affidavit may be used for disabled individuals in institutional care facilities if the following requirements are met:

1) It shall be signed under penalty of perjury by a residential care facility director or administrator on behalf of an institutionalized individual in the facility; and

2) No other evidence of identity is available to the individual.

3) The affidavit is not required to be notarized.

k) Expired identity documents.

i) Identity documents do not need to be current to be acceptable. An expired identity document shall be accepted as long as there is no reason to believe that the document does not match the individual.

l) Referrals for Colorado Identification Cards

i) An applicant or client who does not possess a Colorado driver's license or identification card shall be referred to the Department of Revenue Division of Motor Vehicles by the county department to obtain an identification card at no charge, pursuant to C.R.S. § 42-2-306(1)(a)(II).

ii) The referral shall be provided on county department letterhead and shall include the following:

1) The name and address of the applicant or client;

2) A statement that the county department requests that the Department of Revenue Division of Motor Vehicles waive the identification card fee, pursuant to C.R.S § 42-2-306(1)(a)(II).; and

3) The name and contact telephone number for the county caseworker responsible for the referral.

iii) An applicant or client who has been referred to the Division of Motor Vehicles to obtain an identification card shall not be required to present a Colorado identification card to satisfy the identity documentation requirement at 8.100.3.H.3. The applicant or client shall have the right to use any of the documents listed under 8.100.3.H.3. to satisfy the identity documentation requirement.

4. Documentation Requirements

a. Citizenship and identity documents may be submitted as originals, certified copies, photocopies, facsimiles, scans or other copies. b. Individuals who submitted notarized copies of citizenship and identity documents as part of an application or redetermination before January 1, 2008 shall not be required to submit originals or copies certified by the issuing agency for any application or redetermination processed on or after January 1, 2008.

c. All citizenship and identity documents shall be presumed to be genuine unless the authenticity of the document is questionable.

d. Individuals shall not be required to submit citizenship and identity documentation in person. Documents shall be accepted from a Medical Assistance applicant or client or from his or her guardian or authorized representative in person or by mail.

i) Individuals are strongly encouraged to use alternatives to mailing original documents to counties, such as those described in 8.100.3.H.4.e.

e. Individuals may present original citizenship and identity documents or copies certified by the issuing agency to Medical Assistance (MA) sites, School-based Medical Assistance sites, Presumptive Eligibility (PE) sites, Federally Qualified Health Centers (FQHCs), Disproportionate Share Hospitals (DSHs), or any other location designated by the Department by published agency letter.

i) Staff at these locations shall make a copy of the original documents and shall complete a “Citizenship and Identity Documentation Received” form, stamp the copy, or provide other verification that identifies that the documents presented were originals. The verification shall include the name, telephone number, organization name and address, and signature of the individual who reviewed the document(s). This form, stamp, or other verification shall be attached to or directly applied to the copy.

ii) Upon request by the client or eligibility site, the copy of the original document with the “Citizenship and Identity Documentation Received” form, stamp, or other verification as described in 8.100.3.H.4.e. i) shall be mailed or delivered directly to the eligibility site within five business days.

f. Counties shall accept photocopies of citizenship and identity documents from any location described in 8.100.3.H.4.e provided the photocopies include the form, stamp, or verification described in 8.100.3.H.4.e.i).

g. Counties shall develop procedures for handling original citizenship and identity documents to ensure that these documents are not lost, damaged, or destroyed.

i) Upon receiving the original documents, eligibility site staff shall make a copy of the original documents and shall complete a “Citizenship and Identity Documentation Received” form, stamp the copy, or provide other verification that identifies that the documents presented were originals, as described in 8.100.3.H.4.e. i). This form, stamp, or other verification shall be attached to or directly applied to the copy.

ii) The original documents shall be sent by mail or returned to the individual in person within five business days of the date on which they were received.

iii) To limit the risk of original documents being lost, damaged, or destroyed, counties are strongly encouraged to make copies of documents immediately upon receipt and to return original documents to the individual while he or she is present.

h. Once an individual has provided the required citizenship and identity documentation, he or she shall not be required to submit the documentation again unless:

i) Later evidence raises a question about the individual's citizenship or identity; or

ii) There is a gap of more than five years between the ending date of the individual's last period of eligibility and a subsequent application for The Medical Assistance Program and the eligibility site has not retained the citizenship and identity documentation the individual previously provided.

5. Record Retention Requirements

a. The eligibility site shall retain a paper or electronically scanned copy of an individual's citizenship and identity documentation, including any verification described in 8.100.3.H.4.e.i), for at least five years from the ending date of the individual's last period of Medical Assistance eligibility.

6. Name Change Provisions

a. An individual who has changed his or her last name for reasons including, but not limited to, marriage, divorce, or court order shall not be required to produce any additional documentation concerning the name change unless:

i) With the exception of the last name, the personal information in the citizenship and identity documentation provided by the individual does not match in every way;

ii) In addition to changing his or her last name, the individual also changed his or her first name and/or middle name; or

iii) There is a reasonable basis for questioning whether the citizenship and identity documents belong to the same individual.

7. Reasonable Level of Assistance

a. The eligibility site shall provide a reasonable level of assistance to applicants and clients in obtaining the required citizenship and identity documentation.

b. Examples of a reasonable level of assistance include, but are not limited to:

i) Providing contact information for the appropriate agencies that issue the required documents;

ii) Explaining the documentation requirements and how the client or applicant may provide the documentation; or

iii) Referring the applicant or client to other agencies or organizations which may be able to provide further assistance.

c. The eligibility site shall not be required to pay for the cost of obtaining required documentation.

8. Individuals Requiring Additional Assistance

a. The eligibility site shall provide additional assistance beyond the level described in 8.100.3.H.7 to applicants and clients in obtaining the required citizenship and identity documentation if the client or applicant:

i) Is unable to comply with the requirements due to physical or mental impairments or homelessness; and

ii) The individual lacks a guardian or representative who can provide assistance.

b. Examples of additional assistance include, but are not limited to:

i) Contacting any known family members who may have the required documentation;

ii) Contacting any known current or past health care providers who may have the required documentation; or

iii) Contacting other social services agencies that are known to have provided assistance to the individual.

c. The eligibility site shall document its efforts to provide additional assistance to the client or applicant. Such documentation shall be subject to the record retention requirements described in 8.100.3.H.5.a.

9. Reasonable Opportunity Period

a. If a Medical Assistance applicant does not have the required documentation, he or she must be given a reasonable opportunity period to provide the required documentation. The reasonable opportunity period will begin as of the date of the Notice of Action. The required documentation must be received within the reasonable opportunity period. If the applicant does not provide the required documentation within the reasonable opportunity period, then the applicant's Medical Assistance benefits shall be terminated.

b. The reasonable opportunity period is 90 calendar days and applies to MAGI, Adult, and Buy-In Programs:

i) For the purpose of this section only, MAGI Programs for persons covered pursuant to 8.100.4.G or 8.100.4.I, include the following:

Commonly Used Program Name	Rule Citation
Children's Medical Assistance	8.100.4.G.2
Parent and Caretaker Relative Medical Assistance	8.100.4.G.3
Adult Medical Assistance	8.100.4.G.4
Pregnant Women Medical Assistance	8.100.4.G.5
Transitional Medical Assistance	8.100.4.I.1-5

ii) For the purpose of this section only, Adult and Buy-In Programs for persons covered pursuant to 8.100.3.F, 8.100.6.P, 8.100.6.Q, or 8.715 include the following:

Commonly Used Program Name	Rule Citation
Old Age Pension A (OAP-A)	8.100.3.F.1.c
Old Age Pension B (OAP-B)	8.100.3.F.1.c
Qualified Disabled Widow/Widower	8.100.3.F.1.e
Pickle	8.100.3.F.1.e
Long-Term Care	8.100.3.F.1.f-h
Medicaid Buy-In Program for Working Adults with Disabilities	8.100.6.P
Medicaid Buy-In Program for Children with Disabilities	8.100.6.Q
Breast and Cervical Cancer Program (BCCP)	8.715

10. Good Faith Effort

a. In some cases, a Medical Assistance client or applicant may not be able to obtain the required documentation within the applicable reasonable opportunity period. If the client or applicant is making a good faith effort to obtain the required documentation, then the reasonable opportunity period should be extended. The amount of time given should be determined on a case-by-case basis and should be based on the amount of time the individual needs to obtain the required documentation.

Examples of good faith effort include, but are not limited to:

i) Providing verbal or written statements describing the individual's effort at obtaining the required documentation;

ii) Providing copies of emails, letters, applications, checks, receipts, or other materials sent or received in connection with a request for documentation; or

iii) Providing verbal or written statements of the individuals' efforts at identifying people who could attest to the individual's citizenship or identity, if citizenship and/or identity are included in missing documentation.

An individual's verbal statement describing his or her efforts at securing the required documentation should be accepted without further verification unless the accuracy or truthfulness of the statement is questionable. The individual's good faith efforts should be documented in the case file and are subject to all record retention requirements

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Tracking number: 2018-00075

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 04/13/2018

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY

The above-referenced rules were submitted to this office on 04/18/2018 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.

April 25, 2018 09:16:43

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Permanent Rules Adopted

Department

Department of Human Services

Agency

Adult Protective Services

CCR number

12 CCR 2518-1

Rule title

12 CCR 2518-1 ADULT PROTECTIVE SERVICES 1 - eff 06/01/2018

Effective date

06/01/2018

DEPARTMENT OF HUMAN SERVICES
Adult Protective Services
ADULT PROTECTIVE SERVICES
12 CCR 2518-1

30.000 ADULT PROTECTIVE SERVICES

30.100 DEFINITIONS

The following definitions shall apply to these rules.
“Abuse”, pursuant to Section 26-3.1-101(1), C.R.S., means any of the following acts or omissions committed against an at-risk adult:

A. The non-accidental infliction of physical pain or injury, as demonstrated by, but not limited to, substantial or multiple skin bruising, bleeding, malnutrition, dehydration, burns, bone fractures, poisoning, subdural hematoma, soft tissue swelling, or suffocation;

B. Confinement or restraint that is unreasonable under generally accepted caretaking standards; or,

C. Subjection to sexual conduct or contact classified as a crime under the “Colorado criminal code”, Title 18, C.R.S.

“Adult Protective Services (APS) Program” means the State Department supervised, county department administered program that has the authority to investigate and/or assess allegations of mistreatment and self-neglect of at-risk adults. The APS Program offers protective services to prevent, reduce, or eliminate the current or potential risk of mistreatment or self-neglect to the at-risk adult using community based services and resources, health care services, family and friends when appropriate, and other support systems. The APS Program focuses on the at-risk adult and those services that may prevent, reduce, or eliminate further mistreatment or self-neglect. The APS Program refers possible criminal activities to law enforcement and/or the district attorney for criminal investigation and possible prosecution.

“Allegation” means a statement asserting an act or suspicion of mistreatment or self-neglect involving an at-risk adult.

“Assessment” means the process of evaluating a client’s functional abilities to determine the client’s level of risk and, in cooperation with the client whenever possible, to identify service needs for the case plan.

"Assumed responsibility", as used in the definition of caretaker, means a person who is providing or has provided recurring assistance to help meet the basic needs of an at-risk adult. The assumption of responsibility can attach by entering into a formal or informal agreement, whether paid or unpaid; by identifying oneself as a caretaker to others; or based on the nature of the situation or relationship between the caretaker and the at-risk adult.

"At-risk adult", pursuant to Section 26-3.1-101(1.5), C.R.S., means an individual eighteen years of age or older who is susceptible to mistreatment or self-neglect because the individual is unable to perform or obtain services necessary for his or her health, safety, or welfare, or lacks sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person or affairs.

“CAPS” means the Colorado Adult Protective Services (APS) State Department prescribed data system.

“CAPS check” means a check of the Colorado Adult Protective Services data system pursuant to Section 26-3.1-111, C.R.S.

"Caretaker", pursuant to Section 26-3.1-101(2), C.R.S., means a person who:

A. Is responsible for the care of an at-risk adult as a result of a family or legal relationship;

B. Has assumed responsibility for the care of an at-risk adult; or,

C. Is paid to provide care, services, or oversight of services to an at-risk adult.

"Caretaker neglect", pursuant to Section 26-3.1-101(2.3)(a), C.R.S., means neglect that occurs when adequate food, clothing, shelter, psychological care, physical care, medical care, habilitation, supervision, or other treatment necessary for the health, safety, or welfare of the at-risk adult is not secured for an at-risk adult or is not provided by a caretaker in a timely manner and with the degree of care that a reasonable person in the same situation would exercise, or when a caretaker knowingly uses harassment, undue influence, or intimidation to create a hostile or fearful environment for an at-risk adult. However, the withholding, withdrawing, or refusing of any medication, any medical procedure or device, or any treatment, including but not limited to resuscitation, cardiac pacing, mechanical ventilation, dialysis, artificial nutrition and hydration, any medication or medical procedure or device, in accordance with any valid medical directive or order, or as described in a palliative plan of care, is not deemed caretaker neglect. In addition to those exceptions identified above, access to Medical Aid in Dying, pursuant to Title 25, Article 48, C.R.S., shall not be considered caretaker neglect.

“Case” means the process by which a county department provides services to an at-risk adult. A case begins when a report identifies an at-risk adult and allegations that qualify as a mistreatment category or self-neglect, and the report is screened in for investigation and/or further assessment. The county department may continue to provide services under a case after the investigation has concluded.

“Caseload average” means the fiscal year monthly average sum of new reports plus ongoing cases per caseworker. The fiscal year caseload average is calculated as: [(fiscal year total of new reports/12) + (beginning cases on July 1 + ongoing cases on June 30/2)]/FTE on June 30 = caseload average.

"Case Planning" means using the information obtained from the investigation and/or assessment to identify, arrange, and coordinate protective services in order to reduce the client’s level of risk for mistreatment and improve safety.

“Clergy member”, pursuant to Section 26-3.1-101(2.5), C.R.S., means a priest; rabbi; duly ordained, commissioned, or licensed minister of a church; member of a religious order; or recognized leader of any religious body.

"Client" means an actual or possible at-risk adult for whom report has been received and the county department has made a response, via telephone resolution or open case.

"Collateral contact" means a person who has relevant knowledge about the client’s situation that supports, refutes, or corroborates information provided by a client, reporting party, or other person involved in the case. Examples of contacts include, but are not limited to, family members, law enforcement, health care professionals, service providers, facility staff, neighbors, the reporting party, friends, and any person who provides/provided ongoing care or support to the client.

"County Department" means a county department of human/social services.

“Date of notice” means the date that the notice of a substantiated finding against a perpetrator(s) is mailed to the last known mailing address(es) of the perpetrator(s).

“Enhanced supervision” means CAPS security access that prevents a caseworker from finalizing an investigation, assessment, case plan, or case closure without supervisory approval.

"Exploitation" means an act or omission committed by a person that:

A. Uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk adult of the use, benefit, or possession of anything of value;

B. Employs the services of a third party for the profit or advantage of the person or another person to the detriment of the at-risk adult;

C. Forces, compels, coerces, or entices an at-risk adult to perform services for the profit or advantage of the person or another person against the will of the at-risk adult; or,

D. Misuses the property of an at-risk adult in a manner that adversely affects the at-risk adult's ability to receive health care or health care benefits or to pay bills for basic needs or obligations.

"Facility" means a medical or long-term care facility that provides 24 hour care and oversight for residents, and includes a group or host home, alternative care facility, state regional center, or state mental health facility.

"Financial institution" means a state or federal bank, savings bank, savings and loan association or company, building and loan association, trust company, or credit union.

"Fiscal Year" means the State Department fiscal year, which begins July 1 and ends June 30.

"FTE" means Full Time Equivalent. The actual percentage of time a person works on the APS program shall be considered that person's FTE.

"Good cause", except as applied by a court, means emergency conditions or circumstances which would prevent a reasonable person from meeting a deadline or complying with APS rule or practice. Examples include, but are not limited to, law enforcement request to delay the APS investigation; inability to locate the client or key collaterals despite reasonable, documented attempts; additional time required to obtain documents which were timely requested but not delivered; lack of proper notice to the substantiated perpetrator of the availability of an appeal; etc.

"Inconclusive finding" means that indicators of mistreatment or self-neglect may be present but the investigation could not confirm the evidence to a level necessary to substantiate the allegation.

"Investigation" means the process of determining if an allegation(s) of mistreatment involving an at-risk adult can be substantiated by a preponderance of evidence.

"Least restrictive intervention" means acquiring or providing services, including protective services, for the shortest duration and to the minimum extent necessary to remedy or prevent mistreatment.

"Medical Directive or Order" means a medical durable power of attorney, a declaration as to medical treatment executed pursuant to Section 15-18-104, C.R.S., a medical order for scope of treatment form executed pursuant to Article 18.7 of Title 15, C.R.S., and a CPR directive executed pursuant to Article 18.6 of Title 15, C.R.S.

"Minor impact" means the client may experience some difficultly with the assessment risk indicator, but there is very little impact on the client's overall health, safety, and/or welfare and no intervention is necessary to improve overall safety.

"Mistreatment", pursuant to Section 26-3.1-101(7), C.R.S., means:

A. Abuse;

B. Caretaker neglect;

C. Exploitation;

D. An act or omission that threatens the health, safety, or welfare of an at-risk adult; or,

E. An act or omission that exposes an at-risk adult to a situation or condition that poses an imminent risk of bodily injury to the at-risk adult.

"Person(s)" means one or more individuals, limited liability companies, partnerships, associations, corporations, legal representatives, trustees, receivers, or the State Department of Colorado, and all political subdivisions and agencies thereof.

“Preponderance of Evidence” means credible evidence that a claim is more likely true than not.

"Protective Services" means services to prevent the mistreatment and self-neglect of an at-risk adult initiated and provided by the county department authorized to administer the Adult Protective Services Program. Such services include, but are not limited to:

A. Receipt and investigation of reports of mistreatment and self-neglect;

B. Assessment of the at-risk adult’s physical, environmental, resources and financial, medical, mental and behavioral, and support system needs;

C. Protection from mistreatment;

D. Coordination, implementation, delivery, and monitoring of services necessary to address the at-risk adult’s safety, health, and welfare needs;

E. Assistance with applications for public benefits and other services; and,

F. Initiation of protective and probate proceedings under Colorado Revised Statutes.

"Reassessment" means the process of updating the assessment status areas and the case plan, including the status of any services implemented and any new services and/or goals identified since the last assessment.

“RED Team” is an acronym that stands for Review, Evaluate, and Direct. The RED Team is a decision making process that utilizes a structured framework to determine the county department’s response to reports.

"Report" means an oral or written report of suspected mistreatment or self-neglect of a suspected at-risk adult, received by the county department.

“Risk” means conditions and/or behaviors that create increased difficulty or impairment to the client’s ability to ensure health, safety, and welfare.

“Safety” means the extent to which a client is free from harm or danger, or to which harm or danger is lessened.

"Self-Determination" means the right to decide for one’s self; the ability or right to make one's own decisions without interference from others.

"Self-Neglect", pursuant to Section 26-3.1-101(10), C.R.S., means an act or failure to act whereby an at-risk adult substantially endangers his/her health, safety, welfare, or life by not seeking or obtaining

services necessary to meet the adult's essential human needs. Refusal of medical treatment, medications, devices, or procedures by an adult or in accordance with a valid medical directive or order, or as described in a palliative plan of care, shall not be deemed self-neglect. Refusal of food and water in the context of a life-limiting illness shall not, by itself, be evidence of self-neglect. "Medical directive or order" includes, but is not limited to, a medical durable power of attorney, a declaration as to medical treatment executed pursuant to Section 15-18-104, C.R.S., a medical orders for scope of treatment form executed pursuant to Article 18.7 of Title 15, C.R.S., and a CPR directive executed pursuant to Article 18.6 of Title 15, C.R.S. In addition to those exceptions identified above, access to Medical Aid in Dying, pursuant to Title 25, Article 48, C.R.S., shall not be considered self-neglect.

“Severity Level” means the extent of the impact caused to the client as a result of mistreatment.

A. Minor – Mistreatment occurred that resulted in little to no harm or change to the client’s health, safety, welfare, or finances.

B. Moderate – Mistreatment occurred that resulted in harm or change to the client’s health, safety, welfare, or finances.

C. Severe – Mistreatment occurred that resulted in substantial harm or change to the client’s health, safety, welfare, or finances.

“Significant impact” means that the client’s impairment diminishes the client’s health, safety, and/or welfare and intervention is necessary to improve overall safety.

"Staffing a case" means the review of an APS case between the supervisor and caseworker to ensure the appropriateness of the investigation findings, client assessment, case plan, service provision, need for ongoing services, plans to terminate services, documentation, and overall intervention as it relates to APS rules and best practices. Staffing a case may include the county department APS unit, the State Department APS unit, and/or the APS Team in addition to the supervisor and caseworker.

"State Department" means the Colorado Department of Human Services.

"Substantiated finding" means that the investigation established by a preponderance of evidence that mistreatment or self-neglect has occurred.

“Undue Influence” means the use of influence to take advantage of an at-risk adult’s vulnerable state of mind, neediness, pain, or emotional distress.

"Unsubstantiated finding" means the investigation did not establish any evidence that mistreatment or self-neglect has occurred.

30.000 ADULT PROTECTIVE SERVICES

30.250 CONFIDENTIALITY

A. Information received as a result of a report to APS and subsequent investigation and casework services shall be confidential and shall not be released without a court order for good cause except in limited circumstances, as defined in Section 30.250, E.

B. The county department shall treat all information related to the report and the case, whether in written or electronic form, as confidential according to applicable statutes. Such information includes, but is not limited to, the following:

1. Identifying information, such as the name, address, relationship to the at-risk adult, date of birth, or Social Security Number of the:

    a. At-risk adult;

    b. At-risk adult's family members;

    c. Reporting party;

    d. Alleged perpetrator; and,

    e. Other persons involved in the case.

2. Allegations, assessment, and investigative findings, including, but not limited to:

    a. Initial report of allegations and concerns;

    b. The client's safety and risk as determined by the client assessment;

    c. Medical and behavioral diagnoses, past medical conditions, and disabilities;

    d. Services provided to or arranged for the adult;

    e. Information learned as a result of a criminal investigation;

    f. Information obtained during the APS investigation and the substantiation or non-substantiation of the allegations; and,

    g. Legal protections in place including, but not limited to, wills, advance directives, powers of attorney, guardianship, conservatorship, representative payeeship, and protective orders.

C. Individuals or groups requesting information regarding APS reports and/or investigations shall be informed of the confidential nature of the information and shall be advised that a court order is required to release information held by the county department, except as provided at Section 30.250, E. These persons or groups include, but are not limited to:

1. Federal and state legislators;

2. Members of other governmental authorities or agencies, including county commissioners, city councils, school boards, and other city and county department boards, councils, officials, and employees;

3. Courts and law enforcement agencies;

4. Attorneys, guardians, conservators, agents under powers of attorney, representative payees, and other fiduciaries;

5. Family members, reporting parties, or other interested parties;

6. Any alleged perpetrator; and,

7. Media representatives.

D. In a criminal or civil proceeding or in any other circumstance in which the APS report and/or case record is subpoenaed or any request for disclosure has been made, or any county department or State Department representative is ordered to testify concerning an APS report or case, the court shall be advised, through proper channels, of the statutory provisions, rules, and policies concerning disclosure of information.

1. Confidential information shall not be released unless so ordered by the court for good cause.

2. Courts with competent jurisdiction may determine good cause. Although it is not an exhaustive list, the following are examples of court proceedings in which a court may determine that good cause exists for the release of confidential information:

a. Guardianship or conservatorship proceeding in which either the county is the petitioner or has been ordered to testify;

b. Review of Power of Attorney under the Uniform Power of Attorney Act, as outlined at Title 15, Article 14, Part 7, Colorado Revised Statutes (C.R.S.);

c. Review of a fiduciary under Title 15, Article 10. Part 5, C.R.S.; and/or,

d. Criminal trial.

E. Information held by the State Department or county department may be released without a court order only when:

1. Coordination with professionals and collateral contacts is necessary to investigate mistreatment or self-neglect and/or to resolve health and/or safety concerns.

2. It is essential for the provision of protective services, including establishing eligibility for, arrangement and implementation of services and benefits, and appointment of a guardian and/or conservator.

3. A review of a Power of Attorney is requested under the Uniform Power of Attorney Act, as outlined at C.R.S. Title 15, Article 14, Part 7 or review of a fiduciary under C.R.S. Title 15, Article 10, Part 5.

4. A case is reviewed with the adult protection team, in accordance with the adult protection team's by-laws, and when in executive session with members who have signed a confidentiality agreement.

5. A criminal complaint or indictment is filed based on the APS report and investigation.

6. There is a death of a suspected at-risk adult and formal charges or a grand jury indictment have been brought.

7. The coroner is investigating a death suspected to be a result of mistreatment or self-neglect.

8. An audit of the county department of human or social services is being conducted pursuant to Section 26-1-114.5, C.R.S.

9. Notification is made to substantiated perpetrator(s) of mistreatment pursuant to Section 26-3.1-108, C.R.S.

10. The disclosure is made for purposes of the appeals process relating to a substantiated case of mistreatment of an at-risk adult pursuant to Section 26-3.1-108(2), C.R.S.

F. Whenever there is a question about the legality of releasing information the requestor shall be advised to submit a written request to the appropriate court to order the county department to produce the desired records or information within the custody or control of the county department.

G. Information released under Section 30.250, D and E, shall be the minimum information necessary to secure the services, conduct the investigation, or otherwise respond to the court order. The county department shall:

1. Provide the information only to persons deemed essential to the court order, criminal or APS investigation, Adult Protection team activities, or the provision of services;

2. Edit the information prior to its release to physically remove or redact sensitive information not essential to the court order, criminal or APS investigation, Adult Protection Team activities, or provision of services and benefits;

3. Redact all information that would identify the reporting party unless ordered by the court, the reporting party has given written consent, or when sharing the report with law enforcement per, 26-3.1-102, (3); and,

4. Always redact all HIPAA protected information and any other confidential information which is protected by law unless specifically ordered by a court; and,

5. Redact all other report and case information not directly related to the court order.

H. When a court order or other written request for the release of information related to an APS report or case is received, as outlined in Sections 30.250, D and E, the county department shall:

1. Comply within the time frame ordered by the court, or in accordance with county department policy; and,

2. Provide a written notice with the information to be released regarding the legality of sharing confidential information.

I. All confidential APS information and data shall be processed, filed and stored using safeguards that prevent unauthorized personnel from acquiring, accessing, or retrieving the information.

1. Client files shall be kept in a secured area when not in use.

2. Passwords to CAPS shall be kept secured.

3. The State Department shall ensure that only State Department and county department staff persons with a business need to do so shall have access to CAPS.

4. Laptops and other mobile devices used to document in the field shall be protected and encrypted in compliance with HIPAA security requirements.

5. Email correspondence that contains APS confidential information shall be sent through secure encryption programs.

6. All CAPS users must electronically sign the CAPS Security and Confidentiality Agreement annually.

J. County departments shall not access information in CAPS that is not necessary to serve the client. Violations may result in loss of access to CAPS, at the discretion of the State Department.

K. Any person who willfully violates confidentiality or who encourages the release of information related to the mistreatment and self-neglect of an at-risk adult from CAPS or the APS case file, to persons not permitted access to such information, commits a Class 2 petty offense and shall be punished as provided in Section 26-3.1-102(7)(c), C.R.S.

30.260 DOCUMENTATION

A. The county department shall thoroughly document all Adult Protective Services (APS) reports and case information in CAPS. There shall be no parallel paper or electronic system used to enter APS documentation. Documentation shall include all aspects of the APS case, including:

1. Initial report;

2. Investigation;

3. Assessment;

4. Case plan;

5. Contact records for the client, alleged perpetrator, reporter, and all collaterals and supports;

6. Ongoing case notes;

7. Case closure; and,

8. Any other processes related to the case.

B. All documents and evidence critical to the APS case record shall be scanned into CAPS, to include:

1. A release of information form(s) signed by the client, when appropriate;

2. All of the client's Powers of Attorney(s), living will declaration, and/or other advance directives, as applicable;

3. All documents, reports, and correspondence related to guardianship, conservatorship, and representative payeeship, whether county department held or private, as applicable; and,

4. Other documentation, such as medical reports, results of psychiatric evaluations, photographic documentation, and other evidence collected during the investigation and assessment.

C. All documentation pertaining to APS reports and cases, including interview and case notes, evidence gathered, such as photos, medical records, and bank statements shall be kept in a secure location until documented in CAPS and then shall be destroyed.

1. Hardcopy and electronic APS files created prior to July 1, 2014 shall be kept in a secured location.

2. All APS files created July 1, 2014 or later shall be documented in CAPS and the file/notes destroyed.

3. Original legal documents such as guardianship, representative payeeship, birth certificates, or tax documents may be retained in a hardcopy file, in addition to CAPS, that is in a secured location.

D. The county department shall use CAPS to document all other APS program activities, including Adult Protection team activities, APS staff qualifications, FTE, new worker and continuing education received, cooperative agreements, and other activities required by rule.

E. Case records that do not pertain to substantiated perpetrators shall be retained for a minimum of three (3) years, plus the current year, after the date of case closure.

F. Case records pertaining to substantiated perpetrators shall be retained indefinitely.

30.340 STAFF DUTIES AND RESPONSIBILITIES

A. The direct supervisor or lead worker shall, at a minimum:

1. Receive reports of mistreatment and self-neglect as outlined in Section 30.400.

2. Evaluate the report, determine the response, and develop a plan for caseworker safety, as outlined in Sections 30.400. At the option of the county, the county department may use the RED Team process.

3. Staff open cases of each caseworker monthly to ensure cases meet program requirements related to the provision of protective services.

4. Ensure timely notification is made to perpetrators who have substantiated findings made against them in APS cases, as outlined in Section 30.910.

5. Review cases to ensure:

   a. Timely casework;

   b. Investigation, assessment, and case planning were thorough and complete;

   c. Case closure, if applicable, was appropriate; and,

   d. Documentation in CAPS is complete and accurate.

6. Review of cases shall be completed using one of two approved methods:

   a. Method One: using the case review score card in CAPS, each month review not less than fifteen percent (15%) of each caseworker's cases that were open and/or closed during the month; or,

   b. Method Two: approve every county APS case at key junctures of the APS casework process utilizing the automated approval process in CAPS, as follows:

      i. Upon completion of the initial investigation, assessment, and case plan;

      ii. Upon completion of a six month reassessment for cases open longer than six months; and,

      iii. At case closure.

7. Assess APS caseworkers' professional development needs and provide opportunities for training.

8. Respond to APS reports or have a contingency plan to respond within assigned time frames, including emergencies, and to provide protective services when no caseworker is available.

B. APS caseworkers shall, at a minimum:

1. Receive reports of mistreatment and self-neglect as outlined in Sections 30.400;

2. Investigate allegations and assess the client's safety and needs as outlined in Section 30.500;

3. Provide timely notification to perpetrators who have substantiated findings made against them in APS cases, as outlined in Section 30.910.

4. Develop, implement, and monitor case plans, conduct required client visits, and provide protective services as outlined in Section 30.600;

5. Document case findings as outlined throughout 12 CCR 2518-1; and,

6. Assume responsibility for own learning and required training hours.

C. APS case aides may assist caseworkers in completing non-professional level tasks that do not require casework expertise, but shall not perform the duties of the caseworker or supervisor, such as completing:

1. The investigation and/or assessment;

2. The case plan;

3. The required monthly client contact visits; or,

4. Required reports to the court, for cases in which the county department is the guardian or conservator.

D. APS intake screeners or administrative support staff may:

1. Receive and document intake reports in CAPS or through the CAPS web2case form;

2. Assign all reports to the supervisors for determination of appropriate response; and,

3. Direct urgent calls to the appropriate internal and external authorities.

30.400 REPORT RECEIPT AND RESPONSE

30.410 INTAKE

A. The county department shall receive oral or written reports of at-risk adult mistreatment and self-neglect, occurring in the community or in a facility.

B. The county department shall have an established process during business and non-business hours for receiving such reports.

C. The county department shall input oral reports directly in CAPS or the CAPS web2case form. Written reports received via email, fax, or mail shall be documented in CAPS within one (1) business day of receipt. If unable to enter the report in the system within one business day, the county department shall document the reason.

D. CAPS shall guide the information gathered for the report to include:

1. The client's demographic information, such as name, gender, date of birth or approximate age, address, current location if different from permanent address, and phone number;

2. The reporter's demographic information, unless the reporter requests anonymity, such as name, phone number, address, relationship to client and, if applicable, the reporter's agency or place of business;

3. Allegations of mistreatment or self-neglect;

4. Safety concerns for the client;

5. Safety concerns for the caseworker; and,

6. The alleged perpetrator's information, such as name, gender, mailing and email address, phone number, date of birth, and relationship to the client, when mistreatment is alleged.

E. The county department shall determine jurisdiction for responding to the report.

1. The county department with jurisdiction for responding to a report is the county in which the adult resides.

2. When the adult is homeless, as defined in 42 U.S.C. Section 11302, the county department with jurisdiction is the county in which the adult's primary nighttime residence is located.

3. If jurisdiction is unable to be determined by 1 or 2, above, the county department with jurisdiction is the county in which the adult is currently present.

4. If an emergency response is necessary, the county department where the adult is located at the time of the report is the responsible county department until jurisdiction is determined.

F. County departments shall utilize all available resources to determine jurisdiction, such as:

1. History within CAPS;

2. Colorado Benefits Management System (CBMS);

3. Colorado Courts;

4. Where services are being provided; and/or,

5. The adult's school.

G. If a county department receives a report and determines that the report was made to the wrong county, the receiving county department shall transfer the report to the responsible county department as soon as possible, but no later than eight (8) hours after determining the correct county.

30.500 INVESTIGATION AND ASSESSMENT

30.510 INVESTIGATION AND ASSESSMENT OVERVIEW

A. The county department shall conduct a thorough and complete investigation into the allegations unless the initial visit and assessment confirms that the client is not an at-risk adult.

1. If the assessment and/or further investigation confirms that the client is not an at-risk adult, the county department shall close the APS case. The county department may provide the adult referrals to resources or continue to assist the adult through other county department programs.

2. If the client refuses to participate in the investigation, the county department shall complete the investigation by gathering evidence and interviewing other collateral contacts that have knowledge of the client or the alleged mistreatment.

3. The investigation must include reasonable efforts to interview the client, witnesses, collateral contacts, as defined in Section 30.100, and any other persons who can provide relevant investigative evidence or context. If the interview cannot be conducted, the attempts and the reason for being unable to complete the interview shall be documented.

4. The interviews and collection of evidence must address the specific allegations identified in the report as well as any new mistreatment or self-neglect that may be identified during the investigation.

B. The county department shall begin an assessment of the client's risk, safety, and strengths during the initial face-to-face visit to further clarify the level of risk of mistreatment or self-neglect to the client and the client's immediate needs.

C. The investigation and assessment may be conducted independent of one another or simultaneously, depending on the nature of the allegations.

D. If upon initial investigation, the county department determines a different county has jurisdiction, the originating county department shall transfer the case in CAPS. The county department determined to have jurisdiction shall uphold the screening decision and conduct the investigation and assessment, unless:

1. Additional or new information related to the safety of the adult or alleged mistreatment or self-neglect indicating the case may be closed is gathered by the county department determined to have jurisdiction.

2. The basis for the decision to close the case shall be documented in CAPS.

30.520 INVESTIGATION

A. The county department shall conduct an investigation to determine findings related to allegations of mistreatment or self-neglect. The investigation shall include, but may not be limited to:

1. Determining the need for protective services. If the client is in clear and immediate danger, the county shall intervene immediately by notifying the proper emergency responders.
2. Determining if the investigation should be conducted jointly with another entity, such as:

a. Law enforcement and/or the district attorney;

b. Community Centered Board;

c. Health Facilities Division;

d. Attorney General's Medicaid Fraud Unit; and/or,

e. The long-term care ombudsman.

3. Conducting a face-to-face interview with the client, unannounced and in private, whenever possible, and if not unannounced and/or in private, the reason shall be documented in CAPS.

4. Conducting interviews with Collateral Contacts.

5. Interviewing the alleged perpetrator(s), with or without law enforcement. In the event the alleged perpetrator is unable to be interviewed, the reason shall be documented in CAPS. The following information shall be collected related to the alleged perpetrator(s) in addition to information about the allegations:

a. Full name of the alleged perpetrator(s) with accurate spelling;

b. Current email address, when available;

c. Current physical and mailing address; and,

d. Date of birth.

6. Collecting evidence and documenting with photographs or other means, when appropriate, such as:

a. Police reports;

b. Any available investigation report from a currently or previously involved facility and the occurrence report from the Health Facilities Division;

c. Medical and mental health records;

d. Bank or other financial records.

e. Care plans for any person in a facility or receiving other services that require a care plan and any daily logs or charts; and/or,

f. Staffing records and employee work schedules when investigating in a facility.

7. Making a finding regarding the substantiation or unsubstantiation of the allegations including the severity level of the mistreatment when there is a substantiated finding.

8. Determining the identity of, and making a finding related to, the perpetrator(s) of the mistreatment.

9. Determining whether there are additional mistreatment concerns not reported in the initial allegations and investigating and documenting any newly identified concerns.

10. The supervisor shall review all investigations and approve only when the county department has completed a thorough investigation and the evidence justifies the findings.

11. Notifying law enforcement when criminal activity is suspected.

B. The county department shall complete the investigation within sixty (60) calendar days of the receipt of the report, ensuring that documentation of the investigation is occurring in CAPS throughout the investigation process, as follows:

1. All interviews, contacts, or attempted contacts with the client, collateral, alleged perpetrators, and other contacts during the investigation shall be documented within fourteen (14) calendar days of receipt of the information.

2. All evidence collected during the investigation shall be scanned and attached to the case by the conclusion of the investigation.

3. Findings for the allegations and alleged perpetrator(s) shall be documented no later than sixty (60) calendar days from receipt of the report, including supervisor review and approval of the investigation and findings. Beginning July 1, 2018 all substantiated perpetrators shall be provided notice of the substantiation and their appeal rights, as outlined in Section 30.910.

30.900 NOTICE TO SUBSTANTIATED PERPETRATORS AND STATE LEVEL APPEALS PROCESS

30.910 NOTICE TO THE SUBSTANTIATED PERPETRATOR OF MISTREATMENT

A. Beginning July 1, 2018, the county department shall notify perpetrator(s) substantiated in cases involving mistreatment of an at-risk adult of the finding via first class mail to their last known mailing address, as documented in CAPS, using a form approved by the State Department. Notice shall be mailed no later than ten (10) calendar days following the date of finding on the perpetrator. A copy of the notice showing the date the notice was mailed shall be maintained in CAPS.

B. At a minimum, the notice shall include the following information:

1. Type of mistreatment and severity level, date the report was made to the county department, name of the county department that conducted the investigation, date the finding was made in CAPS, and information concerning individuals or agencies that have access to the information.

2. The circumstances under which information contained in CAPS will be provided to other individuals or agencies.

3. The right of the substantiated perpetrator to request a state level appeal, as set forth in Section 30.920. The county department shall provide the substantiated perpetrator with the State approved appeal form.

4. Notice that the scope of an appeal is limited to challenges that the finding(s) are not supported by a preponderance of the evidence or that the actions substantiated as mistreatment do not meet the legal definition of mistreatment. The STATE DEPARTMENT will be responsible for defending the determination at the state level fair hearing.

5. An explanation of appeal options and deadlines contained in Section 30.920.

C. Information contained in CAPS records related to a person who has been substantiated in a case of mistreatment of an at-risk adult prior to July 1, 2018 shall be expunged and shall not be released for the purposes of notification or a CAPS check. The State Department and county departments may maintain such information in CAPS to assist in future risk and safety assessments.

30.920 STATE LEVEL APPEALS PROCESS

A. Substantiated perpetrator(s) of mistreatment shall have the right to a State level appeal to contest the substantiated finding. The request for appeal of the decision shall first be submitted to the State Department unit designated to handle such appeals. If the State Department and the appellant are unable or unwilling to resolve the appeal in accordance with the provisions set forth below in this section, the State Department shall forward the appeal to the Office of Administrative Courts (OAC) to proceed to a fair hearing before an Administrative Law Judge (ALJ).

B. The grounds for appeal shall consist of the following:

1. The substantiated finding(s) are not supported by a preponderance of credible evidence; or,

2. The actions ultimately found to be substantiated as mistreatment do not meet the statutory or regulatory definition of mistreatment.

C. The substantiated perpetrator(s) of mistreatment shall have ninety (90) calendar days from the date of notice of substantiation of mistreatment to appeal the finding in writing to the State Department. The written appeal shall be submitted via the State approved online form or using the hard copy appeal form provided to the substantiated perpetrator by the county department and shall include:

1. The contact information for the appellant;

2. A statement detailing the basis for the appeal; and,

3. Notice of finding of responsibility for mistreatment of an at-risk adult sent to the appellant by the county department.

D. The State level appeal process must be initiated by the substantiated perpetrator(s) of mistreatment or his/her attorney. The appellant does not need to hire an attorney to file an appeal. If the substantiated perpetrator(s) is a minor child, the appeal may be initiated by his/her parents, legal custodian, or attorney.

E. The appeal must be submitted to the State Department within ninety (90) calendar days of the date of the notice of the substantiated finding. If the appeal is filed more than ninety (90) calendar days from the date of notice of the substantiated finding, the appellant must show good cause for not appealing within the prescribed time period as set forth in Section 30.920.c. A failure to request State review within the ninety-day (90) period without good cause shall be grounds for the State Department to not accept the appeal.

F. The substantiated finding shall continue to be used for safety and risk assessment, employment and background screening by the State Department while the administrative appeal process is pending.

G. The appellant shall have the right to appeal, even if a court action or criminal prosecution is pending as a result of the mistreatment. The State Department shall hold in abeyance the administrative appeal process pending the outcome of the court action or criminal prosecution if requested by the appellant, or if the State Department determines that awaiting the outcome of the court case is in the best interest of the parties. If the appellant objects to the continuance, the continuance shall remain in place, but the continuance of the appeal shall not exceed one hundred eighty (180) calendar days without the appellant having the opportunity to seek a review of the continuance by an administrative law judge. The pendency of other court proceedings shall be considered good cause to extend the continuance of the appeal past the one hundred eighty (180) day timeframe.

H. The following circumstances shall be considered to be admissions to the factual basis of the substantiated finding(s) of the responsibility for the mistreatment of an at-risk adult in CAPS and shall be considered conclusive evidence of the factual basis of the individual's responsibility for the mistreatment to support a motion for summary judgment submitted to the Office of Administrative Courts:

1. The appellant has been found guilty of a crime against an at-risk adult pursuant to Section 18-6.5-103, C.R.S. arising out of the same factual basis as the substantiated finding in CAPS.

2. The appellant has been found guilty or has pled guilty or nolo contendere as part of any plea agreement including, but not limited to, a deferred judgement agreement to a crime against an at-risk adult pursuant to Section 18-6.5-103, C.R.S. arising out of the same factual basis as the substantiated finding in CAPS.

3. The appellant has been found guilty or has pled guilty or nolo contendere as part of any plea agreement including, but not limited to, a deferred judgment agreement, in a case in which a crime against an at-risk adult was charged pursuant to Section 18-6.5-103, C.R.S., arising out of the same factual basis as the substantiated finding in CAPS. The offense to which the appellant pled guilty must be related to the same factual basis as the substantiated finding in CAPS.

I. After the appellant requests an appeal, the State Department shall inform the appellant of the details regarding the appeal process, including timeframes for the appeals process and contact information for the State Department.

1. The appellant, as the party in interest, shall have access to the case record relied upon by the county department to make the finding in order to proceed with the appeal. The appellant's use of the case record for any other purpose is prohibited unless otherwise authorized by law.

2. Prior to providing access to the appellant, the State Department shall redact identifying information contained in the case record and documents to ensure compliance with all state and federal confidentiality laws and rules regarding adult mistreatment records or other protected information, including but not limited to: reporting party name(s) and address(es), Social Security Number or alien registration number and information pertaining to other parties in the case that the appellant does not have a legal right to access.

J The State Department is authorized to enter into settlement negotiations with the appellant as part of the litigation process. The State Department is authorized to enter into settlement agreements that modify, overturn or expunge the reports and/or findings as reflected in the State portion of CAPS. The State Department is not authorized to make any changes in the county portion of CAPS. In exercising its discretion, the State Department shall take into consideration the best interests of the at-risk adults, the weight of the evidence, the severity of the mistreatment, any patterns of mistreatment reflected in the record, the results of any court processes, the rehabilitation of the appellant and any other pertinent information.

K. The county department's findings shall not be changed to reflect the State Department's response to the appeal. The State Department shall document all decisions and the outcome of the appeal in CAPS.

L. The State Department and the appellant shall have one hundred twenty (120) calendar days from the date the State Department receives the appeal to resolve the issue(s) on the appeal. The one hundred twenty (120) day time frame may be extended by agreement of both the appellant and the State Department if it is likely that the additional time will result in a fully executed settlement agreement or resolution of the appeal.

M. As soon as it is evident within the one hundred twenty (120) days that the appellant and State Department will not resolve the issue(s) on appeal, the State Department shall forward a copy of the appellants original appeal document(s) to the Office of Administrative Courts to initiate the Office of Administrative Courts fair hearing process.

N. If, by the end of the one hundred twenty (120) day period, the State Department has been unable to contact the appellant using the information submitted by the appellant, including by first class mail, and the appellant has not contacted the State Department, the appeal shall be deemed abandoned. The substantiated finding entered into CAPS by the county department shall be upheld in CAPS without further right of appeal. The State Department shall notify the appellant of this result by first class mail to the address provided by the appellant.

30.930 STATE FAIR HEARING BEFORE THE OFFICE OF ADMINISTRATIVE COURTS (OAC)

A. When the Office of Administrative Courts receives the appeal documents from the State Department, the Office of Administrative Courts shall docket the appeal and enter a procedural order to the parties indicating the following:

1. The date and time for a telephone scheduling conference with the parties.

2. During the telephone scheduling conference, the Office of Administrative Courts shall determine the date for the hearing. Following the scheduling conference, the Office of Administrative Courts will issue a further procedural order and notice of hearing. The order/notice will contain the hearing date, the fourteen (14) day deadline for the notice of issues, the fourteen (14) day deadline for the appellant's response and deadline for filing pre-hearing statements. Any party requiring an extension or modification of any of the deadlines in the order may file a request with the Administrative Law Judge.

3. The notice of issues shall include the following:

   A. The specific allegations(s) that form the basis of the county department's substantiated finding that the appellant was responsible for mistreatment of an at-risk adult;

   B. The specific type of mistreatment for which the appellant was substantiated and the legal authority supporting the finding, and

   C. To the extent that the State Department determines that the facts contained in CAPS support a modification of the type of mistreatment determined by the county department, the State Department shall so notify the county department and the appellant of that modification and the process shall proceed on the modified type of mistreatment.

4. The appellant shall respond to the State Department's notice of issues by providing the factual and legal basis supporting the appeal to the State Department and to the Office of Administrative Courts.

5. If the appellant fails to participate in the scheduling conference referenced above, or fails to submit a response to the State Department's notice of issues within 14 days, the Office of Administrative Courts shall deem the appeal to have been abandoned by the appellant and render an initial decision dismissing the appeal. In accordance with the procedures set forth below, the Office of Appeals may reinstate the appeal for good cause shown by the appellant.

6. In the event that either party fails to respond to a motion to dismiss filed in the appeal, the Administrative Law Judge shall not consider the motion to be confessed and shall render a decision based on the merits of the motion.

B. The Administrative Law Judge shall conduct the appeal in accordance with the Administrative Procedure Act, Section 24-4-105, C.R.S. the rights of the parties include:

1. The State Department shall have the burden of proof to establish the facts by a preponderance of the evidence and that the facts support the conclusion that the appellant is responsible for the mistreatment indicated in the notice of issues provided by the State Department. The Administrative Law Judge can consider evidence other than the case record in CAPS in concluding that the finding is supported by a preponderance of evidence;

2. Each party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct cross-examination;

3. Subject to these rights and requirements, where a hearing will be expedited and the interests of the parties will not be subsequently prejudiced thereby, the Administrative Law Judge may receive all or part of the evidence in written form, or by oral stipulations;

4. A telephonic hearing may be conducted as an alternative to a face-to-face hearing unless either party requests a face-to-face hearing in writing. The written request for a face-to-face hearing must be filed with the Office of Administrative Courts and the other party at least ten (10) calendar days before the scheduled hearing. A request for a face-to-face hearing may necessitate the re-setting of the hearing; and,

5. Where facilities exist that have videoconferencing technology local to the county department that made the finding, either party may request that the hearing be conducted via that technology. The requesting party shall investigate the feasibility of this approach and shall submit a written request outlining the arrangements that could be made for video conference. The Office of Administrative Courts shall hold the hearing via videoconferencing for the convenience of the parties whenever requested and feasible. A request for a hearing via videoconferencing may necessitate the re-setting of the hearing.

C. At the conclusion of the hearing, unless the Administrative Law Judge allows additional time to submit documentation, the Administrative Law Judge shall take the matter under advisement. After considering all the relevant evidence presented by the parties, the Administrative Law Judge shall render an initial decision for review by the Colorado Department of Human Services, Office of Appeals.

D. The initial decision shall uphold, modify or overturn/reverse the county finding. The Administrative Law Judge shall have the authority to modify the type of mistreatment to meet the evidence provided at the hearing. The Administrative Law Judge shall not order the county to modify its record; rather, the State Department shall indicate the outcome of the appeal in its portion of CAPS.

E. When an appellant fails to appear at a duly scheduled hearing having been given proper notice, without having given timely advance notice to the Office of Administrative Courts of acceptable good cause for inability to appear at the hearing at the time, date and place specified in the notice of hearing, then the appeal shall be considered abandoned and the Administrative Law Judge shall enter an initial decision dismissing the appeal. In accordance with the procedures set forth in Section 30.940, the Office of Appeals may reinstate the appeal for good cause shown by the appellant.

30.940 STATE DEPARTMENT OFFICE OF APPEALS FUNCTIONS

A. Review of the initial decision and hearing record and entry of the final agency decision shall be pursuant to state rules at Sections 3.850.72 - 3.850.73 (9 CCR 2503-8).

B. Review shall be conducted by a State adjudicator in the Office of Appeals not directly involved in any prior review of the county report being appealed.

C. The final agency decision shall advise the appellant of his/her right to seek judicial review in the State District Court, City and County of Denver, if the appellant had timely filed exceptions to the initial decision.

D. If the appellant seeks judicial review of the final agency decision, the State Department shall be responsible for defending the final agency decision on judicial review.

E. In any action, in any court challenging a county's substantiated finding against a perpetrator of mistreatment, the State Department will defend the statutes, rules, and State-mandated procedures leading up to the finding, and will defend all county actions that are consistent with statutes, rules, and State-mandated procedures. The State Department shall not be responsible for defending the county department for actions that are alleged to be in violation of, or inconsistent with, State statutes, State rules or State-mandated procedures.

30.950 CONFIDENTIALITY OF APPEAL RECORDS

A. All records submitted by the parties as part of the State level appeal process and all notices, orders, agency notes created by or made part of the State Department's agency record shall be confidential and shall not be released or disclosed unless such release or disclosure is permitted by the applicable State statutes or 12 CCR 2518, Volume 30.250.

B. Initial and final agency decisions where information identifying the appellant, victim(s), other family members, or minors have been redacted may be released to the public.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
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Solicitor General

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Office of the Attorney General

Tracking number: 2017-00647

Opinion of the Attorney General rendered in connection with the rules adopted by the

Adult Protective Services

on 04/06/2018

12 CCR 2518-1

ADULT PROTECTIVE SERVICES

The above-referenced rules were submitted to this office on 04/11/2018 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.

April 25, 2018 09:06:15

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Education

Agency

Colorado State Board of Education

CCR number

1 CCR 301-100

Rule title

1 CCR 301-100 RULES FOR THE ADMINISTRATION OF THE TEACHER GRANTS FOR COMPUTER SCIENCE EDUCATION PROGRAM 1 - eff 04/12/2018

Effective date

04/12/2018

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE TEACHER GRANTS FOR COMPUTER SCIENCE EDUCATION PROGRAM

1 CCR 301-100

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

AUTHORITY: ARTICLE IX, SECTION 1, COLORADO CONSTITUTION. 22-97-101 ET SEQ.; 22-2-107(1)(C) OF THE COLORADO REVISED STATUTES (C.R.S.).

0.0 STATEMENT OF BASIS AND PURPOSE

The Teacher Grants for Computer Science Education Program, sections 22-97-102 and 22-97-103, C.R.S., requires the State Board of Education to promulgate rules to implement and administer the program. At a minimum, the rules must include: the application process, including requirements; and deadlines; criteria for the award of grants, including award priorities; the amount and duration of the grants; and the approved uses of the grant.

1.0 DEFINITIONS

1.01 "Computer science education" means the study of computers, algorithmic processes, and computer programming and coding, including their principles, their hardware and software designs, their applications, and their impact on society.

1.02 "Department" means the Department of Education created and existing pursuant to Section 24-1-115, C.R.S.

1.03 "Eligible teacher" means a person who is employed as a teacher in a public school in the state.

1.04 "Public school" has the same meaning as provided in Section 22-1-101 and includes, but is not limited to, a district charter school, an institute charter school, and an online school, as defined in Section 22-30.7-102(9.5).

1.05 "School district" means a school district authorized by Section 15 of Article IX of the state constitution and organized pursuant to Article 30 of Title 22. "School district" also includes a Board of Cooperative Services created pursuant to Article 5 of Title 22, if it is operating a public school; a district charter school; an institute charter school; or an online school, as defined in Section 22-30.7-102(9.5).

1.06 "State Board" means the state board of education created pursuant to Section 1 of Article IX of the state constitution.

2.0 COMPUTER SCIENCE EDUCATION GRANTS FOR TEACHERS PROGRAM

2.01 The Department shall create and administer a grant program for eligible teachers who wish to pursue additional postsecondary education in order to provide computer science education to students in public schools.

3.0 ELIGIBILITY, APPLICATION REQUIREMENTS, AND TIMELINE

3.01 A school district or school district on behalf of an eligible teacher or teachers may apply for a grant under the Teacher Grants for Computer Science Education program. Individual teachers are not eligible to receive grant funding directly from the Department.

3.01 As legislated monies are available, the Department shall solicit, review, and recommend awards to school districts for a period of one year. The State Board shall approve awards under the Computer Science Education Grants for Teachers program. Each grant shall be for a maximum of $10,000.00 and must be used for tuition, fees, training program costs, and/or books and materials. In the event that grant funds are not expended after funding each eligible application in a given cycle, the department may recommend, and the State Board may approve, a grant beyond the maximum of $10,000.

3.02 Unless otherwise specified by the department, on or before March of each year that monies are available, school districts interested in obtaining funding shall submit a grant application electronically to the Department, using the application form provided by the Department.

3.03 Each application submitted shall include, but need not be limited to the following:

3.03.1 The number of eligible school teachers the grant will serve and a description of whether those teachers teach a high-poverty student population; a high number of minority students; or students in rural areas.

3.03.2 A description of how the grantee plans to use funds, including:

3.03.2(a) If applicable, a description of how the eligible teachers served by the grant intend to continue teaching in public schools in Colorado after completing postsecondary education obtained through the grant program (i.e. what type of role the eligible teacher will serve in a public school). If an applicant applies on behalf of teachers who fit this description, an assurance from those teachers is required as part of the application.

3.03.2(b) If applicable, a description of how eligible teachers will use the grant for postsecondary coursework or training that enables them to teach computer science, including concurrent enrollment in computer science or Advanced Placement computer science courses, and whether that coursework or training applies toward the completion of a degree or industry-recognized certificate in computer science, the completion of a high-quality training program, or the mastery of a teaching content area in computer science.

3.03.2(c) If applicable, a description of the high-quality training program to be offered in the district that will enable teachers to teach computer science.

4.0 APPLICATION EVALUATION PRIORITIES

4.01 In reviewing grant applications to make recommendations to the State Board for grant awards, the Department shall consider the following priorities:

4.01.1 The extent to which the grant will benefit a teacher or teachers in a school district that serves a high-poverty student population;

4.01.2 The extent to which the grant will benefit a teacher or teachers in a school district that serves a high-number of minority students;

4.01.3 The extent to which the grant will benefit a teacher or teachers in a school district that serves students in rural areas;

4.01.4 The extent to which the grant will benefit a teacher or teachers who intend to continue teaching in public schools in Colorado after completing postsecondary education obtained through the grant program;

4.01.5 The extent to which the grant funding will be used for postsecondary coursework or training that enables a teacher or teachers to teach computer science, including concurrent enrollment courses in computer science or Advanced Placement computer science and whether that coursework or training applies toward the completion of a degree or industry-recognized certificate in computer science, the completion of a high-quality training program, or the mastery of a teaching content area in computer science;

4.01.6 The extent to which the school district intends to use the grant to fund high-quality training programs to be offered to teachers in the district that enable the teachers to teach computer science courses; and

4.01.7 The cost of the professional development activities that the applicant intends to pursue using the grant funds.

5.0 AWARD PROCESS

5.01 On an annual basis, as legislated moneys are available, the Department shall make recommendations for grant awards to the State Board.

5.02 The State Board shall approve grant awards to school districts on an annual basis, as legislated moneys are available, for a term of one year.

5.03 Awards shall be made available to grantees on the first of the month following approval by the State Board.

6.0 REPORTING

6.01 Each school district funded through the Computer Science Grants for Teachers program shall submit annually information to the Department describing the following:

6.01.1 The number of teachers in each school district who benefitted from the grant;

6.01.2 The outcomes of the grant, including the postsecondary courses, degrees, training programs, or industry-recognized certificates completed and the education provider that provided the education;

6.01.3 The amount of funding each grantee dedicated toward allowable expenses, including tuition, fees, training programs, books, and/or materials on behalf of teachers; and

6.01.4 The expected impact of the additional teacher training and education on students.

6.02 On or before January 1, 2019, and each year thereafter as long as monies are available, the Department shall submit annually to the education committees of the senate and house of representatives, or any successor committees, the following information regarding the administration of the program in the preceding calendar year:

6.02.1 The number of grants awarded during the previous calendar year;

6.02.2 The amount of each grant awarded to each grant recipient in the previous calendar year;

6.02.3 The number of teachers in each school district who benefitted from the grant;

6.02.4 The uses of each grant, including the postsecondary courses, degrees, training programs, or industry-recognized certificates completed and the education provider that provided the education; and

6.02.5 The expected impact of the additional teacher training and education on students.

Editor's Notes

History

New rule eff. 12/30/2017.

COLORADO
Department of Education

MEMO

TO: State Board of Education
FROM: Floyd Cobb, Ph.D., Executive Director of Teaching and Learning
RE: Action items for the Teacher Grants for Computer Science Education
DATE: April 12, 2018

Below please find information to support two action items regarding the Teacher Grants for Computer Science Education Program at the April Board meeting. The first is to approve the grant awards and the second is to approve Emergency rules for the Teacher Grants for Computer Science Education Program.

At the November 8, 2017 State Board meeting, the board voted to approve 1 CCR 301-100 Rules for the Administration of the Teacher Grants for Computer Science Education Program. These rules were a result of SB 17-296, which created the grant program. Under the program, school districts are eligible to receive grants from the Department to provide direct training to teachers in computer science education or funding for teachers to pursue courses, certificates, or degrees in computer science.

Required by statute, the rules contain a provision that sets the funding limit of the grants. The adopted rules set the maximum district award at $10,000. Based on the number of requested applications from school districts and the maximum award amount, the entire appropriation for the grant program will not be utilized this fiscal year. The Department is recommending that the rules be amended to enable the State Board to award grant funds above the $10,000 limit in the event that grant funds are not expended after funding each eligible application in a given cycle (please see the red-line version of the rules for exact wording changes). This rule change will allow the Board to fully fund those grant applications that requested funding greater than $10,000 and avoid reverting a portion of the appropriation this fiscal year. With this action in place, the Department can run an additional grant application process to allow districts to request beyond the $10,000 limit and enable additional districts to apply for funds this fiscal year.

Also, at the Board's direction, the Department can research options for a permanent fix to the rules that will meet statutory requirements for the cap on funds while enabling all funds to be expended each fiscal year and initiate a rulemaking process in June.

The Board will have two action items:

Action Item 1: Vote on grant awards for the Teacher Grants for Computer Science Education Program

The department will present its recommendations for grant awards. If the board approves the grants, the department will be able to disseminate funds to grantees.

Action Item 2: Emergency Rules

In order for the State Board to approve grants beyond the $10,000 maximum for this fiscal year, it is recommended that the Board adopt an amendment through the emergency rulemaking process. This will ensure that the State Board can expend all appropriated grant funds by the end of the current fiscal year and grantees will receive funding in a timely manner. Though there are limits on the use of emergency rulemaking, CDE staff suggest that it is in the public interest to fully expend the funds appropriated by the General Assembly and provide assistance to teachers and districts. If adopted, the emergency rules will expire in 120 days.

If the Board approves emergency rules for the grant program, the Department can initiate an expedited and abbreviated grant application process to enable districts to apply for funds beyond the current $10,000 limit.

For this action, a motion is needed to approve emergency rules for 1 CCR 301-100.

For detailed information supporting this item, please see:

- A list of recommended grantees for the Teacher Grants for Computer Science Education Program
- A tracked changes version of 1 CCR 301-100 Rules for the Administration of the Teacher Grants for Computer Science Education Program
- A clean version of 1 CCR 301-100 Rules for the Administration of the Teacher Grants for Computer Science Education Program

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Tracking number: 2018-00166

Opinion of the Attorney General rendered in connection with the rules adopted by the

Colorado State Board of Education

on 04/12/2018

1 CCR 301-100

RULES FOR THE ADMINISTRATION OF THE TEACHER GRANTS FOR COMPUTER SCIENCE EDUCATION PROGRAM

The above-referenced rules were submitted to this office on 04/13/2018 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.

April 26, 2018 13:38:53

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Local Affairs

Agency

Division of Housing

CCR number

8 CCR 1302-4

Rule title

8 CCR 1302-4 RESOLUTION NO. 10 - MANUFACTURED HOME CONSTRUCTION STANDARDS AND PROCEDURAL REGULATIONS 1 - eff 04/15/2018

Effective date

04/15/2018

DEPARTMENT OF LOCAL AFFAIRS

Division of Housing

RESOLUTION #10 – MANUFACTURED HOME CONSTRUCTION STANDARDS AND PROCEDURAL REGULATIONS

8 CCR 1302-4

BE IT RESOLVED BY THE STATE HOUSING BOARD OF THE STATE OF COLORADO;

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the State Housing Board of the State of Colorado (the "Housing Board") repeals and readopts Resolution #10 Manufactured Home Construction Standards and Procedural Standards; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board adopts as the "Manufactured Home Construction Standards and Procedural Regulations of the State of Colorado" the U.S. Department of Housing and Urban Development "Manufactured Home Construction and Safety Standards" (24 CFR Part 3280) and the U.S. Department of Housing and Urban Development "Manufactured Home Procedural and Enforcement Regulations" (24 CFR Part 3282); and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board states the basis and purpose of these rule changes is to comply with the federal standards for "Manufactured Homes" manufactured, sold, or offered for sale in Colorado; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board adopts the following

Product Inspection service fee schedule:

ACTIVITY	**FEE**
Plant Certification/Revalidation Inspection	$1.00 total, regardless of additional expenses.
Routine Floor Inspection	$1.00 per floor.
Reinspection for Red Tag Removal	$1.00 per deviation.
Increased Frequency (200%) or Revalidation Inspections	$1.00 per non-compliance and $1.00 per system of control.
Plant Certification/Revalidation	$1.00 total, regardless of additional expenses.

The Housing Board states that these rules do not include later amendments to or editions of the nationally recognized code; and

The Housing Board states that the Program Manager, Technology and Standards Section, Colorado Division of Housing, 1313 Sherman Street, Room 518, Denver, Colorado 80203, will provide information regarding how the codes adopted in Schedule "B" may be obtained or examined. Incorporated material may also be examined at any state public library; and

The Housing Board repeals and readopts these rules and regulations to be administered and enforced by the Colorado Division of Housing (the Division of Housing).

COLORADO
Department of Local Affairs
Division of Housing

MEMORANDUM

Date: April 3, 2018

To: State Housing Board

From: Mo Miskell, Program Manager

Subject: Fee Holiday

As we wind down our fiscal year, which ends June 30, 2018, it has become apparent that the Housing Technology and Standards Section is running a surplus due to a combination of events. Primarily as a result of $200,000 being returned to the program by the General Assembly and the raising of fees at that same time due to the program running over budget.

As a result, we have a unique opportunity to provide a fee holiday of one month for most of our customers and thereby returning excess funds to them—to run from April 15th to May 15th. We are proposing that the State Housing Board reduce all total fees that are not set in statute and are associated with maintaining this program to $1.00 for those 30 days. The two fees set in statute that will be exempt from this fee reduction are those associated with becoming a registered seller and installer.

In order to accomplish this, the State Housing Board would be required to convene a temporary rulemaking hearing to adopt a revision to the current rules for this program that would then implement te proposed fee holiday. Therefore, it is greatly appreciated if the State Housing Board consider doing so at its next scheduled monthly meeting on Tuesday, April 10th after it has concluded its regular business.

We request that you consider a motion to temporarily reduce the following fees established in rules to $1.00 for the period April 15, 2018, through May 15, 2018:

Resolution #34 "Factory Built Housing" – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space* $0.10 per sq. ft.
  *(i.e. unfinished habitable attics, unfinished lofts, garages, etc.)
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:

- ❖ Plant certification inspection fee: $350.00 per inspection
- ❖ Oversight inspection fee: $270.00 per inspection per address
- ❖ Special inspection fee:
  In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
- ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #35 "Factory Built Nonresidential Structures – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:
  - ❖ Plant certification inspection fee: $350.00 per inspection
  - ❖ Oversight inspection fee: $270.00 per inspection per address
    Multi-Box additional fee: Units with more than 3 boxes add $25.00/box, up to an additional $1875.00.
  - ❖ Special inspection fee:
    In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
    Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
  - ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #36 "On-site Construction and Safety Codes for Motels, Hotels and Multi-family Dwellings in those areas of the State where no such Standards Exist" – Schedule "A"

- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Certificate of Occupancy (each separate structure): $125.00
- Inspection fees:
  - ❖ On-site inspection fee: $270.00 per inspection per inspectr plus $50.00 per hour (inspection time) per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  - ❖ Stop Work Order/Red Tag fee: $250.00

Resolution #38 "Manufactured Housing Installations – Schedule "A"

- Independent Inspector Registration (3-years): $150.00
- Insignia Fees: $60.00

- Red Tag Fee: $250.00
- Inspection Fees:
  - Rough or Final Installation Inspection Fees: $200.00
  - Reinspection Fee or Red Tag Removal: $200.00

Resolution #10 "Manufactured Home Construction Standards and Procedural Regulations"

- Product Inspection service fee schedule:

Activity	Fee
Plant Certification/Revalidation Inspection travel, per diem, and lodging	$260/day/person plus actual expense of
Routine Floor Inspection	$35 per floor
Reinspection for Red Tag Removal	$100 per deviation
Increased Frequency (200%) or Revalidation Inspections	$50 per non-compliance and $50 per system of control
Plant Certification/Revalidation	$260 per day per person plus actual travel, per diem, and lodging

Thank you for your time and consideration.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
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Office of the Attorney General

Tracking number: 2018-00154

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Housing Board

on 04/10/2018

8 CCR 1302-4

RESOLUTION NO. 10 - MANUFACTURED HOME CONSTRUCTION STANDARDS AND PROCEDURAL REGULATIONS

The above-referenced rules were submitted to this office on 04/11/2018 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

April 26, 2018 13:35:40

Emergency Rules Adopted

Department

Department of Local Affairs

Agency

Division of Housing

CCR number

8 CCR 1302-7

Rule title

8 CCR 1302-7 RESOLUTION NO. 38 - MANUFACTURED HOUSING INSTALLATIONS 1 - eff 04/15/2018

Effective date

04/15/2018

DEPARTMENT OF LOCAL AFFAIRS

Division of Housing

RESOLUTION NO. 38 – MANUFACTURED HOUSING INSTALLATIONS

8 CCR 1302-7

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

BE IT RESOLVED BY THE STATE HOUSING BOARD OF THE STATE OF COLORADO;

THAT PURSUANT TO '24-32-3301 et seq C.R.S. as amended, the State Housing Board of the State of Colorado (the "Housing Board") repeals and readopts Resolution #38, Manufactured Housing Installations; and

THAT PURSUANT TO '24-32-3301 et seq C.R.S. as amended, the State Housing Board adopts the nationally recognized codes as cited in SCHEDULE "B" as the "Colorado Manufactured Housing Installation Code" that are the Division of Housing responsibility; and

THAT PURSUANT TO '24-32-3301 et seq C.R.S. as amended the State Housing Board states the basis and purpose of these rule changes is to update the current minimum construction and safety code for "Manufactured Housing Installations"; and

THAT PURSUANT TO '24-32-3301 et seq C.R.S. as amended, the State Housing Board establishes standards, to the extent allowed by the state constitution, Article 50 of the "State Personnel System Act", and the rules promulgated by the Personnel Board, for private inspection and certification entities to perform the Colorado Division of Housing' certification and inspection of Manufactured Housing Installations; and

THAT PURSUANT TO '24-32-3301 et seq C.R.S. as amended, the State Housing Board states that "Manufactured Housing Installation" installers shall have the option to contract with the Colorado Division of Housing or an authorized inspection agency to perform inspection and certification functions where a local jurisdiction does not have exclusive inspection agency rights; and

THAT PURSUANT TO '24-32-3301 et seq C.R.S. as amended, the State Housing Board establishes minimum training standards for installers and inspectors; and

The Colorado Housing Board repeals and readopts these rules and regulations to be administered and enforced by the Colorado Division of Housing (Division).

SECTION 1: SCOPE

Every manufactured home installed after the effective date of these regulations that is installed in a temporary or permanent location and is designed and commonly used for occupancy by persons for residential purposes, must display an insignia issued by the Division of Housing, certifying that the unit is installed in compliance with the standards adopted in Schedule "B" which is incorporated herein and made a part of these Rules and Regulations by reference, and all other requirements set forth by this resolution.

Temporary installations for the purpose of home display prior to use as a residence which will be relocated to another location are exempted from these rules and regulations provided these installations are for display use only with no type of occupancy.

The State Housing Board states that the Program Manager, Housing Technology and Standards Section, Colorado Division of Housing, 1313 Sherman Street, Room 321, Denver, Colorado, 80203, will provide information regarding how the codes adopted in Schedule "B" may be obtained or examined. Incorporated material may also be examined at any state publications depository library.

SECTION 2: DEFINITIONS

"Certificate of Installation" means a certificate issued by the Division of Housing for the installation of a manufactured home that is in compliance with the manufactured home installation requirements. The certificate of installation shall be referred to as the "Insignia".

"Certified Inspector" means a local jurisdiction, individual, private firm, housing inspector, Colorado licensed engineer or architect who has been approved by the Division to perform or enforce installation inspections.

"Certified Installer" means an installer of manufactured homes who is registered with the Division of Housing, has installed at least five manufactured homes in compliance with the manufacturer's instructions or standards created by the Division of Housing and is approved to be a certified installer by the Division.

"Conflict of Interest" means when there is personal or private interest(s) sufficient to influence or appear to influence the proper exercise of duties and/or responsibilities.

"Division" means the Division of Housing.

"Factory-Built Residential Structure" means a manufactured home constructed to the building codes adopted by the Housing Board and designed to be installed on a permanent foundation. This does not include homes constructed to the federal manufactured home construction and safety standards nor does this include any home designated as a mobile home.

"Insignia" means a certificate of installation issued by the Division of Housing to indicate compliance with the manufactured home installation regulations established by the State Housing Board.

"Installation" means the placement of a manufactured home on a permanent or temporary foundation system. Such term includes, without limitation, supporting, blocking, leveling, securing and anchoring such home and connecting multiple sections of such home.

"Installer" means any person who performs the installation of a manufactured home.

"Installation Authorization" means a notice when posted on the site of an installation that the installer has made application to install a manufactured home and has received authorization to install.

"Manufactured Home" means any pre-constructed building unit or combination of pre-constructed building units, without motive power, where such unit or units are manufactured in a factory or at a location other than the residential site of the completed home, which is designed and commonly used for the occupancy by persons for residential purposes, in either temporary or permanent locations and which unit or units are not licensed as a vehicle. Manufactured home includes mobile homes, manufactured homes built to the HUD standards, and factory-built residential structures built to the building code standards adopted by the Division.

"Manufacturer" means any entity that constructs or assembles a manufactured home in a factory or other off-site location.

"Mobile Home" means a manufactured home built prior to the adoption of the federal act.

"Modular Home" means a factory-built residential structure.

"Owner" means the owner of a manufactured home or property.

"Participating Jurisdiction" means a local governmental entity which has agreed to administer and inspect manufactured housing installations within the legal boundaries of the jurisdiction.

"Red Tag Notice" is a physical identification that a particular unit has a violation of these rules and regulations. Units posted with this notice cannot be sold, offered for sale or have occupancy in Colorado.

"Registered Installer" means an installer who has registered with the division and has been approved by the Division to perform installations, but is not a "Certified Installer".

SECTION 3: INSTALLERS OF MANUFACTURED HOMES - REGISTRATION

Manufactured Home installers in this state shall first register with the Division. The installer shall be responsible for supervising all employees and for the proper and competent performance of all employees working under his or her supervision.

Installation by Owners

A person who owns the manufactured home or the real property where the home is to be installed, is not required to register as an installer with the Division but shall comply with all provisions of these regulations other than registration provisions.

A person who installs more than one manufactured home in any twelve-month period either owned or on real property owned by such person must register as an installer and shall comply with all registration provisions.

Registered Installers

In order to be registered as a manufactured home installer, an applicant shall be at least eighteen years of age.

An application for registration or certification as a manufactured home installer, whether initial or renewal, shall be submitted on a form provided by the Division and shall be notarized and verified by a declaration signed under penalty of perjury by the applicant. The Division shall make the application and declaration available for public inspection.

At the same time that an application for registration is filed, the following must be submitted:

(a) Proof in the form of a copy of a valid drivers license or certificate of birth that the applicant is at least eighteen years of age; and

(b) Furnish written evidence of a minimum twelve months of installation experience under direct supervision of a registered or certified installer; or equivalent training; or experience as determined by the Division; and

(c) Pass a Division approved installation test; and

(d) After January 1, 2009, furnish written evidence of completion of 8-hours of Division approved education; and

(e) Carry and provide proof of contractor's liability insurance in an amount not less than one million dollars ($1,000,000.00). The insurance policy shall contain a provision for the immediate notification of the Division upon cancellation; and

(f) A letter of credit, certificate of deposit issued by a licensed financial institution, or surety bond issued by an authorized insurer in the amount of ten thousand dollars ($10,000.00) for the performance of installations pursuant to the manufacturer's instructions or standards promulgated by the Division. A provision shall be included for the immediate notification of the Division upon cancellation.

Persons employed by a registered or certified installer, as well as persons employed by a legal or commercial entity employing a registered or certified installer, when performing installation functions under the direct on site supervision of such installers are not required to register. The registered installer shall be responsible for supervising all employees and for the proper and competent performance of all employees working under his or her supervision.

A registration issued pursuant to this section shall be valid for one year from the date of issuance and shall not be transferred nor assigned to another person. If any of the application information for the registered installer changes after the issuance of a registration, the registered installer shall notify the Division in writing within thirty days from the date of the change. The Division may suspend, revoke, or deny renewal of a registration if the registered installer fails to notify the Division of any change in the application.

RENEWAL: Any registered or certified installer seeking to renew registration shall, at the time of applying for renewal, provide proof of eight hours of Division approved education completed within the last 12 months, liability insurance and letter of credit, certificate of deposit, or surety bond.

The Division, or a Certified Inspector at the request of the Division, shall at the Division's sole discretion, inspect the installation of any manufactured home performed by the Registered Installer. The inspection shall be paid for by the party that requested the inspection unless during the inspection it is found that the installation does not comply with the manufacturer's installation instructions or standards adopted by the Division, in which case the installer shall reimburse the Division for the cost of the inspection and shall also pay for any subsequent repairs and inspections of those repairs to bring the installation into compliance.

SECTION 4: CERTIFIED INSTALLERS

Any registered installer who has performed five installations that have passed inspection by the Division or certified inspectors may apply to the Division for certification. The Division shall not charge a fee for certification of installers. The Division may certify any installer who provides evidence of five or more installations of manufactured homes performed by such installer. The installation evidence shall include differing types of installations, i.e. HUD, single wide, multi-box, Factory Built, Factory Built-AC. Evidence of installation shall include copies of all inspection reports made for each installation made by the Division or a certified installation inspector. If in the judgment of the Division, such installer has demonstrated the ability to successfully complete installations of manufactured homes in accordance with the requirements, a certification inspection will be scheduled. Certification will be granted if the installation is approved.

If the review of the evidence of the installations does not clearly demonstrate the ability to successfully complete installations in compliance with the requirements, the division may require additional installations to be performed and reviewed prior to granting certification.

A certified installer may purchase from the Division, manufactured home installation certification insignias. These insignias will be completed by the certified installer upon completion of the installation of the manufactured homes and attached to the manufactured home in compliance with Section 11 of this Resolution. The certified installer shall make required insignia reports to the Division.

A certified installer shall be authorized to purchase insignias, to post certified installer installation authorization on the installation site, and to affix insignias after the installation is complete. Installations by a certified installer do not require an inspection by the division or a certified inspector. The Division or certified inspector at the request of the Division, shall at the Division's sole discretion, inspect the installation of any manufactured home performed by a Certified Installer. The inspection shall be paid for by the party that requested the inspection unless during the inspection it is found that the installation does not comply with the manufacturer's installation instructions or standards adopted by the Division, in which case the installer shall reimburse the Division for the cost of the inspection and shall also pay for any subsequent repairs and inspections of those repairs to bring the installation into compliance.

A certified installer shall renew registration with the Division as outlined in **SECTION 3**.

SECTION 5: CERTIFIED INSTALLATION INSPECTORS

The Division may authorize independent contractors to perform inspections and enforcement of proper installation of manufactured homes. Enforcement shall include issuance of installation authorizations and permanent attachment of insignias signifying compliance with the manufactured home installation regulations. The Division may provide training for independent contractors. All independent contractors shall be certified to perform installation inspections by the division.

Applicants for certified installation inspector shall furnish written evidence of a minimum twelve months manufactured housing inspection experience; or equivalent training; or related experience acceptable to the Division; or State of Colorado professional licensing in engineering or related construction fields. As of July 1, 2008, a new inspector must pass a Division-approved installation exam.

Inspector certifications will remain valid for three years and must be renewed. For renewals after January 1, 2009, inspectors must furnish written evidence of completion of either twelve hours of Division approved installation education and twelve hours of International Code Council Education or twenty-four hours of Division approved installation education within the previous three years.

Participating Jurisdiction

Where a jurisdiction has established a building department, the building official or other approved authority may make a written request to be the exclusive independent installation inspection agency within their legal boundaries. When granted, all manufactured home installation inspections will be made by that participating jurisdiction's certified installation inspectors or by certified installation inspector under contract to the jurisdiction. Division inspectors or Division designated independent inspectors shall make inspections within the jurisdiction in response to a complaint.

A certified inspector shall not make inspections where the inspector has a conflict of interest that may impair their ability to make fair and impartial inspections.

The division may revoke the certification of any inspector who fails to maintain the minimum requirements for the certification, has a conflict of interest impairing their ability to make impartial inspections or if investigation of complaints by the division reveals that the inspector has repeatedly failed to enforce the requirements of the program. The Division, or a Certified Inspector at the request of the Division, shall at the Division's sole discretion, inspect the installation of any manufactured home inspected by the Certified Inspector. The inspection shall be paid for by the party that requested the inspection unless during the inspection it is found that the installation does not comply with the manufacturer's installation instructions or standards adopted by the Division, in which case the inspector shall reimburse the Division for the cost

of the inspection. The installer shall pay for any subsequent repairs and inspections of those repairs to bring the installation into compliance.

SECTION 6: STANDARDS

The Division shall adopt standards to be used state wide for the installation, inspection and enforcement of the installation of manufactured homes.

A local government unit shall not adopt less stringent standards for the installation of a manufactured home than those adopted by the Division. A local government unit shall not, without express consent by the Division, adopt different standards than the standards adopted by the Division for the installation of a manufactured home. Nothing in this section shall preclude a local government unit from enacting standards for manufactured homes concerning unique public safety requirements, such as weight restrictions for snow loads or wind shear factors, as otherwise permitted by law.

Any installation of a manufactured home in this state shall be performed in strict accordance with the applicable manufacturer's installation instructions. When the allowable bearing capacity of the soil the home will rest on is determined to be other than 1,500 psf the value shall be recorded by the installer on the Authorization form or other approved form and justification for higher values shall also be provided.

For the purposes of determining ground vapor retarder installation, Colorado is not an arid region and the retarder is required to be installed.

Where the manufacturer's instructions are not available, installation shall be in accordance with the alternate standards adopted by the Division.

Factory Built Residential units shall be installed on a permanent foundation approved thru the local jurisdiction. In areas where no building codes have been adopted the foundation shall be designed and approved by a State of Colorado licensed engineer unless plans are approved by the Division as in compliance with the Division adopted IRC foundation prescriptive requirements.

Upon written request, the Division will consider modifications to the standards and/or alternate materials and methods of construction. The Division will require that sufficient evidence or proof be submitted to support and substantiate the modification and/or alternate request. The Division may approve any such modification and/or alternate, provided the Division finds that the proposed modification and/or alternate conforms with the intent and purpose of the standards and is equivalent in suitability, strength, effectiveness, durability, safety, and sanitation. The approval of any modification and/or alternate by the Division will be made in writing and is required prior to commencing the work in question.

The Division will, as necessary, coordinate inspections by certified inspectors, maintain accurate record keeping and promote a statewide standard for inspections of manufactured home installations. From time to time, the Division may issue interpretations to be followed during the course of manufactured home installations and inspections.

SECTION 7: INSPECTION PROCEDURES

The Division shall adopt a standard Installation Authorization to be used statewide by the Division and certified inspectors, a standard inspection form, and minimum inspection form requirements. Inspection forms shall be maintained a minimum three years from the date of the attachment of the insignia.

Prior to beginning the installation of a manufactured home, the owner, registered or certified installer of a manufactured home shall make an application for an Installation Authorization from the Division or certified installation inspector.

Owners, registered, and certified installers shall display an Installation Authorization at the site of the manufactured home to be installed until a certification insignia is attached to the manufactured home certifying compliance. Each authorization for installation will contain the identity of the installer and owner as well as phone number and contact person and identify the installer as owner, registered or certified. The certificate will also include the name, address and telephone number of the agency issuing the Installation Authorization.

A copy of the manufacturer's instructions shall be available at the time of installation and inspection of each new manufactured home. The installer shall be responsible to maintain a copy of the manufacturer's instructions at the installation site. Whenever the applicable standard (manufacturer's instructions, NFPA 225, etc.) for the installation of the manufactured home is not present at the time of the inspection, the inspector may fail the inspection and require a re-inspection of the installation. All costs of the inspection and any following re-inspection will be borne by the installer. Where the manufactured home is used or is being relocated, the manufacturer's instructions will be used if available. If the manufacturer's instructions are not available, the applicable adopted alternate standard listed in Schedule "B" here in will be used for the installation.

The owner, installer, manufacturer, or retailer shall have the right to be present at any inspection.

All manufactured homes that are found to be in compliance shall have an insignia of installation completed and permanently attached by the inspector making the inspection. Installations made by a certified installer may be inspected and certified by the installer. Such installations do not require inspection by the division or certified inspector. The certified installer shall complete and permanently attach an insignia when the installation is complete and make Insignia Reports to the division as required.

Application of the Certificate of Installation insignia is evidence that permanent utility service may be established. Permanent Certificate of Installation insignia application is required prior to occupancy of the home.

When a manufactured home installation is not found in compliance with the applicable manufacturer's instructions or other applicable standard or approved plans, the installer and/or manufacturer shall be notified in writing by the inspector. Determination of the responsible party shall be to the best of the inspector's knowledge. Documentation shall be provided to the inspector for changing a responsible party. Where the responsible party is not clear or unknown the responsibility shall fall to the installer. The inspector may at the time of the inspection, include in the inspection report instructions for the installer to call for re-inspection at any stage to prevent cover up of any part of the installation requiring re-inspection by the inspector.

The installer shall pay for any repairs required to bring the installation into compliance. The installer will pay for any subsequent inspections required by the Division or certified inspector.

If a vacant manufactured home fails the installation inspection because of conditions that endanger the health or safety of the occupant, the manufactured home shall not be occupied. The manufactured home shall be visibly posted with a Red Tag Notice to prevent occupancy.

If an installation or subsequent repair of an installation by an installer fails to meet the instructions or standards within the time limit allowed by the inspector, the inspector shall notify the installer that the installation is in default. The installer shall be given ten working days after notification of default to bring the installation into compliance or be subject to the issuance of a Red Tag Notice.

Any independent inspector that knows of an installation that is in default and has not been corrected by subsequent repair shall request that the Division investigate the installation. The Division may revoke, suspend, or fail to renew the registration or certification of the installer and cause the forfeiture of the installer's surety bond on behalf of the owner of the manufactured home for failing to comply with the Division's standards regarding installation of a manufactured home.

SECTION 8: INSTALLATION EDUCATION

The Division will review all educational courses submitted and will grant course approval in writing. The Division may audit courses and may request from each entity offering a Division approved course, all instructional material and attendance records as may be necessary for an investigation. Failure to comply may result in the withdrawal of Division approval of the course.

All continuing education courses must contain at the minimum the following instructional material:

1. Blueprint reading and comprehension.

2. Discussion of structural issues. For example: hinged roofs, cape cod roofs, marriage line fastening and support, foundation sizing, etc.

3. A review of Colorado Law, program rules and/or policies as they pertain to the technical issues being discussed at the training.

All continuing education courses may be offered and completed by distance learning.

The following course format and administrative requirements apply to all Colorado continuing installation education for installers and inspectors:

(a) Courses must be at least one hour in length and contain at least 50 instructional minutes per course hour.

(b) A maximum of 8-hours of credit may be earned per day.

(c) No course may be repeated for credit in the same registration period.

(d) Instructors may receive credit for classroom teaching hours once per course taught per year.

(e) Hours in excess of the required amount may not be carried forward to satisfy a subsequent renewal requirement.

(f) No school/provider may waive, excuse completion of, or award partial credit for the full number of course hours.

Each Colorado installer or inspector is responsible for securing from the provider evidence of course completion in the form of an affidavit or certificate of attendance. For distance learning an affidavit of completion signed under penalty of perjury is the only acceptable proof. In person courses may have a certificate signed by the instructor at the end of the course. Said documentation must be in sufficient detail to show the name of the licensee, course subject, content, duration, date(s), and contain the authentication of the provider. Installers and inspectors must retain proof of continuing education completion for three years, and provide said proof to the Division upon request.

Each approved education provider must retain copies of course outlines or syllabi and complete attendance records for a period of three years.

Continuing education providers must submit an application form along with the following information at least 30-days prior to the proposed class dates:

(a) Detailed course outline or syllabus, including the intended learning outcomes, the course objectives, and the approximate time allocated for each topic.

(b) A copy of the course exam(s) and instructor answer sheet if applicable. In the absence of an exam, the criteria used in evaluating a person's successful completion of the course objectives

(c) Copy of instructor teaching credential; if none, a resume showing education and experience which evidence the mastery of the material to be presented

(d) A copy of advertising or promotional material used to announce the offering.

(e) Upon Division request, a copy of textbook, manual, audio, videotapes, or other instructional materials.

By offering installation continuing education in Colorado, each provider agrees to comply with relevant statutes and rules and to permit Division audit of said courses at any time and at no cost.

SECTION 9: INVESTIGATIONS OF CONSUMER COMPLAINTS

The Division may investigate complaints filed by owners, occupants, dealers, manufacturers or other parties relating to the installation of manufactured homes as necessary to enforce and administer these regulations.

In addition to the required inspections, the Division may inspect the installation of a manufactured home upon written complaint filed by the owner installer, manufacturer, or dealer of a manufactured home. The requesting party prior to the inspection shall pay for the inspection.

A certified inspector or participating jurisdiction shall file a written complaint with the Division against an installer who has been notified that the installation is in default.

If the installation of a manufactured home by an installer has failed the requested compliant inspection, the installer shall reimburse the Division for the cost of the failed inspection. The installer shall also pay for any subsequent repairs necessary to bring the installation into compliance with the manufacturer's instructions or standards. The installer shall also pay for any subsequent inspections required by the Division or the certified inspector. Failure of the installer to pay for any inspections or subsequent repairs deemed necessary by the Division or the independent contractor shall result in the revocation of registration and/or forfeiture of the installer's performance bond on behalf of the owner of the manufactured home.

The Division may designate a certified inspector to make inspection on behalf of the Division to aid in the investigation of consumer complaints.

SECTION 10: SUSPENSION OR REVOCATION

The Division may suspend or revoke the registration or certification of an installer if the person fails any of the following:

File with the Division and keep in force a letter of credit, certificate of deposit, or surety bond as required.

File with the Division and keep in force required liability insurance.

Pay assessed inspection costs.

Preform installations in compliance with the program requirements, or make any subsequent repairs or corrections within a time period established by the Division necessary to bring the installation into compliance with the manufacturer's instructions or the standards promulgated by the Division.

When certification is revoked, the installer must return all unused installation insignias to the Division immediately and the installer will lose the right to purchase and install insignias.

When the Division revokes a registration or certification, the installer may reapply as a registered or certified installer one year after the date of the revocation.

Installers whose registration or certification has been revoked or suspended may appeal the Division's decision to the State Housing Board, Technical Review Committee for a hearing.

SECTION 11: REVOCATIONS, SUSPENSION AND APPEAL PROCESS

The Division of Housing may revoke or suspend a certification or registration after notice and hearing pursuant to Section 24-4-104 and 24-4-105, C.R.S.

Judicial review of the certification or registration revocation actions shall be governed by Section 24-4-106, C.R.S.

SECTION 12: CERTIFICATE OF INSTALLATION INSIGNIA

The Division shall adopt a standard Insignia to be used statewide as a certificate of installation certifying that the manufactured home was installed in compliance with the provisions of this regulation.

The Insignia shall include, but not be limited to, the name, address, and telephone number of the Division, date the installation was completed, and name, address, telephone number, and registration number of the installer who performed the installation.

Insignias shall remain the property of the state of Colorado and are not subject to refunds.

The insignia shall be permanently attached to the exterior, within 30 inches of the electrical service entrance of the manufactured home that they certify and the insignia is not transferable. When there is no exterior electrical service equipment on the home, the insignia shall be affixed to the exterior of the home near the HUD label or other readily visible location.

The possession of unattached insignias is limited to the Division, participating jurisdictions, certified inspectors and certified installers. Participating jurisdictions, certified inspectors, and certified installers may purchase installation insignias from the Division. Insignias must be kept secure.

SECTION 13: PROCEDURES, RECORDS AND DATA KEEPING

The Division will establish and maintain a system of databases and procedures for manufactured home installation and inspection necessary for the implementation of these rules and regulations.

The Division will maintain the program rules and regulations in electronic format. Where feasible, the Division will make use of a web page to distribute information, make available forms and applications, and list participating jurisdictions, registered installers, certified installers, and certified independent inspectors.

ATTEST:

Alison George, Director
Colorado Division of Housing

1-13-16

Date

David Zucker, Chair
Colorado State Housing Board

Date

SCHEDULE "A" INSTALLATION PROGRAM FEES

All fees except certain inspection fees are due in advance and must accompany the application. Fees shall not be subject to refund.

1.	Installer Registration (1-year):	$150.00
2.	Independent Inspector Registration (3-years):	$1.00
3.	Installer Certification:	No Charge
4.	Inspector Certification:	No Charge
5.	Insignia Fees:	$1.00
6.	Red Tag Fee:	$1.00
7.	Inspection Fees:	

A. Rough or Final Installation Inspection Fees: $1.00

B. Reinspection Fee for Red Tag Removal: $1.00

8. Waiver of Fees for Government Assisted Housing; with State Housing Board concurrence, the Division of Housing may waive inspection and insignia fees for units to be subsidized under local, state or federal housing programs for low-income households.

9. Double inspection fees shall apply when an installation has been called for re-inspection and corrections have not been completed.

SCHEDULE "B"

The State Housing Board hereby adopts and incorporates by reference, the following standards and national recognized codes as the "Colorado Manufactured Housing Installation Code". Materials incorporated by reference are those in existence as of the date of this resolution and do not include later amendments. Materials incorporated by reference is available for public inspection during regular business hours at the Division of Housing, 1313 Sherman Street, Room 321; Denver, Colorado 80203; or may be examined at any state publications depository library. Parties wishing to inspect these materials may contact the Program Manager, Housing Technology and Standards Section, located at the offices of the Division of Housing.

Colorado Manufactured Housing Installation Codes shall be:

1. Primary Standard (Required for new homes):

   A. The current Home Manufacturer's written Installation Instructions.

   B. Local requirements approved in advanced by the Division.

2. Alternate Standards (Factory Built Units):

   A. Structural attachment requirements approved by a State of Colorado licensed engineer.

   B. Current version of the International Residential Code as adopted by the Housing Board.

3. Alternate Standards (Mobile and HUD homes):

   A. NFPA 225, Model Manufactured Home Installation Standard 2013 Edition.

   Other references:

   24 CFR Part 3285, Model Manufactured Home Installation Standards, April 1, 2009 or most recent version.

   24 CFR Part 3280, Manufactured Home Construction and Safety Standards, April 1, 2009 or most recent version.

   Permanent Foundations Guide for Manufactured Housing (HUD–7584), September 1996 Edition, published by the United States Department of Housing and Urban Development or most recent version.

   Guide to Foundation and Support Systems for Manufactured Homes, March 2002, U.S. Department of Housing and Urban Development or most recent version.

4. Amendments

   A. The following Amendments by addition, deletion, revision, and exception are made to NFPA 225 – 2013

AMENDMENTS Model Manufactured Home Installation Standard NFPA 225-2013

Section 4.4.4. revise as follows:

4.4.4 **Site suitability with home design.**

The installer shall verify data plates provided with a HUD home prior to installation in the State of Colorado. The data plate shall be matched to the home (serial numbers). The data plate shall indicate the following minimums:

Wind Zone: I

Thermal Zone: III

Roof Load: Middle (30 PSF)

If any data does not meet these requirements the installer shall not set the home. Contact the Division of Housing for further instructions.

Section 5.3. revise as follows:

Fire Separation Distance. Fire separation distances shall comply with local rules or regulations. In their absence, the most current version of the International Residential Code as adopted by the Housing Board, shall apply.

Section 5.5.2. revise as follows:

Soil that supports footings and foundations shall be capable of accommodating all loads required by this standard. To help prevent settling or sagging the foundation must be constructed on firm, undisturbed soil or 90% compacted fill. The design bearing capacity of the soil shall be determined in accordance with Section 5.6.

Section 5.6. revise as follows:

Investigation and Bearing Capacity of Soil.

Soils that appear to be composed of peat, organic clays, uncompacted fill, expansive or other unusual conditions shall have a registered engineer determine the classification and maximum allowable soil bearing capacity.

Otherwise the bearing capacity of the soil shall be assumed to be 1,500 psf.

A larger bearing capacity for the soil may be used as follows provided the class of soil is known:

Sandy gravel and/or gravel, very dense or cemented sands (GW, GP, SW, SP, GM, SM) ---------- 2,000 psf

Sedimentary and foliated rock---------- 4,000 psf

When a value other than 1,500 psf is determined for the soil bearing capacity it shall be recorded by the installer on the Authorization form or other approved form and justification for higher values shall also be provided.

Section 5.8.1 revise as follows:

Vapor retarder. If the space under the home is to be enclosed with skirting or other material, a vapor retarder that keeps ground moisture out of the home shall be installed unless specifically allowed to be omitted by the authority having jurisdiction.

Section 5.8.3.2 revise as follows:

The vapor retarder may be placed directly beneath footings, or otherwise installed around or over footings placed at grade, and around anchors or other obstructions. Any voids or tears in the vapor retarder must be repaired.

Section 6.2.3.1.2. Delete this section.

Section 6.2.3.1.3.1 revise as follows:

Table 6.2.3.1.3(a), 6.2.3.1.3(b), 6.2.3.1.3(c) for pier capacities shall be used when the manufacturer's installation instructions are not available.

Section 6.2.3.1.3.2 revise as follows:

Manufactured piers shall be rated at least to the capacities given in Tables 6.2.3.1.3(a), 6.2.3.1.3(b), 6.2.3.1.3(c) and locally constructed piers shall be designed to transmit these loads safely as required by 6.2.3.2.

Tables 6.2.3.1.2(a) and (b) are replaced with the following tables.

Table 6.2.3.1.3(a)

Single and Multi Section Pier Loads Without Perimeter blocking
(at both I beams, in Lbs)
See section 6.2.5.5 for required perimeter blocking at side wall openings
See Table 6.2.3.1.3(c) for piers required under marriage line openings

Roof snow load (PSF)	Section Width (feet)	Maximum pier spacing			
		4'	6'	8'	10'
30	10	2360	3390	4420	5450
	12	2704	3906	5108	6310
	14	3048	4422	5796	7170
	16	3392	4938	6484	8030
40	10	2600	3750	4900	6050
	12	2984	4326	5668	7010
	14	3368	4902	6436	7970
	16	3752	5478	7204	8930
60	10	3080	4470	5860	7250
	12	3544	5166	6788	8410
	14	4008	5862	7716	9570
	16	4472	6558	8644	10730
80	10	3560	5190	6820	8450
	12	4104	6006	7908	9810
	14	4648	6822	8996	11170
	16	5192	7638	10084	12530
100	10	4040	5910	7780	9650
	12	4664	6846	9028	11210
	14	5288	7782	10276	12770
	16	5912	8718	11524	14330

Notes:
1. See Table 6.3.3 for footing design using the noted loads
2. This Table is based on the following design assumptions:
   Nominal width is used, 12" eave, 20plf chassis dead load, 300 lbs. Pier dead load,
   35 plf wall dead load, 10psf roof dead load and 6 psf floor dead load
3. Interpolation for other pier spacing is permitted
4. These loadings are not for flood or seismic conditions.

Table 6.2.3.1.3(b)

Single and Multi Section Pier Loads With Perimeter blocking
(Lbs)
See section 6.2.5.5 for required perimeter blocking at side wall openings
See Table 6.2.3.1.3(c) for piers required under marriage line openings

		Frame				Exterior wall				Marriage wall			
Roof snow load (PSF)	Section Width (ft)	Maximum pier spacing				Maximum pier spacing				Maximum pier spacing			
		4'	6'	8'	10'	4'	6'	8'	10'	4'	6'	8'	10'
30	10	1400	1950	2500	3050	1400	1950	2500	3050	2480	3420	4360	5300
	12	1584	2226	2868	3510	1560	2190	2820	3450	2800	3900	5000	6100
	14	1768	2502	3236	3970	1720	2430	3140	3850	3120	4380	5640	6900
	16	1952	2778	3604	4430	1880	2670	3460	4250	3440	4860	6280	7700
40	10	1400	1950	2500	3050	1640	2310	2980	3650	2880	4020	5160	6300
	12	1584	2226	2868	3510	1840	2610	3380	4150	3280	4620	5960	7300
	14	1768	2502	3236	3970	2040	2910	3780	4650	3680	5220	6760	8300
	16	1952	2778	3604	4430	2240	3210	4180	5150	4080	5820	7560	9300
60	10	1400	1950	2500	3050	2120	3030	3940	4850	3680	5220	6760	8300
	12	1584	2226	2868	3510	2400	3450	4500	5550	4240	6060	7880	9700
	14	1768	2502	3236	3970	2680	3870	5060	6250	4800	6900	9000	11100
	16	1952	2778	3604	4430	2960	4290	5620	6950	5360	7740	10120	12500
80	10	1400	1950	2500	3050	2600	3750	4900	6050	4480	6420	8360	10300
	12	1584	2226	2868	3510	2960	4290	5620	6950	5200	7500	9800	12100
	14	1768	2502	3236	3970	3320	4830	6340	7850	5920	8580	11240	13900
	16	1952	2778	3604	4430	3680	5370	7060	8750	6640	9660	12680	15700
100	10	1400	1950	2500	3050	3080	4470	5860	7250	5280	7620	9960	12300
	12	1584	2226	2868	3510	3520	5130	6740	8350	6160	8940	11720	14500
	14	1768	2502	3236	3970	3960	5790	7620	9450	7040	10260	13480	16700
	16	1952	2778	3604	4430	4400	6450	8500	10550	7920	11580	15240	18900

Notes:
1. See Table 6.3.3 for footing design using the noted loads
2. This Table is based on the following design assumptions:
   Nominal width is used, 12" eave, 20plf chassis dead load, 300 lbs. Pier dead load,
   35 plf wall dead load, 10psf roof dead load and 6 psf floor dead load
3. Interpolation for other pier spacing is permitted
4. These loadings are not for flood or seismic conditions.

Table 6.2.3.1.3(c)

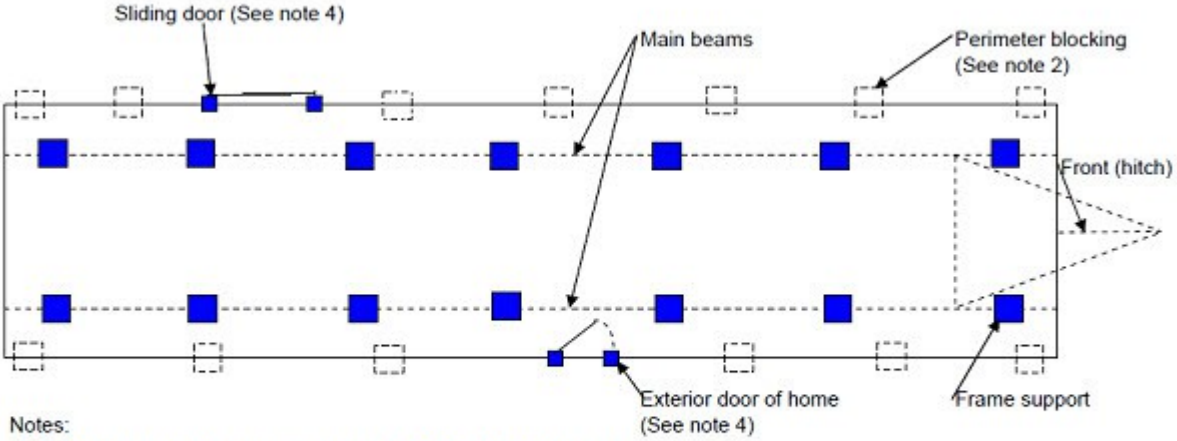
Multi Section Pier Loads Under Marriage Line Openings
(Under each end of opening in Lbs)
See section 6.2.5.5 for required perimeter blocking at side wall openings

Roof snow load (PSF)	Section Width (ft)	Marriage wall opening width									
		5'	8'	10'	12'	14'	16'	18'	20'	25'	30'
30	10	1300	1900	2300	2700	3100	3500	3900	4300	5300	6300
	12	1500	2220	2700	3180	3660	4140	4620	5100	6300	7500
	14	1700	2540	3100	3660	4220	4780	5340	5900	7300	8700
	16	1900	2860	3500	4140	4780	5420	6060	6700	8300	9900
40	10	1550	2300	2800	3300	3800	4300	4800	5300	6550	7800
	12	1800	2700	3300	3900	4500	5100	5700	6300	7800	9300
	14	2050	3100	3800	4500	5200	5900	6600	7300	9050	10800
	16	2300	3500	4300	5100	5900	6700	7500	8300	10300	12300
60	10	2050	3100	3800	4500	5200	5900	6600	7300	9050	10800
	12	2400	3660	4500	5340	6180	7020	7860	8700	10800	12900
	14	2750	4220	5200	6180	7160	8140	9120	10100	12550	15000
	16	3100	4780	5900	7020	8140	9260	10380	11500	14300	17100
80	10	2550	3900	4800	5700	6600	7500	8400	9300	11550	13800
	12	3000	4620	5700	6780	7860	8940	10020	11100	13800	16500
	14	3450	5340	6600	7860	9120	10380	11640	12900	16050	19200
	16	3900	6060	7500	8940	10380	11820	13260	14700	18300	21900
100	10	3050	4700	5800	6900	8000	9100	10200	11300	14050	16800
	12	3600	5580	6900	8220	9540	10860	12180	13500	16800	20100
	14	4150	6460	8000	9540	11080	12620	14160	15700	19550	23400
	16	4700	7340	9100	10860	12620	14380	16140	17900	22300	26700

Notes:
1. See Table 6.3.3 for footing design using the noted loads
2. This Table is based on the following design assumptions:
   Nominal width is used, 300 lbs. Pier dead load,
   10psf roof dead load
3. Interpolation for other pier spacing is permitted
4. For piers supporting two adjacent openings, the required capacity is the sum of the loading from each opening.
5. These loadings are not for flood or seismic conditions.

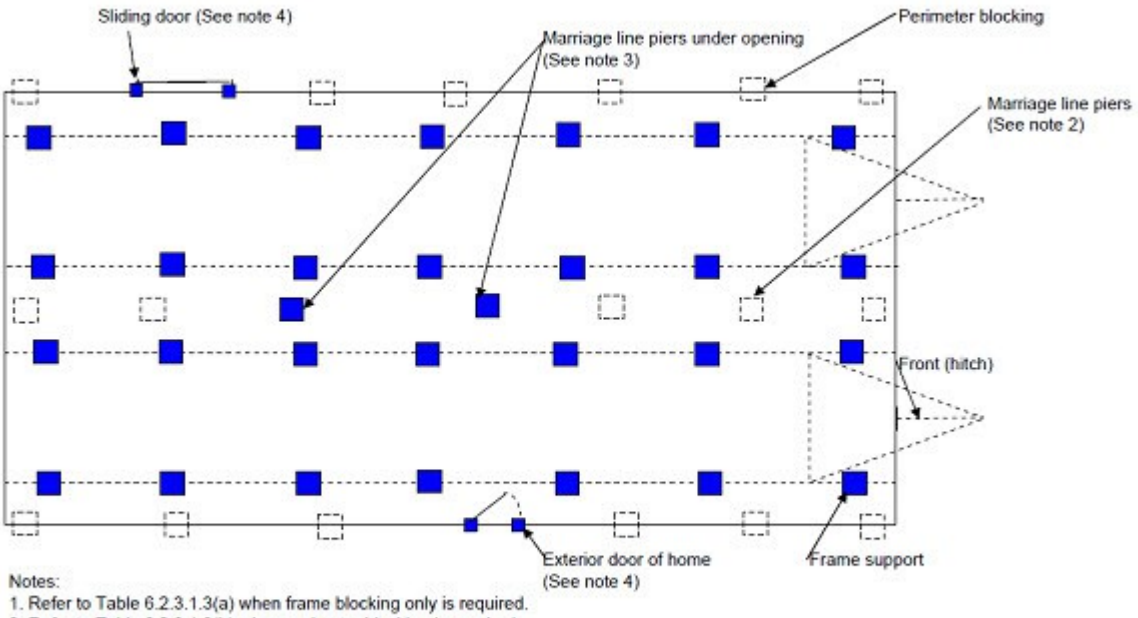
Figures 6.2.5.3 and 6.2.5.4 are replaced with the following figures.

FIGURE 6.2.5.3 Typical blocking Diagram for a Single Section



Notes:
1. Refer to Table 6.2.3.1.3(a) when frame blocking only is required.
2. Refer to Table 6.2.3.1.3(b) when perimeter blocking is required.
3. Locate piers a maximum of 24 inches from both ends.
4. **All homes:** Place piers on both sides of sidewall exterior doors, patio doors, and sliding glass doors: under porch posts, factory-installed fireplaces, and fireplace stoves; under jamb studs at multiple window openings; and at any other sidewall openings 48 inches or greater in width.

FIGURE 6.2.5.4 Typical blocking Diagram for a Multi-section home



Notes:
1. Refer to Table 6.2.3.1.3(a) when frame blocking only is required.
2. Refer to Table 6.2.3.1.3(b) when perimeter blocking is required.
3. Refer to Table 6.2.3.1.3(c) for piers under marriage line wall openings
4. Locate piers a maximum of 24 inches from both ends.
5. **All homes:** Place piers on both sides of sidewall exterior doors, patio doors, and sliding glass doors: under porch posts, factory-installed fireplaces, and fireplace stoves; under jamb studs at multiple window openings; and at any other sidewall openings 48 inches or greater in width.

Section 6.2.3.2.2.2 revise as follows: Caps shall be of solid masonry of at least 4 in. (100 mm) nominal thickness, or of treated or hardwood dimensional lumber at least 2 in. (50mm) nominal thickness, or of ½" thick steel.

Section 6.2.3.2.3.1 revise as follows: Nominal 4 in. x 6in. (100mmx 150mm) hardwood shims shall be used to level the home and fill any gaps between the base of the I-beam and the top of the pier cap. Any of the following hardwood species may be used: Ash, Beech, Birch, Hickory, Oak, Rock Elm, Black or Red Maple, Sweetgum

Section 6.2.3.2.3.3 revise as follows: Hardwood (species per 6.2.3.2.3.1 amendment above) or treated wood plates shall be used to fill in any remaining vertical gap no thicker than 2". The maximum total gap to be filled with shims and plates shall be 2".

Section 6.2.5.5 revise as follows:

All homes. Supports shall be placed on both sides of side wall exterior doors and any other side wall openings greater than 48 in. (such as entry and sliding glass doors), and under porch posts, factory installed fireplaces and wood stoves. Size perimeter piers under openings based on table 6.2.3.1.3(b) "Exterior wall" where the actual side wall opening shall be less than or equal to the spacing selected from the table.

Homes requiring perimeter blocking. Refer to Figure 6.2.5.3 and Figure 6.2.5.4 and Table 6.2.3.1.3(b) for homes requiring perimeter blocking in addition to sidewall opening blocking described above.

Section 6.3.1.1(2) revise as follows:

6 in. nominal poured in place concrete pads, slabs or ribbons with at least a 28-day compressive strength of 3000 psi. Ribbon footings shall be a minimum 18" wide, reinforced with two #4 horizontal rebar centered vertically in the footing spaced 10" apart with 3" minimum edge margin. Slab footings shall be reinforced with a minimum 10 gauge, 6x6 wire welded mesh.

Section 6.3.1.2.2. Delete this section.

Section 6.3.2.1.1. Footings shall be placed at or below frost line or otherwise protected from frost heave.

Section 6.5.2. Delete this section.

Section 7.2. revise as follows:

The home shall be installed and leveled by installation personnel approved by the State of Colorado to install manufactured homes.

Section 7.3. revise as follows:

The interconnection of multisection homes shall be completed in accordance with the manufacturer's installation instructions. When the manufacturer's installation instructions are not available, the interconnection of multisection homes shall be in accordance with Table 7.3 or per the requirements approved by a State of Colorado licensed engineer.

Section **7.5 Anchoring Instructions**. revise as follows:

Section 7.5.1 **Security against the wind.**

7.5.1.1 After blocking and leveling, the installer shall secure the manufactured home against wind per Section 7.5.2 or Section 7.5.3. Anchorage shall be for Wind Zone I. Homes that are designed for Wind Zone II and III must be anchored per the Manufacturers Installation Instructions or the requirements of a professional engineer.

Table 7.3 Connections of Multi-Box Home

Shim any gaps between structural elements prior to connection with dimensional lumber up to one inch. If gaps exceed one inch, re-position home to eliminate gapping condition.

CONNECTOR LOCATION	CONNECTOR SIZE	FASTENER ANGLE	FASTENER SPACING
Roof support beam at ridge or ceiling line	1/2 inch carraige bolts	90 degrees	48 inches on center
Roof ridge beam or ridge rail	3/8 inch lag screws with washers	Approx 45 degrees	24 inches on center each side and staggered
Roof rafter connection	4x12 inch 18 guage galv strap centered on truss and peak	90 degrees into truss	48 inches on center for straps, 5-10d nails each side of ridge
or	8 inch continuous 18 gauge galv metal sheet centered on peak	90 degrees into roof sheathing/beams/truss	8D nails at 6 inches on center each side of ridge
Floor rim joist connection	3/8 inch lag screws with washers	Approx 45 degrees	24 inches on center each side and staggered
End wall and interior wall connection	#8 wood screws	Approx 45 degrees	18 inches on center

Notes:

1. Fastener length shall be adjusted as required to obtain full penetration into all structural members being connected on both sides of the marriage line.
2. 3/8" lag screws are to be piloted with 1/4" dia. holes prior to installation.
3. When the support post for a roof support beam can only be located on one side of the marriage line, install eight 1/2" cluster bolts with washers, spaced 4" on center, centered on the post, to connect the roof support beams together.

Section 7.5.2 **Proprietary Anchorage Systems**

A proprietary anchorage system may be used to resist overturning and lateral movement (sliding) caused by wind as long as it complies with all of the following:

1. The system shall be listed by a nationally recognized third-party agency for anchoring manufactured homes.

2. The system shall be evaluated and approved by a licensed professional engineer.

3. The system shall be recognized as acceptable for use by CDOH.

4. The installer shall follow the requirements in the anchorage system installation instructions.

Section 7.5.3 **Ground Anchor System**

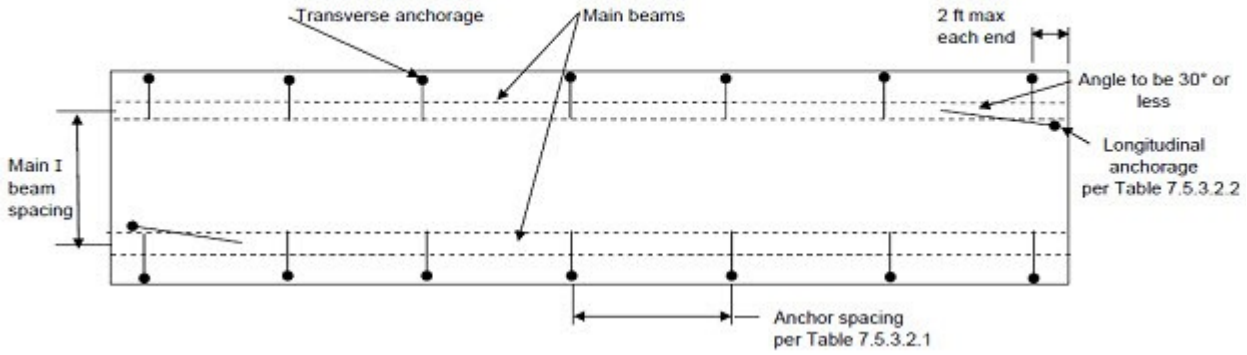
Section 7.5.3.1 **Specifications for Tie-Down Straps and Anchors**

Straps and anchors are to have corrosion protection at least equivalent to that provided by a coating of zinc on steel of not less than 0.30 oz/ft^2 of surface coated. Straps and anchoring equipment must be capable of resisting a minimum ultimate load of 4,725 Lbs and a working load of 3,150 Lbs as installed determined by a registered professional engineer, architect or tested by a nationally recognized third-party agency. Straps are to be 1.25"x0.035" or larger steel strapping conforming to ASTM D 3953, Type 1, Grade 1, Finish B. Anchors are to be installed in accordance with their listing or certification to their full depth.

Section 7.5.3.2 **Number and Location of Anchors**

Section 7.5.3.2.1 **Transverse Anchorage.** The number and location of anchors and anchor straps for securing single-section and multisection manufactured homes in the transverse direction shall conform to the manufacturer's installation instructions. When relocating the home or when the manufacturer's installation instructions are not available, the number and location of anchors and anchor straps shall conform to Table 7.5.3.2.1 and Figure 7.5.3.2.1 (a) and 7.5.3.2.1(b).

FIGUIRE 7.5.3.2.1(a) Anchor spacing and location



FIGUIRE 7.5.3.2.1(b) Anchor position using diagonal straps

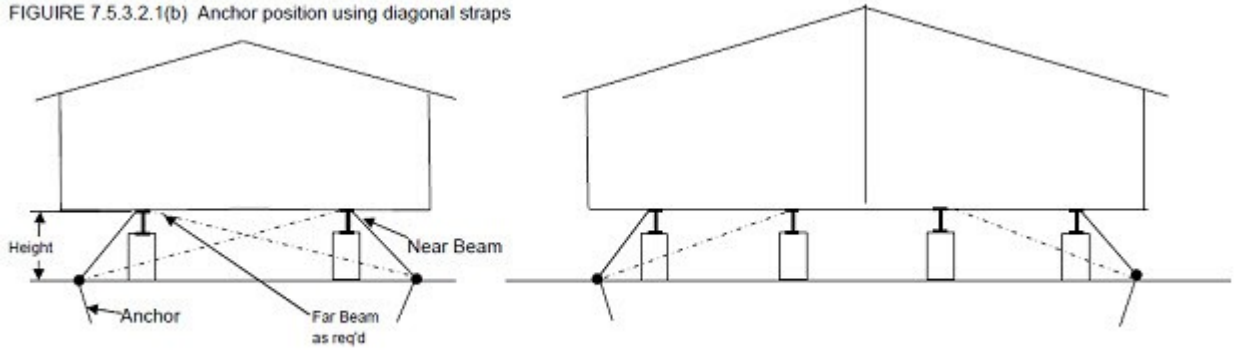


Table 7.5.3.2.1 **Number and Location of Ground Anchors**

Section Floor Width	Main I-Beam spacing (in)	Max height from ground to strap attachment (in)	Anchor Spacing (ft)		Angle
10 ft 20 ft double wide	82.5	25	9		59 1/2
		33	12	FAR BEAM	18 1/2
		46	12	FAR BEAM	25 1/2
		67	11 1/2	FAR BEAM	34 1/2
	99.5	25	12	FAR BEAM	13 1/2
		33	12	FAR BEAM	17 1/2
		46	12	FAR BEAM	23 1/2
		67	11 1/2	FAR BEAM	32 1/2
12 ft 24 ft double wide	82.5	25	12		43
		33	10 1/2		51
		46	7 1/2		60
		67	11 1/2	FAR BEAM	31 1/2
	99.5	25	10		54
		33	12	FAR BEAM	15 1/2
		46	12	FAR BEAM	21 1/2
		67	11 1/2	FAR BEAM	29 1/2
14 ft 28 ft double wide	82.5	25	12		33
		33	12		40 1/2
		46	9 1/2		50
		67	6 1/2		60
	99.5	25	12		39 1/2
		33	11		47 1/2
		46	8		56 1/2
		67	11 1/2	FAR BEAM	27 1/2
16 ft 32 ft double wide	82.5	25	N/A		26
		33	12		33
		46	10 1/2		42
		67	8		53
	99.5	25	12		30 1/2
		33	12 1/2		38
		46	10		47 1/2
		67	7		58

Notes:
1. See Figures 7.5.3.2.1(a) and (b).
2. This Table is based on the following design assumptions:
   8' wall height, 4/12 roof pitch, 4 inch anchor inset from home edge, 12' max anchor spacing
3. Main beam spacing outside those shown may be used provided the inside strap angle from the ground to the strap is less than the angle shown and is between 30 and 60 degrees or connection is provided to both the near and far beam.Choose spacing from values shown.
4. FAR BEAM. Spacings shown with FAR BEAM require connection to **both** the near and far beam. This also applies to other main I beam spacing. See note 3.
5. Anchors must have a 3150 lbs working load capacity and be installed within 2' of each end of the home.
6. These spacings are not for flood or seismic conditions.

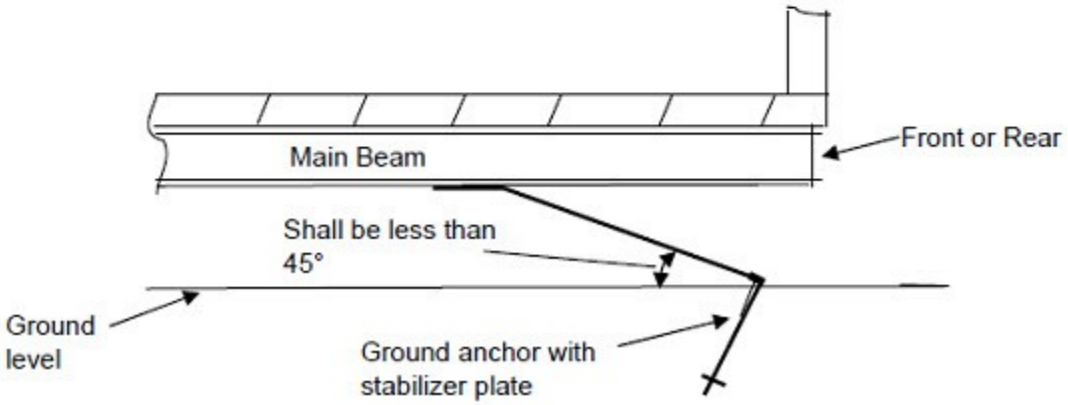
Section 7.5.3.2.2 **Longitudinal Anchorage.** The number and location of anchors and anchor straps for securing single-section and multisection manufactured homes in the longitudinal direction shall conform to the manufacturer's installation instructions. When relocating the home or when the manufacturer's installation instructions are not available, the number and location of longitudinal anchors and anchor straps shall conform to Table 7.5.3.2.2 and Figure 7.5.3.2.1 (a).

Table 7.5.3.2.2 Longitudinal Anchorage

NUMBER OF STRAPS REQUIRED AT EACH END OF THE HOME				
Number of Sections	Max Section Width (feet)			
	10	12	14	16
SINGLE WIDE	1	1	1	1
DOUBLE WIDE[1]	2	2	2	3

Footnote[1] Number of anchors may be reduced by 1 for homes greater than 60 feet in length

Notes: 1. Longitundal straps shall be attached to the home's main frame as specified by the maunfacturers installation instructions.



Section 7.5.3.2.3 **Anchor Installation.** The installed ground anchor type and size/length must be listed for use in the soil class at the site and for the minimum and maximum angle permitted between the diagonal strap and the ground and all ground anchors must be installed in accordance with their listing or certification and the ground anchor manufacturer installation instructions. Unless the foundation system is frost-protected to prevent the effects of frost heave, the ground anchors shall be installed below the frost line. Ground anchor stabilizer plates shall be installed in accordance with the anchor and plate manufacturer installation instructions.

Section 7.5.3.2.4 **Side wall or over the roof straps.** If sidewall, over-the-roof, mate-line, or shear wall straps are installed on the home, they must be connected to an anchoring assembly.

Section 7.6.3 **Expanding Rooms**. revise section as follows: Expanding rooms shall be installed in accordance with the manufacturer's instructions. When the manufacturer's instructions are not available, perimeter blocking shall be installed in accordance with Table 6.2.3.1.3(b) and anchors shall be installed in accordance with Section 7.5.3.2.

Section 7.7.4.2. Revise (2)

(2) Walls-200.

Section 8.1 **Installation of Site-Installed Features.** revise entire section as follows:

Carports, awnings, porches, roof covers, and other similar attachments or additions shall not be supported by a manufactured home unless the home was specifically designed to accommodate such attachments or the attachment is designed by a registered professional engineer. Non-structural connections for flashings and coverings at the junction are acceptable.

Section 8.4 Delete.

Section 8.8.3 revise as follows:

Access opening(s) not less than 18 inches in width and 24 inches in height must be provided and located so that any utility connections are accessible.

Section 8.9. **Telephone and Cable TV**. revise as follows.

Telephone, cable TV and similar wiring shall be installed per the AHJ requirements and the National Electric Code.

Section 9.4. **Range, Cooktop, Oven Venting and Other Fixtures or Appliances**

Add new Section 9.4.3

If other fixtures or appliances are to be site-installed, follow the manufacturer's installation instructions. Use only products listed for manufactured homes and follow all applicable local codes.

Add new section 9.7. **Furnace, Water Heater and all other fuel fired appliances.**

Verify appliance is installed per the manufacturer's installation instructions including any combustion air requirements. Verify flues are in place and are properly connected and extend through the roof with flashings and caps.

Section 10.4.2 **Orifices and Regulators.** revise as follows:

Before making any connection to the site supply, the inlet orifices of all gas-burning appliances shall be checked to ensure they are correctly set-up for the type of gas to be supplied and are sized correctly for the altitude above sea level where the home is set. The manufacturer's installation instructions for the appliance shall be followed.

Chapter 11 Life Safety Features ; revise as follows:

11.1 Smoke Alarms. Verify smoke alarms are installed to protect the living area, rooms designed for sleeping, on upper levels and in the basement for homes installed over a basement. Verify smoke alarms are installed and operating properly to meet the requirements of 24 CFR 3280

11.2 Carbon Monoxide Alarms. An approved carbon monoxide alarm shall be installed outside of each separate sleeping area within 15 feet of the entrance to the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages.

11.3 Fire Separation Distances. Fire separation distances shall comply with local rules or regulations. In their absence, the most current version of the International Residential Code as adopted by the Housing Board, shall apply.

B. The following Amendments by addition, deletion, revision, and exception are made to the Permanent Foundations Guide for Manufactured Housing (HUD-7584), September 1996 Edition:

APPENDIX B – FOUNDATION DESIGN LOAD TABLES

In the multi-section tables under the marriage wall opening width (ft.), the values given for required effective footing area – Af&g (sq.ft.), shall be divided by 2.

5. DOH Manufactured Home Installation Inspection Checklist

The Division of Housing Maniufactured Home Installation Inspection Checklist shall be used by Division of Housing Inspectors, Certified Inspectors, Registered Installers, and Homeowners as the required on-site form to ensure a complete installation. The Checklist is to be used as a starting basis for the installation inspection. Refer to the applicable standards listed in Schedule “B” for specific details.

DOH Manufactured Home Installation Inspection Checklist

Info	PROJECT INFO	Use Installation manual for HUD's
	Project ID:/Address _____	or NFPA 225 if no manual
	Length	
	Width	Use Installation manual, plans
	Exterior wall height	and IRC for FB modulars
	I-beam spacing	
	Roof pitch	
	Marriage line opening dimensions	
	Marriage line support spacing	
Confirmed	**Criteria**	**Reference**
	ACCEPTANCE OF UNIT	NFPA typically shown, Use IRC for FB Modular
	Manufacturer Name: _____	
	New Home	
	Manufacturer's installation instructions available on-site	4.4.1
	Used Home	
	Manufacturer's installation instructions available on-site	4.4.1
	Alternative standard used and available on-site	Resolution 38
	All Homes	
	DOH MHIP Authorization hasted been posted	Resolution 38
	HUD or Factory-Built label has not been damaged, removed, or covered	
	No transportation damage is noted	Annex B.2
	Data Plate indicates correct wind zone (1), thermal zone (3), and roof load (30#=middle)*, FB CDOH label indicates correct wind speed and roof load for local jurisdiction requirements	4.4.4/HUD 3280.5 Resolution 34
	** If minimum requirements are not met, do not set home, contact DOH.*	
	SITE PREPARATION	
	Soil density from a soils report and load capacity is documented on-site* 1500 PSF default	5.5.2
	** Penetrometer readings may be substituted if a soils report is not available*	
	Completed site grading allows water to drain away from the home (site is crowned below home)	5.7
	Foundation drainage system installed when site conditions require	
	Vapor barrier installed when underfloor area is enclosed	5.8
	BLOCKING, FOOTINGS, PIERS	
	Organic material is removed from under the home	5.5.1
	Footings are of correct size and construction for soil and climate conditions	6.3
	Pier spacing and construction is completed to the Manufacturer's Installation instructions or NFPA amendments	6.2
	Shims, when required, are of an acceptable material and correctly installed	6.2.3.2.3
	Perimeter, marriage line, and other required blocking is installed to the Manufacturer's Instructions or NFPA amendments	6.2
	ANCHORING	
	Temporary Set	
	Confirm anchoring components/system is listed for manufactured homes and allowed for Colorado use, and is installed to the Anchor and Home Manufacturer's Instructions* or NFPA amendments	7.5
	** Includes number & location and correct angles, # of wraps, tensions and tightness against the stabilizer plates.*	
	Permanent Set	
	Foundation walls meet all local codes, ordinances and covenants	Local requirements or engineer requirements
	Sill plate is designed and installed based on approved design	Approved plan
	Sill bolt anchors are installed correctly including: spacing, tightness, and hole size	Approved plan
	Engineered foundations are installed to the design specifications	Approved plan
	STRUCTURAL CONNECTIONS	
	Ridge beam is installed securely in accordance with the Manufacturer's Instructions	7.3
	Floors, walls, ceilings are correctly aligned, level, secure	7.3
	Hinged roof mechanisms are installed to the Manufacturer's Instructions	7.3
	EXTERIOR	
	Bottom board material is intact and repaired as necessary to prevent tears/rips	7.7.5
	Exterior siding damage is repaired and site installed siding is correctly installed	7.7.2
	Required gaskets between boxes are installed to Manufacturer's Instructions	7.7.1.3

DOH Manufactured Home Installation Inspection Checklist

	EXTERIOR Continued	
	Completed roof is installed to Manufacturer's Instructions	8.2
	Gutter and downspouts when installed, divert water away from home	5.7.4
	Windows and doors operate and seal properly	HUD-3280.103, 105,106 IRC-R310, R311, R612
	Skirting (where installed) is installed in accordance with the Manufacturer's Instructions	8.8
	Roof penetrations from shipping strap attachment are repaired	7.7.1.2
	WATER SUPPLY	
	Water supply lines are the correct listed material & size, and are properly connected, supported, insulated & protected from freezing. Water heater drain and T/P valve are properly completed and routed to exterior	10.2, 10.3
	Main water supply shut-off and pressure reducing device (if required by locals) are installed correctly	10.2.2.1 & 10.2.1
	Required water supply tests are confirmed through on-site documentation	10.2.4
	SANITARY CONNECTION	
	Sewer connection lines are the correct listed material & size and are properly sloped, connected, and supported	10.3
	Positive connection between home and site sewer connection	10.3.3
	Required sewer connections tests are confirmed through on-site documentation	10.3.5
	GAS SUPPLY	
	Gas supply lines are the correct listed material & size and are properly connected and supported	10.4
	Gas supplied to home is compatible with the installed furnace, water heater, and/or kitchen range	10.4.1
	Flexible gas supply connectors used to connect gas supply between home sections, the home and the site connection, and installed appliances are the correct listed material, size and are properly connected, supported and accessible	10.4.4.1
	Low pressure gas supply line test completed	10.4.3
	High pressure gas supply line test completed	10.4.3
	ELECTRICAL SUPPLY	
	Electrical supply lines are the correct listed material & size and are properly connected, supported and provide the correct polarity, continuity, arc fault and circuit size	10.6
	Electrical supply connectors used to connect electrical supplies between home sections and the home and the site are the correct listed material, size and are properly connected, supported and accessible	10.6.2
	Shipped loose electrical fixtures are installed or electrical boxes have been covered	8.5
	Home sections and the electrical supply are properly grounded	10.6.2
	Bonding wire correctly installed between home and gas line between chassis	10.6.3.1(1)
	Installed electrical appliances are correctly connected to the electrical systems	10.6.3.1(2)
	MECHANICAL SYSTEMS	
	Water heater and furnace are listed for the correct use and site gas type	
	Mechanical systems are operational within the manufacturer's specifications	
	Combustion air systems are identified for correct size, location, and free air-flow to exterior of home	9.3.7, 9.7 IRC G2407
	Orifice(s) have been adjusted as necessary to provide the correct gas supply for altitude and gas type of the installed furnace, water heater and/or kitchen range	10.4.2
	Mechanical system vents are of the correct size, distance to combustibles, and termination location/height	9.3, 9.7
	Clothes dryer vent is attached to the appliance and terminates at the exterior of the home using a listed material of the correct size	9.1/8.8.4
	Crossover ductwork is of the correct listed material & size and is properly connected, supported (duct not restricted & not touching ground), and insulated	7.4.2
	ENERGY	
	Factory Built Units constructed to the 2012 IECC. Blower Door test completed and less than 3 air changes per hour. Whole House mechanical ventilation provided and working.	IECC R402.4.1.2. IRC R303.4
	LIFE/SAFETY	
	Smoke detectors are operational and installed correctly	11.1
	Carbon monoxide detectors are operational and installed correctly	
	OTHER	
	INSTALLATION SEAL	DOH
	Installation seal has been issued and installed only after confirmation of above criteria, applicable standards and codes and approved plans	

Editor's Notes

History

Entire rule eff. 11/30/2008.

Entire rule eff. 09/03/2013.

Section 12 eff. 05/30/2014.

Entire rule eff. 03/16/2016.

Temporary changes to Schedule "A" only eff. 04/15/18 through 05/15/18.

Annotations

Section 3, Registered Installer, paragraph beginning "RENEWAL: Any registered or certified installer ..."; Section 5, paragraph beginning "Inspector certifications will remain valid for three years ..."; Section 9, paragraph beginning "In addition to the required inspections ..."; (adopted 10/14/2008) were not extended by House Bill 09-1292 and therefore expired 05/15/2009.

COLORADO
Department of Local Affairs
Division of Housing

MEMORANDUM

Date: April 3, 2018

To: State Housing Board

From: Mo Miskell, Program Manager

Subject: Fee Holiday

As we wind down our fiscal year, which ends June 30, 2018, it has become apparent that the Housing Technology and Standards Section is running a surplus due to a combination of events. Primarily as a result of $200,000 being returned to the program by the General Assembly and the raising of fees at that same time due to the program running over budget.

As a result, we have a unique opportunity to provide a fee holiday of one month for most of our customers and thereby returning excess funds to them—to run from April 15th to May 15th. We are proposing that the State Housing Board reduce all total fees that are not set in statute and are associated with maintaining this program to $1.00 for those 30 days. The two fees set in statute that will be exempt from this fee reduction are those associated with becoming a registered seller and installer.

In order to accomplish this, the State Housing Board would be required to convene a temporary rulemaking hearing to adopt a revision to the current rules for this program that would then implement te proposed fee holiday. Therefore, it is greatly appreciated if the State Housing Board consider doing so at its next scheduled monthly meeting on Tuesday, April 10th after it has concluded its regular business.

We request that you consider a motion to temporarily reduce the following fees established in rules to $1.00 for the period April 15, 2018, through May 15, 2018:

Resolution #34 "Factory Built Housing" – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space* $0.10 per sq. ft.
  *(i.e. unfinished habitable attics, unfinished lofts, garages, etc.)
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:

- ❖ Plant certification inspection fee: $350.00 per inspection
- ❖ Oversight inspection fee: $270.00 per inspection per address
- ❖ Special inspection fee:
  In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
- ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #35 "Factory Built Nonresidential Structures – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:
  - ❖ Plant certification inspection fee: $350.00 per inspection
  - ❖ Oversight inspection fee: $270.00 per inspection per address
    Multi-Box additional fee: Units with more than 3 boxes add $25.00/box, up to an additional $1875.00.
  - ❖ Special inspection fee:
    In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
    Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
  - ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #36 "On-site Construction and Safety Codes for Motels, Hotels and Multi-family Dwellings in those areas of the State where no such Standards Exist" – Schedule "A"

- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Certificate of Occupancy (each separate structure): $125.00
- Inspection fees:
  - ❖ On-site inspection fee: $270.00 per inspection per inspectr plus $50.00 per hour (inspection time) per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  - ❖ Stop Work Order/Red Tag fee: $250.00

Resolution #38 "Manufactured Housing Installations – Schedule "A"

- Independent Inspector Registration (3-years): $150.00
- Insignia Fees: $60.00

- Red Tag Fee: $250.00
- Inspection Fees:
  - Rough or Final Installation Inspection Fees: $200.00
  - Reinspection Fee or Red Tag Removal: $200.00

Resolution #10 "Manufactured Home Construction Standards and Procedural Regulations"

- Product Inspection service fee schedule:

Activity	Fee
Plant Certification/Revalidation Inspection travel, per diem, and lodging	$260/day/person plus actual expense of
Routine Floor Inspection	$35 per floor
Reinspection for Red Tag Removal	$100 per deviation
Increased Frequency (200%) or Revalidation Inspections	$50 per non-compliance and $50 per system of control
Plant Certification/Revalidation	$260 per day per person plus actual travel, per diem, and lodging

Thank you for your time and consideration.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
Chief of Staff

FREDERICK R. YARGER
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

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Office of the Attorney General

Tracking number: 2018-00155

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Housing Board

on 04/10/2018

8 CCR 1302-7

RESOLUTION NO. 38 - MANUFACTURED HOUSING INSTALLATIONS

The above-referenced rules were submitted to this office on 04/11/2018 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.

April 26, 2018 13:35:53

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Local Affairs

Agency

Division of Housing

CCR number

8 CCR 1302-8

Rule title

8 CCR 1302-8 RESOLUTION NO. 36 - ON-SITE CONSTRUCTION AND SAFETY CODES FOR MOTELS, HOTELS AND MULTI-FAMILY DWELLINGS IN THOSE AREAS OF THE STATE WHERE NO SUCH STANDARDS EXIST 1 - eff 04/15/2018

Effective date

04/15/2018

DEPARTMENT OF LOCAL AFFAIRS

Division of Housing

RESOLUTION #36 ON-SITE CONSTRUCTION AND SAFETY CODES FOR MOTELS, HOTELS AND MULTI-FAMILY DWELLINGS IN THOSE AREAS OF THE STATE WHERE NO SUCH STANDARDS EXIST

8 CCR 1302-8

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

BE IT RESOLVED BY THE STATE HOUSING BOARD OF THE STATE OF COLORADO;

THAT PURSUANT TO §24-32-3301 et seq, C.R.S. as amended, the State Housing Board of the State of Colorado (the Housing Board) repeals and readopts Resolution #36; and

THAT PURSUANT TO §24-32-3301 et seq, C.R.S. as amended, the State Housing Board adopts the nationally recognized codes as cited in SCHEDULE "B" as the "Colorado Construction Safety Code for hotels, motels, and multi-family dwellings built in areas of the state where no such standards exist including the renovation of dwelling units that are the Division of Housing responsibility;" and

THAT PURSUANT TO §24-32-3301 et seq, C.R.S. as amended, the State Housing Board states the basis and purpose of these rule changes is to update the current minimum construction and safety code for "hotels, motels, and multi-family dwellings in areas of the state with no local building codes"; and

The State Housing Board states that these rules do not include later amendments of the nationally recognized code; and

The Colorado Housing Board repeals and readopts these rules and regulations to be administered and enforced by the Colorado Division of Housing (the Division of Housing).

RULES AND REGULATIONS

Section 1: SCOPE

Every hotel, motel, and multi-family dwelling, in areas of the state with no local building codes, that is constructed or renovated after the effective date of these regulations must have a building permit, be inspected, and issued a certificate of occupancy by the Division of Housing, certifying that the structure is constructed in compliance with the codes adopted in SCHEDULE "B," which is incorporated herein and made a part of these Rules and Regulations by reference, and all other requirements set forth by this resolution.

The State Housing Board states that the Program Manager, Housing Technology and Standards Section, Colorado Division of Housing, 1313 Sherman Street, Room 321, Denver, Colorado 80203, will provide information regarding how the nationally recognized code may be obtained or examined. Incorporated material may also be examined at any state public library.

Section 2: DEFINITIONS

(1) "CERTIFICATE OF OCCUPANCY" is a certificate stating at the time of issuance the structure was built in compliance with all applicable codes and construction standards as adopted by the State Housing Board.

(2) "CORRECTION NOTICE" is a notice indicating that a structure contains non-compliance(s) to the adopted code that is not life threatening, but may require correction prior to sign off of specific inspection requested.

(3) "EQUIPMENT" means all materials, appliances, devices, fixtures, fittings and apparatus used in the construction, plumbing, mechanical and electrical systems of a structure.

(4) "INTERIM CHANGE" means any change made between the approval date and the expiration date.

(5) "MULTI-FAMILY" means a structure containing three or more dwelling units or a bed and breakfast dwelling that has six or more guest rooms.

(6) "PLAN" is a specific design of a hotel, motel, or multi-family dwelling designed by the owner/developer, which is based on size, floor plan, method of construction, location arrangement and sizing of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Division of Housing.

(7) "STRUCTURE" means a hotel, motel, or multi-family dwelling structure that shall comply with these rules and regulations.

Section 3: PLAN APPROVAL

(1) All owners/developers shall make application to the Division of Housing for plan approval prior to construction.

(2) Applications shall be made on forms supplied by the Division of Housing:

A. Submittal for approval of specifications and plans shall meet or exceed the minimum requirements as specified by the Division of Housing.

B. All applications submitted shall be stamped by a State of Colorado licensed architect and/or engineer.

(3) The Division of Housing will grant or deny approval within twenty (20) working days of the receipt of a complete submittal and with the required number of copies.

A. If a complete application, specifications and plans are not submitted within one hundred twenty days of the original application date, the application shall expire.

B. Expired applications must be resubmitted as new applications with new application forms and submittals.

(4) Approved plans and specifications shall be evidenced by the stamp of approval of the Division of Housing. One approved copy shall be returned to the owner/developer and shall be retained at the job site. An additional approved copy shall be kept on file with the Division of Housing. Interim changes, additions, or deletions will not be acceptable without prior approval of the Division of Housing.

Section 4: APPLICATIONS

(1) All structures, as defined above, which are constructed or renovated in areas of the state with no local building codes must have a plan approved by the Division of Housing.

(2) Plan approvals are granted to an owner/developer for a specific site location and are not transferable to other locations.

(3) Approved copies of the specifications and plans shall be kept on the job site by the owner/developer for the purpose of construction and inspection by Division of Housing inspectors.

(4) The granting of plan approvals shall not be construed to be a permit or approval of any violation of the provisions of these regulations. All structures shall be subject to field inspection. The approval of the plans shall not prevent the Division of Housing from requiring the correction of errors in the plans or the structure when in violation of these regulations.

Section 5: BUILDING PERMIT

The Division of Housing will issue a building permit upon approval of application and plans. The owner/developer may begin construction upon receipt of the approved plans and building permit.

Section 6: INTERIM CHANGES

A. Interim changes shall be required where the owner/developer proposes a change in plumbing, heating, electrical, and/or fire life safety systems. Such changes shall become part of the approved plan unless the Division of Housing requires a total new design package. If determined a new design is necessary, the interim change shall be processed as a new application.

B. When amendments to these regulations require changes to be made to an approved plan, the Division of Housing shall notify the owner/developer of the requirement and shall allow them reasonable time to submit revised plans for approval.

Section 7: ON-SITE INSPECTIONS

A. The Division of Housing shall conduct on-site inspections of all structures that are constructed or renovated in areas of the state with no local building codes. All structures shall be inspected per the requirements of the applicable codes listed in SCHEDULE “B.”

Section 8: EXPIRATION DATES

A. Each plan approval shall remain in force and effect as outlined in the applicable codes listed in SCHEDULE “B.”

Section 9: POSTED STRUCTURES

A. Whenever an inspection reveals that a structure has a life threatening violation or is being constructed without Division of Housing approved plans, the Division may post such a structure with a “Stop Work Order /Red Tag”.

(1) When a structure is posted with a “Stop Work Order/Red Tag”, the Division of Housing will notify the owner/developer that the structure contains a violation(s).

(a) No work shall be continued on a structure until all violations are corrected.

(b) Within ten (10) working days, the owner/developer shall notify the Division of Housing of the action taken to correct the violation(s).

(c) All structures that are corrected shall be reinspected to assure compliance with the codes and regulations.

(B) "Stop Work Order/Red Tag" shall be removed only by an authorized representative of the Division of Housing.

Section 10: CERTIFICATE OF OCCUPANCY

A Certificate of Occupancy shall be issued by the Division of Housing certifying that at the time of issuance the structure was built in compliance with the State Housing Board requirements.

Section 11: REVOCATION OF BUILDING PERMIT

A. The State Housing Board may revoke a Building Permit after notice and hearing pursuant to Section 24 4 104 & 24 4 105, C.R.S., whenever an owner/developer has violated any provision of these regulations or when a permit was granted in error, on the basis of incorrect information supplied by the applicant.

B. Judicial review of Building Permit revocation actions shall be governed by Section 24 4 106, C.R.S.

Section 12: DENIAL OF BUILDING PERMIT

A. The Division of Housing may deny an application for a Building Permit if plans are in violation of SCHEDULE "B".

B. The Division shall promptly notify the applicant of the denial, revocation or condition imposed. The applicant may, within 60 days following such action, request a hearing before the State Housing Board. If requested, a hearing shall be conducted pursuant to Section 24 4 105, C.R.S. Thereafter, the final decision of the State Housing Board shall be subject to judicial review in accordance with Section 24 4 106, C.R.S.

Section 13: FEES

Fees will be assessed for each Multi-Family Structure in accordance with SCHEDULE "A," which is incorporated herein and made part of these Rules and Regulations by reference.

Section 14: IRREGULARITIES

Any and all irregularities in these Rules and Regulations shall not be justification for producing any structure without proper inspections and in violation of the adopted construction codes.

ATTEST

Alison George, Director
Colorado Division of Housing

1-13-16
Date

David Zucker, Chairperson
Colorado State Housing Board

Date

SCHEDULE "A" FEE SCHEDULE

All fees are due in advance and must accompany the application. Fees shall not be subject to refund.

1. Plan checking fees (maximum 3-sets): Finished space $1.00 total, regardless of # of sq. ft.
   Unfinished space $1.00 total, regardless of # of sq. ft.

2. Supplemental plan check fee (revisions, duplicate sets etc.): $1.00 total, regardless of # of sq. ft. Note: Fee for revisions to be calculated based on space revised.

3. Certificate of Occupancy (each separate structure): $1.00

4. Waiver of fees for Government Assisted Housing; with State Housing Board concurrence, the Division of Housing may waive plan review fees for units to be subsidized under local, state or federal housing programs for low-income households.

5. Inspection fees:

   A. On-site inspection fee: $1.00 total, regardless of additional expenses.

   B. Stop Work Order/Red Tag fee: $1.00

SCHEDULE "B"

The State Housing Board adopts the following nationally recognized codes as the "Colorado Construction Safety Code For On-Site Construction Of Motels, Hotels, And Multi-Family Dwellings In Those Areas Of The State Where No Such Standards Exist." Copies of the adopted codes are available for public inspection during regular business hours at the Division of Housing, Codes and Technology Section, 1313 Sherman St., Suite 321, Denver, Colorado, 80203. For further information regarding how this material can be obtained contact the Program Director at 1313 Sherman Street, Suite 321, Denver, Colorado, 80203, (303) 864-7833.

Construction Safety Code of the State of Colorado

Shall be:

1. The International Building Code, 2012 Edition, published by the International Code Council, Inc.
2. The International Residential Code, 2012 Edition, published by the International Code Council, Inc.
3. The International Mechanical Code, 2012 Edition, published by the International Code Council, Inc.
4. The International Plumbing Code, 2012 Edition, published by the International Code Council, Inc.
5. The National Electric Code, published by the National Fire Protection Association, Inc. Edition as adopted by the State of Colorado Electrical Board at the time of plan submittal. Transition period of 90 days applies.
6. The International Fuel Gas Code, 2012 Edition, published by the International Code Council, Inc.
7. The International Energy Conservation Code, 2015 Edition, published by the International Code Council, Inc.

Transition Period: Owners/developers shall be permitted to use the construction codes in effect prior to the adoption of this resolution for a maximum of 90-days after this resolution takes effect.

AMENDMENTS:

The following amendments by addition, deletion, revision and exceptions are made: Wording in *italics* is as read per code. (See code book)

INTERNATIONAL BUILDING CODE:

Section 901.2 Fire Protection systems: Add the following new section:
901.2.1 Certified inspector required. All fire protection systems required by this Chapter (working plans, hydraulic calculations, installation inspections and final tests) shall be approved by a certified inspector. The inspector shall be an employee of the fire department having jurisdiction or another qualified individual with prior approval of the Colorado Division of Fire Safety.

Section 907.2.11.4, Power source. Revise as shown.

"In new construction, required smoke" and carbon monoxide "alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms ... ... .for overcurrent protection." Smoke and/or Carbon Monoxide alarms shall not be installed on a circuit dedicated only for Smoke and/or Carbon Monoxide alarms.
"Exception: ... ... "

Section 908.7, Carbon monoxide alarms. Add sentence as shown
Group I or R occupancies located in a building containing a fuel-burning appliance or in a building which has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions." Carbon monoxide alarms shall be installed outside of each separate sleeping area within 15 feet of the entrance of the bedroom(s). *"An open parking garage, ..."*

Add new section:
Section 1507.1.1. Ice Barrier Required.
An ice barrier is required where stated throughout Section 1507 due to a history of ice forming along eaves in Colorado. An ice dam protection underlayment that consists of at least two layers of underlayment cemented together or of a self-adhering polymer-modified bitumen sheet shall extend from the eave's edge to a point at least 24 inches inside the exterior wall line of the building.

The ice dam membrane shall extend continuously to a point 4 feet from any valley, cricket or similar construction junction with roofs. The ice dam membrane shall extend up vertical construction junctions such as dormer walls a minimum of twelve (12) inches prior to the installation of flashing and roof covering.

Section 1608.2. Ground snow loads. is amended to read:

Roof Snow Load (Pf) shall be in accordance with the local jurisdiction requirements and shall not be less than a minimum roof snow load of 30 PSF. The allowable increase for snow duration shall not be used when the snow load is above 65 PSF.

Section 1609.3 and 1609.4. Basic wind speed, Exposure category.

The 3 second gust basic wind speed shall be in accordance with the local jurisdiction requirements. For jurisdictions that have adopted a building code edition prior to the 2012 the basic wind speed of that jurisdiction shall be multiplied by 1.20 for Risk category I structures, 1.29 for Risk category II structures and 1.38 for Risk category III and IV structures to obtain V_{ult}. The design wind speed V_{ult} shall not be less than the minimum basic wind speeds as follows:

Risk category as determined by Table 1604.5

Risk category I structures- 105 MPH
Risk category II structures- 115 MPH
Risk category III and IV structures-120 MPH

The Exposure category shall be C, unless otherwise justified.

Add the following new section:
Section 2111.1.1. Fireplaces

Every new fireplace shall have permanently installed one of the following:

1. Approved gas logs.
2. Other approved gas or alcohol specific appliances.
3. An approved fireplace insert meeting the most stringent emission standards for wood stoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission (AQCC) as of the time of installation of the fireplace; or
4. A solid fuel burning device which is exempt from and not eligible for certification under U.S. Environmental Agency (U.S. EPA) regulations for wood stoves but which has been tested to demonstrate its emission performance is in accordance with criteria and procedures not less stringent than those required by the U.S. EPA and/or AQCC for wood stoves manufactured after July 1, 1990.

INTERNATIONAL RESIDENTIAL CODE:

TABLE R301.2(1) IS AMENDED TO READ:

ROOF SNOW LOAD [1]	WIND DESIGN		SEISMIC DESIGN CATEGORY [1]	SUBJECT TO DAMAGE			WINTER DESIGN TEMP[2]	ICE BARRIER UNDERLAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX [3]	MEAN ANNUAL TEMP [3]
	SPEED [1] (MPH)	TOPOGRAPHIC EFFECTS		WEATHERING	FROST LINE DEPTH	TERMITE					
MIN. 30 psf	MIN. 90, Exp. C	PER LOCAL	MIN. B	SEVERE	PER LOCAL	SLIGHT	PER LOCAL	YES	PER LOCAL	PER LOCAL	PER LOCAL

(1) The roof snow load, wind design, and seismic zone shall be in accordance with the local jurisdiction requirements and shall not be less than the minimums stated. The allowable increase for snow duration shall not be used when the snow load is above 65 PSF.

(2) See Attachment A and verify with local jurisdiction.

(3) See the National Climatic Data Center data table “Air Freezing Index-USA Method (Base 32° Fahrenheit)” at www.ncdc.noaa.gov

Table R301.5 – Live Loads
... add footnote (j) to Decks, Exterior balconies, Fire escapes:

(j) When the snow load is above 65 psf, the minimum uniformly distributed live loads for exterior balconies, decks and fire escapes shall be as required for roof snow loads.

Section R302.2 Townhouses. *Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of section R302.1 for exterior walls.*

Exception: *A common* 2-hour *fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263.....*

Section R302.2.4 Structural independence. ... ...
Exception:
5. *Townhouses separated by a common* 2-hour *fire-resistance-rated wall as provided in Section R302.2*.

Section R313. Automatic Fire Sprinkler Systems
Delete this Section and replace with the following:
An automatic fire sprinkler system shall be installed in one and two family dwellings and townhouses as required by the local jurisdiction where the home will be set. All fire protection systems required by this Section (working plans, hydraulic calculations, installation inspections and final tests) shall be approved by a certified inspector. The inspector shall be an employee of the fire department having jurisdiction or another qualified individual with prior approval of the Colorado Division of Fire Safety.

Section R314.4, Power source. Revise as shown.
"Smoke" and Carbon Monoxide "*alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection."* Smoke and/or Carbon Monoxide alarms shall not be installed on a circuit dedicated only for Smoke and/or Carbon Monoxide alarms.

Section R315.1 Carbon monoxide alarms. Revise as shown.
For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area within 15 feet of the entrance to the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages.

Section R802.10 Wood trusses. Add the following new section

R802.10.5 Marking. Each truss shall be legibly branded, marked, or otherwise have permanently affixed thereto the truss identification as shown on the truss design drawing located within two (2) feet of the peak of the truss on the face of the top chord.

Section R905.1 – Roof Covering Application. Add the following section

R905.1.1 Ice Barrier Required.

An ice barrier is required, where stated throughout Section R905, due to a history of ice forming along eaves in Colorado. An ice dam protection underlayment that consists of at least two layers of underlayment cemented together or of a self-adhering polymer-modified bitumen sheet shall extend from the eave's edge to a point at least 24 inches inside the exterior wall line of the building.

The ice dam membrane shall extend continuously to a point 4 feet from any valley, cricket or similar construction junction with roofs. The ice dam membrane shall extend up vertical construction junctions such as dormer walls a minimum of twelve (12) inches prior to the installation of flashing and roof covering.

Section R1004.4, G2406.2 exception 3 and 4, G2425.8 #7, G2445; Delete all and add:

Unvented fuel fired room heaters and unvented fuel fired fireplaces are prohibited.

Add the following new sections:
Section R1001.1.1 and R1004.1.1 – Fireplaces.

Every new fireplace shall have permanently installed one of the following:

1. Approved gas logs.
2. Other approved gas or alcohol specific appliances.
3. An approved fireplace insert meeting the most stringent emission standards for wood stoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission (AQCC) as of the time of installation of the fireplace; or
4. A solid fuel burning device which is exempt from and not eligible for certification under U.S. Environmental Agency (U.S. EPA) regulations for wood stoves but which has been tested to demonstrate its emission performance is in accordance with criteria and procedures not less stringent than those required by the U.S. EPA and/or AQCC for wood stoves manufactured after July 1, 1990.

Section M2001.1 Installation and G2452 Boilers - add the following sentence:
All rooms or spaces containing boilers shall be provided with a floor drain and trap primer.

Section G2417.4.1 Test pressure-revise as follows:
"The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than" 10 psig (69 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe."
The test pressure for valves and connections to appliances shall not exceed 0.5 psig (3kPa).

Section P3009 Gray water recycling. Delete this entire section and add the following:
Grey water recycling systems shall be authorized and approved by the local jurisdiction having authority and meet the requirements of the Colorado Department of Public Health and Environment, Water Quality Control Division, Regulation 86.

Electrical Sections:
Delete Chapters 34 through 43.

INTERNATIONAL FUEL GAS CODE:

Section 303.3 Prohibited locations: add item:
Number 6. LPG appliances. LPG appliances shall not be installed in a pit, basement or crawl space where unburned fuel may accumulate unless an approved sensing device is installed in conjunction with an automatic shutoff valve located where the gas enters the structure.

Section 303.3 exception 3 and 4, 501.8 #8, Section 621: delete all and add:
Unvented fuel fired room heaters and unvented fuel fired fireplaces are prohibited.

Section 406.4.1 Test pressure.
... amend to read:
"The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than" 10 psig (69 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe."
The test pressure for valves and connections to appliances shall not exceed 0.5 psig (3kPa).

INTERNATIONAL PLUMBING CODE: Adopt the following:

Appendix Chapter E – Sizing of water piping systems.

Chapter 13 Gray water recycling. Delete this entire chapter and add the following:

Grey water recycling systems shall be authorized and approved by the local jurisdiction having authority and meet the requirements of the Colorado Department of Public Health and Environment, Water Quality Control Division, Regulation 86.

INTERNATIONAL MECHANICAL CODE:

Section 303.3.1 LPG appliance: add the following new section
LPG appliances shall not be installed in a pit, basement or crawl space where unburned fuel may accumulate unless an approved sensing device is installed in conjunction with an automatic shutoff valve located where the gas enters the structure.

Section 903.1 General: add additional sentence:
Every new installation of a solid fuel-burning, vented decorative appliance or room heater shall meet the most stringent emission standards for woodstoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission as of the time of installation of the appliance or room heater. (Effective January 1, 1991 – CC90-617.)

Section 903.3 Unvented gas log heaters:
Delete this entire section.

INTERNATIONAL ENERGY CONSERVATION CODE

Section C202, R202 – Definitions: add definition
ZERO-ENERGY BUILDING. A building with zero net energy consumption and zero carbon emissions annually as certified by an approved annual energy use analysis.

Section C402.1.1 Low energy buildings; add exemption
4. Zero-Energy Buildings. Zero energy buildings are exempt from the provisions of the International Energy Conservation Code.

Section R402.1 Low energy buildings; add exemption
3. Zero-Energy Buildings. Zero energy buildings are exempt from the provisions of the International Energy Conservation Code.

NATIONAL ELECTRIC CODE: No Amendments:

ATTACHMENT "A" DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
1	Alamosa	8749	16	82	61	7546
2	Aspen	9922	1	81	59	7928
3	Boulder	5554	2*	91	63	5385
4	Buena Vista	8003	1	83	58	7954
5	Burlington	6320	2	95	70	4165
6	Canon City	4987	8	90	64	5343
7	Cheyenne Wells	5925	1	97	70	4250
8	Colorado Springs	6415	2	88	62	6012
9	Cortez	6667	5	88	63	6177
10	Craig	8403	14	86	61	6280
11	Creede	11375	-18	80	58	8842
12	Del Norte	7980	-4	81	60	7884
13	Delta	5927	6	95	62	4961
14	Denver	6020	1	91	63	5283
15	Dillon	11218	-16	77	58	9065
16	Dove Creek	7401	-6	86	63	6843
17	Durango	6911	4	87	63	6550
18	Eagle	8106	-11	87	62	6600
19	Estes Park	7944	-7	79	58	7525

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Handbook (See 2012 IPC appendix D).
Degrees North Latitude may be obtained at www.ncdc.noaa.gov
* Per Local. 8° per 1985 ASHRAE

DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
20	Ft. Collins	6368	-4	91	63	5001
21	Ft. Morgan	6460	-5	92	65	4321
22	Fraser	9777	-22	76	58	8560
23	Glenwood Springs	7313	5	91	63	5823
24	Granby	9316	-	---	---	7935
25	Grand Junction	5548	7	94	63	4586
26	Greeley	6306	-5	94	64	4648
27	Gunnison	10516	-17	83	59	7664
28	Holyoke	6583	-2	97	69	3746
29	Idaho Springs	8094	0	81	59	7555
30	Julesburg	6447	-3	98	69	3469
31	Kit Carson	6372	-1	98	68	4284
32	Kremmling	10095	-19	85	59	7359
33	La Junta	5263	3	98	70	4066
34	Lamar	5414	0	98	71	3635
35	Last Chance	------	-2	92	65	4790
36	Leadville	11500	-14	81	55	10,152
37	Limon	6961	0	91	65	5366
38	Longmont	6443	-2	91	64	4950
39	Meeker	8658	-6	87	61	6347
40	Montrose	6393	7	91	61	5830
41	Ouray	7639	7	83	59	4695

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Hand book (See 2012 IPC appendix D).
Degrees North Latitude may be obtained at www.ncdc.noaa.gov

DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
42	Pagosa Springs	8548	-9	85	61	7079
43	Pubelo	5413	0	95	66	4695
44	Rangely	7328	-8	93	62	5250
45	Rifle	6881	0	92	63	5345
46	Saguache	8781	-3	82	61	7697
47	Salida	7355	-3	84	59	7050
48	San Luis	8759	-10	84	60	7990
49	Silverton	11064	-13	77	56	9322
50	Springfield	5167	3	95	71	4410
51	Streamboat Springs	9779	-16	84	61	6770
52	Sterling	6541	-2	93	66	3939
53	Trinidad	5339	3	91	65	6025
54	Uravan	------	8	97	63	5010
55	Vail	9248	-14	78	59	8150
56	Walden	10378	-17	79	58	8099
57	Walsenburg	5438	1	90	63	6220
58	Wray	6160	-1	95	69	3560
59	Yuma	5890	-2	95	69	4125

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Hand book (See 2012 IPC appendix D).
Degrees North Latitude may be obtained at www.ncdc.noaa.gov

Editor's Notes

History

Entire rule eff. 07/30/2009.

Entire rule eff. 01/01/2013.

Entire rule eff. 03/16/2016.

Temporary changes to Schedule "A" only eff. 04/15/18 through 05/15/18.

COLORADO
Department of Local Affairs
Division of Housing

MEMORANDUM

Date: April 3, 2018

To: State Housing Board

From: Mo Miskell, Program Manager

Subject: Fee Holiday

As we wind down our fiscal year, which ends June 30, 2018, it has become apparent that the Housing Technology and Standards Section is running a surplus due to a combination of events. Primarily as a result of $200,000 being returned to the program by the General Assembly and the raising of fees at that same time due to the program running over budget.

As a result, we have a unique opportunity to provide a fee holiday of one month for most of our customers and thereby returning excess funds to them—to run from April 15th to May 15th. We are proposing that the State Housing Board reduce all total fees that are not set in statute and are associated with maintaining this program to $1.00 for those 30 days. The two fees set in statute that will be exempt from this fee reduction are those associated with becoming a registered seller and installer.

In order to accomplish this, the State Housing Board would be required to convene a temporary rulemaking hearing to adopt a revision to the current rules for this program that would then implement te proposed fee holiday. Therefore, it is greatly appreciated if the State Housing Board consider doing so at its next scheduled monthly meeting on Tuesday, April 10th after it has concluded its regular business.

We request that you consider a motion to temporarily reduce the following fees established in rules to $1.00 for the period April 15, 2018, through May 15, 2018:

Resolution #34 "Factory Built Housing" – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space* $0.10 per sq. ft.
  *(i.e. unfinished habitable attics, unfinished lofts, garages, etc.)
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:

- ❖ Plant certification inspection fee: $350.00 per inspection
- ❖ Oversight inspection fee: $270.00 per inspection per address
- ❖ Special inspection fee:
  In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
- ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #35 "Factory Built Nonresidential Structures – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:
  - ❖ Plant certification inspection fee: $350.00 per inspection
  - ❖ Oversight inspection fee: $270.00 per inspection per address
    Multi-Box additional fee: Units with more than 3 boxes add $25.00/box, up to an additional $1875.00.
  - ❖ Special inspection fee:
    In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
    Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
  - ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #36 "On-site Construction and Safety Codes for Motels, Hotels and Multi-family Dwellings in those areas of the State where no such Standards Exist" – Schedule "A"

- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Certificate of Occupancy (each separate structure): $125.00
- Inspection fees:
  - ❖ On-site inspection fee: $270.00 per inspection per inspectr plus $50.00 per hour (inspection time) per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  - ❖ Stop Work Order/Red Tag fee: $250.00

Resolution #38 "Manufactured Housing Installations – Schedule "A"

- Independent Inspector Registration (3-years): $150.00
- Insignia Fees: $60.00

- Red Tag Fee: $250.00
- Inspection Fees:
  - Rough or Final Installation Inspection Fees: $200.00
  - Reinspection Fee or Red Tag Removal: $200.00

Resolution #10 "Manufactured Home Construction Standards and Procedural Regulations"

- Product Inspection service fee schedule:

Activity	Fee
Plant Certification/Revalidation Inspection travel, per diem, and lodging	$260/day/person plus actual expense of
Routine Floor Inspection	$35 per floor
Reinspection for Red Tag Removal	$100 per deviation
Increased Frequency (200%) or Revalidation Inspections	$50 per non-compliance and $50 per system of control
Plant Certification/Revalidation	$260 per day per person plus actual travel, per diem, and lodging

Thank you for your time and consideration.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
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: 2018-00156

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Housing Board

on 04/10/2018

8 CCR 1302-8

RESOLUTION NO. 36 - ON-SITE CONSTRUCTION AND SAFETY CODES FOR MOTELS, HOTELS AND MULTI-FAMILY DWELLINGS IN THOSE AREAS OF THE STATE WHERE NO SUCH STANDARDS EXIST

The above-referenced rules were submitted to this office on 04/11/2018 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.

April 26, 2018 13:36:07

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Local Affairs

Agency

Division of Housing

CCR number

8 CCR 1302-11

Rule title

8 CCR 1302-11 RESOLUTION NO. 35 - FACTORY BUILT NONRESIDENTIAL STRUCTURES 1 - eff 04/15/2018

Effective date

04/15/2018

DEPARTMENT OF LOCAL AFFAIRS

Division of Housing

RESOLUTION #35 – FACTORY BUILT NONRESIDENTIAL STRUCTURES

8 CCR 1302-11

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

BE IT RESOLVED BY THE STATE HOUSING BOARD OF THE STATE OF COLORADO;

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the State Housing Board of the State of Colorado (the "Housing Board") repeals and readopts Resolution #35 Factory Built Nonresidential Structures; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board adopts the nationally recognized codes as cited in SCHEDULE "B" as the "Colorado Construction Safety Code for Factory Built Structures," and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board states the basis and purpose of these rule changes is to update the current minimum construction and safety code for "Factory Built Nonresidential Structures" manufactured, sold, offered for sale, or occupied in Colorado; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board establishes standards, to the extent allowed by the state constitution, Article 50 of the "State Personnel System Act", and the rules promulgated by the Personnel Board, for private inspection and certification entities to perform the Colorado Division of Housing's certification and inspection of in-state and out-of-state Factory Built Nonresidential Structures; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board states that "Factory Built Nonresidential Structures" manufacturers shall have the option to contract with the Colorado Division of Housing or an authorized inspection agency to perform inspection and certification functions; and

The Housing Board states that these rules do not include later amendments of the nationally recognized codes; and

The Housing Board repeals and readopts these rules and regulations to be administered and enforced by the Colorado Division of Housing (the Division of Housing).

RULES AND REGULATIONS

Section 1: SCOPE

Every Factory-Built Nonresidential Structure manufactured after the effective date of these regulations that is manufactured, sold, offered for sale, or occupied in this state must display an insignia issued by the Division of Housing certifying that the unit is constructed in compliance with the standards adopted in SCHEDULE "B" which is incorporated herein and made a part of these Rules and Regulations by reference, and all other requirements set forth by this resolution.

The Housing Board states that the Program Manager, Housing Technology and Standards Section, Colorado Division of Housing, 1313 Sherman Street, Room 321, Denver, Colorado 80203, will provide information regarding how the codes adopted in SCHEDULE "B" may be obtained or examined. Incorporated material may also be examined at any state publications depository library.

Section 2: DEFINITIONS

"ADMINISTRATIVE AGENCY" is the Colorado Division of Housing. The Division of Housing is the state agency responsible for enforcing the Factory-Built Nonresidential Construction Statutes, Rules, and Regulations.

"ALTERNATIVE CONSTRUCTION (AC)" is specific additional construction and/or modification of the factory-built structure that directly affects the life, health, safety, and/or habitability of the structure and is not covered by the factory-built or installation certification insignias and requires building permits and inspection(s) to verify code compliance.

"AUTHORIZED INSPECTION AGENCY" means the Division of Housing or any state agency, Colorado local jurisdiction, firm, corporation or entity approved by the Division of Housing to conduct production inspections, to evaluate the manufacturer's Quality Control procedures, approve manufacturer's engineering manuals, and approve factory-built model construction plans. Authorized Inspection Agencies doing plan review will be "Registered" based on qualifications and "Certified" based on qualifications and performance.

"CABINET" means an enclosure which typically houses equipment or materials and is **not** designed, built, modified, and/or used with the intent for individuals to enter.

"CONSTRUCTION, OPEN" means any building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture can be readily inspected at the building site without disassembly, damage, or destruction. i.e., panelized construction assembled on site. Note: Assembled rooms or spaces, panels with finishes applied to both sides and electrical wiring in conduit are **not** open construction.

"FACTORY-BUILT NONRESIDENTIAL STRUCTURE" is a unit or component thereof, built in compliance to the applicable codes listed in SCHEDULE "B." These units are designed primarily for commercial, industrial, or other nonresidential use, either permanent or temporary (as determined by the local building department), which is wholly or in substantial part, made, fabricated, formed or assembled in a manufacturing facility for installation, or assembly and installation, on permanent or temporary foundations at the building site.

"INSIGNIA" means a seal, label or tag issued by the Division of Housing to indicate compliance in the manufacture of a unit with the regulations established by the Housing Board when affixed to a Unit in conformance with this Resolution. All nonresidential structures manufactured after December 2, 1991, must display a Division of Housing insignia.

"INTERIM CHANGE" is a change made between the approval date and the expiration date.

"MANUFACTURER" means any person who constructs or assembles a manufactured residential or nonresidential structure in a factory or other off-site location. Manufacturers will be "Registered" based on the qualifications of quality control and "Certified" based on the performance of quality control.

"MODEL" is a specific design of factory-built units designed by the manufacturer, which is based on size, floor plan, method of construction, location arrangement and sizing of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Division of Housing.

"OCCUPIED" means a factory-built structure designed, built, modified, and/or used with the intent for individuals to enter.

"PRODUCTION INSPECTION" means the evaluation of the ability of the manufacturing facility to follow approved plans, standards, codes and Quality Control procedures during continuing production.

"QUALITY CONTROL PROCEDURES" means procedures prepared by a manufacturer for each of its manufacturing facilities and approved by the Division of Housing or Authorized Inspection Agency describing the method that the manufacturer uses to assure units produced by that manufacturer are in conformance with the applicable standards, codes, Quality Control procedures and approved plans.

"NON-COMPLIANCE/RED TAG NOTICE" is a physical identification that a particular unit has a violation of these rules and regulations. Units posted with this notice cannot be sold, offered for sale or have occupancy in Colorado.

"UNIT" or "STRUCTURE" means a factory-built nonresidential structure that shall comply with these rules and regulations

Section 3: PROGRAM PARTICIPANTS

Other <u>States</u>

This program is open on a voluntary basis to all states with statutory authority to regulate the design and construction of Factory Built Nonresidential Structures covered by this Division of Housing Resolution.

Each state that wishes to participate in this program recognizes that they must enter into a memorandum of understanding with Colorado to establish mutual recognition and acceptance of codes and inspections. Areas of agreement include:

- Acceptance of construction codes that are adopted by the State of Colorado Housing Board for Factory Built Nonresidential Structures units sold into or offered for sale in Colorado. (See SCHEDULE "B" in this Resolution.)

- Acceptance of the design evaluation and approval performed by the Division of Housing or authorized inspection agency for units sold into or offered for sale in Colorado.

- Performance of plant certifications and other inspection requirements. Routine inspections include performing inspections of at least one (1) unit in each phase of manufacturing and performing a minimum of a rough, final and other inspections and/or tests (as required in SCHEDULE "B") when a production line process is not being utilized. Also to place the manufacturer on a higher frequency of inspection when it is unable to conform, on a continuing basis, to approved Quality Control procedures and or approved plans and standards.

- Evaluation, at the manufacturing facility, of code compliance problems resulting from consumer complaints on labeled Colorado units; work with the manufacturer(s) in resolving such complaints by adequately following up and assisting them in correcting the complaint issue(s), and their production and/or inspection process.

- Provide sixty (60) days notice before withdrawing from participation in the program, thereby allowing a manufacturer sufficient time to obtain a new Authorized Inspection Agency.

Participating states operating under an existing state factory built nonresidential law have the option to act as the authorized inspection agency within their state. They are not required to change any of their state fees, laws, or regulations other than those changes, which may be necessary to allow them to agree to the above items. Manufacturers are required to be inspected by their host state when this state agrees to perform inspections on Colorado units.

Independent Authorized Inspection Agencies

This program is open on a voluntary basis to all Division-approved Independent Authorized Inspection Agencies with the capabilities to regulate the design and construction of Factory Built Nonresidential Structures covered by this Division of Housing Resolution.

Each independent Authorized Inspection Agency that wishes to participate in this program recognizes that they must be approved by the Division and establish mutual recognition and acceptance of codes and inspections. Areas of agreement include:

- Acceptance of construction codes that are adopted by the State of Colorado Housing Board for Factory Built Nonresidential Structures sold into or offered for sale in Colorado. (See SCHEDULE “B” in this Resolution).

- Acceptance of the design evaluation and approval performed by the Division of Housing or authorized inspection agency for units sold into or offered for sale in Colorado.

- Acceptance and use of the Division of Housing “Performance Criteria for Monitoring the In-Plant Quality Control Systems of Factory Built Plants” for in-plant inspection agencies.

- Acceptance and use of the Division of Housing “Performance Criteria for Factory Built Plan Review and Approval” standards for plan review agencies.

- Performance of plant certifications and other inspection requirements. Routine inspections include performing inspections of at least one (1) unit in each phase of manufacturing and performing a minimum of a rough, final and other inspections and/or tests (as required in SCHEDULE “B”) when a production line process is not being utilized. Also to place the manufacturer on a higher frequency of inspection when it is unable to conform, on a continuing basis, to approved Quality Control procedures and or approved plans and standards.

- Performance of inspection requirements. Routine inspections include performing inspections of at least a minimum of a rough, final and/or other inspections and/or tests of Alternative Construction. Also to notify the Division when a manufacturer is unable to conform, on a continuing basis, to approved plans, standards, and/or make appropriate corrections to construction code compliance issues.

- Evaluation at the manufacturing facility of code compliance problems resulting from consumer complaints on labeled Colorado units; work with the manufacturer(s) in resolving such complaints by adequately following-up and assisting them in correcting the complaint issue(s) and their production and/or inspection process.

- Provide sixty (60) days notice before withdrawing from participation in the program, thereby allowing a manufacturer sufficient time to obtain a new Authorized Inspection Agency.

Participating independent inspection agencies operating under an existing contract with a manufacturer or local jurisdiction will act as the sole authorized inspection agency for that plant and/or local jurisdiction. They are not required to change any of their company policies other than those changes that may be necessary to allow them to agree to the above items. Manufacturers are required to be inspected by their contracted independent Authorized Inspection Agency when approved by the Division.

Manufacturers

Any manufacturer of Factory Built Nonresidential Structures that are manufactured in, sold into, offered for sale, and/or occupied in Colorado shall participate in this program and agree to comply with the following:

- All manufacturing facilities may have only one Authorized Inspection Agency for plan review and one Authorized Inspection Agency for inspections other than the Division of Housing.

- All in-state manufacturers shall have the option to contract with an Authorized Inspection Agency or continue to use the Division of Housing as the Authorized Inspection Agency to perform certifications and in-plant production inspections, to evaluate their plant's Quality Control procedures, approve manufacturer engineering manuals, and/or approve plant construction plans. Specific models may have approval through other states with a Factory Built program or the federal government provided the Division of Housing accepts the other entity's program and the manufacturer follows all requirements for that entity.

- Out of state manufacturers are required to obtain the services of an Authorized Inspection Agency to perform certifications and in-plant production inspections, to evaluate the plant's Quality Control procedures, and may use an approved Authorized Inspection Agency to approve manufacturer engineering manuals, and/or approve plant construction plans.

- Out of state manufacturers located in states that have reciprocity or other agreements with the Division of Housing shall be notified if the state in which they are located will continue to inspect Colorado units or if they have to obtain the services of a firm or corporation to perform certification and in plant production inspections of Colorado units.

- After notification that the state in which they are located will no longer inspect Colorado units, manufacturers have (60) days to obtain another Authorized Inspection Agency.

- Out of state manufacturers without existing plant certifications and located in states that enter into an agreement with Colorado to inspect Colorado units, shall use that state as the Authorized Inspection Agency to perform certifications, in-plant production inspections and evaluations of their Quality Control procedures.

- All manufacturers shall obtain prior approval from the Division of Housing or Authorized Inspection Agency for all Quality Control manuals and plans before manufacturing and affixing the Colorado and Authorized Inspection Agency label(s) to units constructed under those approvals.

- All manufacturers shall allow and pay for the reasonable costs incurred by the Division of Housing for work related to retaining and evaluating their performance and registration/certification status.

- All manufacturers shall allow and pay for oversight inspections as required by the Division of Housing or Authorized Inspection Agency to assure compliance to the approved designs.

- All manufacturers shall permit Division of Housing or Authorized Inspection Agency monitoring personnel to review plans and to perform in-plant inspections.

- All manufacturers shall correct any code violations in plans discovered by the Division of Housing or by the Authorized Inspection Agency monitoring personnel, or forfeit the right to have Division of Housing and Authorized Inspection Agency labels affixed.

- All manufacturers shall correct any construction code violations within twenty (20) days of inspection, or be subject to a "Non-Compliance/Red Tag Notice" being issued. All rework preformed to correct discrepancies of factory construction shall be paid by the factory.

- All certified manufacturers must provide the Division of Housing with a monthly insignia report showing the date of manufacture, the Division of Housing label number(s), unit serial number(s), and the first destination of shipped units.

- All manufacturers shall submit a fully completed and legible oversight inspection data sheet to the Division prior to shipment of the unit from the factory.

Manufacturer Registration, Certification, and Performance Requirements

Manufacturers of Factory Built Nonresidential Structures that are manufactured, sold into, offered for sale, and/or occupied in the State of Colorado must register with the Division of Housing. Registrations are for a specific plant location, and are not transferable to any other locations including those of the same manufacturer.

Where there is a change in ownership, address, or location of manufacture, the Division of Housing-certified manufacturer shall notify the Division within ten (10) working days of such a change. At such time the Division of Housing shall review the performance of the manufacturer and transfer or revoke the certification.

Plant certification is a certification of the plant Quality Control (QC) program and the quality control personnel that ensures construction code compliance. Plant certification is also based on product grading using "Performance Criteria for Monitoring Manufacturers and Third Party Inspection Agencies." Certification is for a specific plant location, and is not transferable to other locations. The Division shall be immediately notified of any changes to the QC program and/or personnel.

The manufacturer's Quality Control department shall do "no cover" inspections for all phases of construction on all units and witness all required tests, regardless of plant status.

At the time of plant registration, *all* manufacturers are required to have Division of Housing approval, in writing, of the state, firm, corporation or entity that will conduct the certification and in-plant inspections of Colorado units. Manufacturers are also required to request approval of the Division of Housing thirty (30) days prior to any subsequent change of their Authorized Inspection Agency.

Upon Division of Housing approval of the Authorized Inspection Agency for production inspections, approved copies of the plans and quality assurance manual shall be sent to the manufacturer. Upon the manufacturer's receipt of the approved plans and manual, the Authorized Inspection Agency shall schedule plant production oversight inspections.

Registered plants shall be inspected for certification approval on an ongoing basis. Out-of-state manufacturers can ship units to Colorado for field certification inspection by the Division of Housing. Upon completion of certification inspections, a letter recommending plant certification and a copy of the certification inspection report shall be sent by the Authorized Inspection Agency to the Division of Housing with a copy to the manufacturer. The Division of Housing will then review the submitted certification inspection report for completeness and accuracy, and review the quality scoring based on the field inspections for certification. The Division of Housing will notify the manufacturer if certification is granted.

Manufacturers are required to construct, on a continuing basis, Factory Built Nonresidential Structures in conformance with plans, Quality Control manual, codes, standards, and procedures prepared by them and approved by the Division of Housing or Authorized Inspection Agency. The certification of a plant is considered to be ongoing unless conditions warrant immediate removal of the certification. Conditions for removal of certification are:

- The change of an Authorized Inspection Agency or change in Authorized Inspection Agency status.
- The change of a plant location.
- The plant has had Division of Housing and/or Authorized Inspection Agency labels removed by the Authorized Inspection Agency pursuant to Division of Housing procedures.
- The plant has produced less than five Colorado certified Factory Built Non Residential Units in a calendar year.

Manufacturers demonstrating that they cannot perform within their approvals shall be placed on a higher frequency of inspection until their performance improves. If their performance does not improve, the Division of Housing may revoke their certification.

In accordance with C.R.S. 24-32-3307, the State Director of Housing may pursue injunctive relief against manufacturers that fail to construct units in accordance with their approved plans and Quality Control manual, fail to correct code violations, fail to comply with C.R.S. 24-32-Part 33, or fail to comply with these rules.

Manufacturer Certification Status

The initial plant certification will last until the end of the current plant registration period. The ongoing plant certification period is one year. Each manufacturer is required to resubmit its Quality Control manual (and when applicable, plans) for approval prior to the registration/certification expiration date that is stamped on the Quality Control manual. This Quality Control manual resubmission is required regardless of when plans are approved or units shipped. Failure to comply with this requirement shall result in the plant having to comply with the initial registration/certification inspection requirements.

Section 4: AUTHORIZED INSPECTION AGENCIES

Authorized Inspection Agency Approval

All manufacturers that use an Authorized Inspection Agency to perform production inspections, evaluate Quality Control procedures, approve engineering manuals, and/or approve plans, shall have such agency, other than states, request approval from the Division of Housing as an authorized inspection agency for the State of Colorado. Request from firms, corporations or other entities shall contain the following minimum requirements:

- Name and address of agency making application.

- Categories for which agency seeks approval.

- A list of key personnel, with resumes, indicating their primary functions or duties.

- The number of years the agency has actively engaged in the business for which it seeks approval.

- A statement by the agency that it will adhere to all the requirements of the Division of Housing.

- An explanation of the agency plan review, plant certification, and/or inspection procedures, including copies of the quality assurance and other inspection reports.

- A copy of the agency's ICC IAS or other Division approved accreditation certificate as required.

- A copy of the Colorado professional Engineer or Architect certification for any employee that will be responsible for plan review and approval work as required.

- A copy of the Colorado professional license and/or International Code Council (ICC) inspector certifications for all personnel that will be performing in-plant inspections as required.

- Agreement to furnish any other information that the Division of Housing may deem necessary in order to properly evaluate and grant approval.

- A statement that the submitting firm, corporation or entity is independent and does not have any actual or potential conflict of interest and is not affiliated with, influenced by, or controlled by any present or potential client manufacturer in any manner that might affect its capacity to render service or reports of findings objectively and without bias.

- The request must contain the signature of a responsible officer, owner, or partner of the submitting agency.

- A list of the factory built housing manufacturers that are currently inspected.

Authorized Inspection Agencies may only work in the specific categories for which the Division of Housing has granted approval in writing.

Authorized Inspection Agency Qualifications

An Authorized Inspection Agency shall have the following qualifications. Any exceptions shall have prior approval by the Division of Housing.

- States - Must have existing statutory authority to regulate the design and construction of Factory Built Housing.

  - Must also enter into a memorandum of understanding with Colorado.

- Units of Local Government - Must have existing authority to adopt and regulate building and construction codes.

  - Must adopt a Division-approved local ordinance or resolution.

- Firms, corporations or other entities - Must currently be listed with a national listing agency such as the ICC International Accreditation Service or other Division approved agency.

After reviewing the request, the Division of Housing will notify the requesting firm, corporation or entity of their acceptance or denial as an Approved Inspection Agency for Colorado.

Authorized Inspection Agency Quality Control and Reporting Requirements

Authorized Inspection Agencies shall conduct certifications, in-plant production inspections, in-plant evaluations of the plant's Quality Control procedures, review manufacturer engineering manuals, approve plant construction plans, and/or perform Alternative Construction field inspections, in accordance with Division of Housing approved procedures and documents.

The structure will be inspected to the approved plans, except where the plans are not specific, and then the inspection shall be to the standards. The Authorized Inspection Agency will also monitor the plant personnel performing the construction, testing, and inspections.

An Authorized Inspection Agency, when a plant is not certified, shall conduct at a minimum a rough, final, and other inspections as required per code (see SCHEDULE "B") for all units manufactured.

After the Division approves certified status for a plant, a minimum of one (1) phase of construction for each unit being produced for Colorado shall be inspected by the Authorized Inspection Agency. In the course of each visit, the inspector shall also make a complete inspection of every phase of the production, systems testing, and of every unit in production as well as a random sampling of finished product on site.

Whenever the Authorized Inspection Agency finds that a manufacturer is unwilling or unable to conform on a continuing basis to the approved Quality Control procedures, and/or approved plans or standards, that manufacturing facility shall be placed on a higher frequency of inspection. The Division of Housing shall be notified and the certification labels held until the manufacturer demonstrates that it can perform within its approved standards. If after three consecutive inspections, the last inspection still indicates that the manufacturer is not able to perform within standards, all remaining insignias paid for by the manufacturer will be returned to the Division of Housing and the manufacturer will be returned to full recertification inspection status.

Additional information, such as increased frequency and routine quality assurance inspection reports, will be requested by the Division of Housing in order to review the inspections conducted on specific units.

The Authorized Inspection Agency is required to provide its own inspection label so that it, also, can be affixed adjacent to the Colorado certification label to each unit shipped to Colorado.

Division of Housing Monitoring of Authorized Inspection Agencies

The performance of all Authorized Inspection Agencies shall be monitored by Division of Housing to determine if they are fulfilling their responsibilities as required under this program.

The monitoring activities carried out by the Division of Housing staff shall consist of:

- Performing oversight inspections on nonresidential structures that are shipped to Colorado. The purpose of these certification and other inspections are to evaluate the performance of the manufacturer and inspection agency in ensuring the selected units comply with approved plans and construction codes.

  Based upon finding(s) of inadequate performance, the frequency of inspections may be increased as determined by the Division of Housing procedures.

- Reviewing all records of interpretations of the standards made by the Authorized Inspection Agency to determine whether they are consistent and proper.

- Reviewing inspection reports, records and other documents to assure that Authorized Inspection Agencies are carrying out all their responsibilities as set forth in the Division of Housing requirements.

- Reviewing records to assure that the Authorized Inspection Agency is maintaining proper label control and records pursuant to the requirements of this program.

Frequency of Monitoring

An approved Authorized Inspection Agency shall be periodically monitored. Every aspect of all actions of the Authorized Inspection Agencies shall be reviewed at a frequency adequate to assure that they are performing consistently to the Division of Housing requirements.

Resolution of Code Interpretation Conflicts

The Division of Housing will, upon written request, investigate complaints related to adopted construction code interpretation and enforcement. A written request must identify the Authorized Inspection Agency, the location of the structure(s) in question, the nature of the dispute, the code section reference, and all involved parties with contact information. Upon receipt of the request, the Division will contact all parties for a written response to the issues. After any necessary follow up, the Division will issue to all parties an interpretation to resolve the code dispute. The Division's interpretation may be appealed to the Colorado State Housing Board Technical Advisory Committee. The decision of the committee is final.

Section 5: MANUFACTURER APPLICATION AND PLAN SUBMITTAL

All manufacturers shall obtain prior approval of each set of designs from the Division of Housing or Authorized Inspection Agency before manufacturing and affixing the Colorado and Authorized Inspection Agency label(s) to unit(s) constructed under those plans.

Applications to the Division shall be made on forms supplied by the Division of Housing and shall be accompanied by the appropriate fees from SCHEDULE "A" which is incorporated herein and made a part of these Rules and Regulations by reference.

Submittal for approval of Quality Control manuals and model plans shall meet or exceed the minimum requirements as specified by the Division of Housing.

Construction that will be completed on site shall be clearly denoted on the plans for determination of the model as an "AC" unit. The manufacturer shall follow the Division of Housing "Alternative Construction Procedures" when the model is determined to be "AC." Determination of a model as "AC" may happen during plan approval or after plan approval.

All applications submitted shall list an officer of the manufacturer that is in a responsible position with the authority to commit manufacturers to comply with the rules and regulations that govern the Colorado Factory Built Construction Program.

The Division of Housing will grant or deny approval within twenty (20) working days of the receipt of a complete submittal with the appropriate fee and with the required number of copies.

If a submittal is not completed within one hundred twenty days of the initial application date, the application shall expire and all fees shall be forfeited.

Expired applications must be resubmitted as new applications with new application forms, submittals and fees.

Approved plans and Quality Control manuals shall be evidenced by the stamp of approval of the Division of Housing or Authorized Inspection Agency. One approved copy shall be returned to the manufacturer and shall be retained at the place of manufacture. An approved copy shall be retained by the approving agency. Authorized Inspection Agencies shall send an additional approved copy to be kept on file with the Division of Housing. Interim changes, additions, or deletions will not be acceptable without prior approval of the agency that originally approved the plans.

All units manufactured, sold, or offered for sale in the State of Colorado must display the Division of Housing and Authorized Inspection Agency insignias if applicable. These insignias certify that the unit is constructed in compliance with applicable codes and regulations adopted by the State Housing Board.

The granting of plan approval shall not be construed to be a permit or approval of any violation of the provisions of these regulations. All structures shall be subject to Division of Housing or Authorized Inspection Agency field inspection. The approval of the plans shall not prevent the Division of Housing or the Authorized Inspection Agency from requiring the correction of errors found in the plans or the unit itself, when found in violation of these regulations.

Approved copies of the Quality Control manual and plans shall be kept on file within the plant of manufacture for the purpose of construction and inspection by Division of Housing inspectors or the Approved Inspection Agency.

Plan approvals are granted to a manufacturer for a specific plant location and are not transferable to other locations including those of the same manufacturer.

Interim plan change approvals shall be required where the manufacturer proposes a change in structural, plumbing, heating, electrical, and/or fire life safety systems. Such changes shall become part of the approved plan unless the Division of Housing determines that the change constitutes a new model. If determined a new model, the interim change shall be processed as a new application. The difference in fees will be assessed.

The Division will approve unchanged plan renewals, previously approved by the Division, provided there has been no change in adopted codes and the plant General Manager certifies in writing that the plans are identical to those previously approved. The “Supplemental Plan Check Fee” will apply. Should it be determined by the Division that plan changes have been made, the manufacturer will be subject to a Red Tag fee for every unit built to the changed plans, and the Division may complete additional inspections to ensure the code compliance of the units built.

When amendments to these regulations require changes to be made to an approved plan, the Division of Housing shall notify the manufacturer of the requirement and shall allow the manufacturer a reasonable time to submit revised plans for approval. Revised plans shall be processed as interim changes with the appropriate fees assessed.

Some building departments require a set of prints with the Colorado approval stamp. This can be addressed by requesting that additional prints be approved and provided to the Division at the time of original application. Appropriate fees must accompany requests for more than three approved plan sets. The Division will provide a Plan Submittal Checklist upon request.

Authorized Inspection Agency Plan Approval

Manufacturers may, at their expense, use an Authorized Inspection Agency that has been approved by the Division for plan review and approval. Reference Section 4 of these Rules and Regulations.

When a licensed professional stamps and signs plans or calculations, the same professional or the agency for which the professional works for may not review and approve the plans for construction.

Section 6: PLANT/PLAN/QUALITY CONTROL REGISTRATION/CERTIFICATION EXPIRATION DATE

The plant registration period is one year. Plant certification status runs concurrent with the registration period. Each manufacturer is required to resubmit their Quality Control manual (and when applicable, plans) for approval prior to the registration/certification expiration date that is stamped on the Quality Control manual. Failure to comply with this requirement shall result in the plant having to comply with the initial registration/certification inspection requirements. **The registration/certification expiration date for all plants is determined by the expiration date that is stamped on the Quality Control manual. Plans that are submitted at the time of registration/certification and/or within the registration/certification period shall have the same expiration date as the Quality Control manual.**

It shall be the responsibility of the manufacturer to submit to the Division of Housing the Quality Control manual approval thirty (30) days prior to the expiration date.

Section 7: PLANT PRODUCTION AND INSPECTION FEES

The Division of Housing and/or the Authorized Inspection Agency shall conduct certification and production inspections of all manufacturers engaged in manufacturing or offering for sale Factory-Built Nonresidential Structures in the State of Colorado. This inspection shall include the quality control program and systems testing.

- The fees for Division of Housing inspections are shown in SCHEDULE “A”.
- The cost of Division of Housing inspections is not refundable.

Section 8: POSTED UNITS

Whenever an inspection reveals that a unit fails to comply with any provision of these rules and regulations, the Division of Housing or the Authorized Inspection Agency may post such a unit with a “Non-Compliance/Red Tag Notice.”

When a unit is posted with a “Non-Compliance/Red Tag Notice”, the Division of Housing or the Authorized Inspection Agency will notify the affected parties that the structure contains a violation(s). The affected parties must resolve the issues with the agency that posted the notice.

- A unit posted with a "Non-Compliance/ Red Tag Notice" shall not be sold, offered for sale or have occupancy in the State of Colorado, nor shall the unit be moved or caused to be moved without the prior written approval of the Division of Housing or Authorized Inspection Agency.

- Within five (5) working days, the affected parties or their agents shall notify, in writing, the Division of Housing or the Authorized Inspection Agency of the action taken to correct the violation(s) and what steps have been taken by management to preclude the recurrence of the violation(s). Failure to respond within five (5) days may cause revocation of an affected party's status.

- All units posted with a "Non-Compliance/Red Tag Notice" shall be corrected or removed from the state (with prior written approval of the Division of Housing or Authorized Inspection Agency). All units that are corrected shall be reinspected to assure compliance with the codes and regulations. A reinspection fee will be assessed.

A "Non-Compliance/Red Tag Notice" shall be removed only by an authorized representative of the Division of Housing or Authorized Inspection Agency.

Section 9: REVOCATION OF PLANT CERTIFICATIONS

The Housing Board may revoke a plant certification after notice and hearing pursuant to Section 24-4-104 & 24-4-105, C.R.S. whenever a manufacturer has violated any provision of these regulations or when a plant certification was granted in error on the basis of incorrect information supplied by the applicant.

Judicial review of plant certification revocation actions shall be governed by Section 24- 4-106, C.R.S.

Section 10: DENIAL OF PLANT REGISTRATION/CERTIFICATION

The Division of Housing may deny an application for plant registration, certification, or re-certification if an applicant manufactures any unit in violation of approved plans or these rules and regulations. In addition, the Division of Housing may impose any of the following conditions for registration, certification, or re-certification:

- Revision of the manufacturer's Quality Control Program.

- Identification by model and serial number of each unit to be offered for sale in Colorado.

- Inspection of each unit prior to affixing certification insignias.

- Inspection of the manufacturer's plant (with the cost of inspection borne by the manufacturer).

- Resolution of previous violations and/or unpaid fees.

- Any combination of above or other action as determined necessary to insure future compliance with these regulations.

The Division shall promptly notify the applicant of the denial or condition imposed. The applicant may, within sixty (60) days following such action, request a hearing before the Housing Board. If requested, a hearing shall be conducted pursuant to Section 24-4-105, C.R.S. Thereafter, the final decision of the Housing Board shall be subject to judicial review in accordance with Section 24 4 106, C.R.S.

Section 11: CERTIFICATION INSIGNIA APPLICATION AND REPORTS

Registered (non-certified) and certified manufacturers must submit an application for Colorado insignias on forms provided by the Division of Housing with the appropriate fees from SCHEDULE "A."

Insignias for registered manufacturers will be held by the Division of Housing and affixed to each unit upon final inspection approval by the Division. The registered manufacturer shall submit each month a factory unit status report to the Division that tracks each unit shipped to the state until the unit has been approved by the Division with insignias affixed. No units shall be occupied prior to approval without the Division's consent. Violations may result in a "Non-Compliance/Red Tag Notice" being issued. Multiple violations may result in plan review suspension.

Insignias for certified manufacturers will be sent to the manufacturer and shall be affixed to Colorado certified units upon final approval by the manufacturer's quality control manager.

Insignias are assigned for use at a specific plant location and shall not be transferable or used on an unapproved model. Colorado certification insignias issued for one type of certification may not be used on a unit of another (different) type. A 3"x5 "primary insignia, documenting manufacturer and unit design information, is required for each home.

The primary Insignia must be permanently affixed on the exterior hitch end of the unit or in a readily visible location, such as near the electrical panel, prior to units being removed from the plant.

The manufacturer shall legibly stamp the unit serial number, date of manufacture, wind design speed, roof design load, seismic zone, occupancy, and construction codes on the primary insignia.

Insignia reports shall be submitted by the manufacturer to the Division of Housing by the first of each month on forms supplied by the Division of Housing. An insignia report is required when the manufacturer has insignias outstanding during that period.

Manufacturers are required to provide upon request from the Division of Housing a copy of their monthly production report.

All insignia reports are required prior to the issuance of additional insignias.

Primary Insignias are to be affixed in consecutive order.

Colorado insignias shall remain the property of the State of Colorado and may be confiscated by the Division of Housing upon any violation of this resolution. Defaced, marked in error, or voided insignias shall be returned to the Division of Housing without refund.

Colorado insignias shall be stored in a safe and secure location approved by the Division or Authorized Inspection Agency.

A Notification of Oversite Inspection Data Sheet form shall be completed and submitted to the Division of Housing prior to the shipment of every Colorado unit.

Factory Built Structures shall not be modified, prior to or during, installation at a site without approval from the Division of Housing.

Section 12: IRREGULARITIES

Any and all irregularities in these Rules and Regulations shall not be justification for producing any Unit without proper inspections and in violation of the adopted construction codes.

ATTEST:

Alison George, Director
Colorado Division of Housing

1-13-15
Date

David Zucker, Chairperson
Colorado State Housing Board

Date

SCHEDULE "A" FEE SCHEDULE

All fees, except certain inspection fees, are due in advance and must accompany the application. Fees shall not be subject to refund. One week notice is required to schedule inspections. Inspections obviously not ready for inspection or inspections canceled within 48 hours of the scheduled inspection may be subject to re-inspection fees.

1. Annual Plant registration fee: $1.00

2. Annual Inspection Agency registration fee: $1.00

3. Plan checking fees (maximum 3-sets): Finished space $1.00 total, regardless of # of sq. ft.
Unfinished space $1.00 total, regardless of # of sq. ft.

4. Certification insignia fee: Primary Insignia $1.00
Additional Floor Tag $1.00
Inspection only Tag $1.00

5. Supplemental plan check fee (revisions, duplicate sets etc.): $1.00 total, regardless of # of sq. ft.

   Note: Fee for revisions to be calculated based on space revised.

6. Third party oversight plan check fee: $1.00 total, regardless of # of sq. ft.

7. Waiver of fees for Government Assisted Housing; with State Housing Board concurrence, the Division of Housing may waive plan review and unit certification fees for units to be subsidized under local, state or federal housing programs for low-income households.

8. Inspection fees:

   A. Plant certification inspection fee: $1.00 per inspection

   B. Oversight inspection fee: $1.00 per inspection per address

      Multi-Box additional fee: Units with more than 3 boxes add $1.00 total, regardless of # of boxes over 3.

   C. Special inspection fee:

      In-State: $1.00 total, regardless of additional expenses.

      Out of-State units manufactured in Colorado: $1.00 per inspection per unit

   D. Non Compliance/Prohibited Sale/Red Tag fee: $1.00

SCHEDULE "B"

The State Housing Board adopts the following nationally recognized codes as the "Colorado Construction Safety Code for Factory-Built Structures."Copies of the adopted codes are available for public inspection during regular business hours at the Division of Housing, Codes and Technology Section, 1313 Sherman St., Suite 321, Denver, Colorado, 80203. For further information regarding how this material can be obtained contact the Program Director at 1313 Sherman Street, Suite 321, Denver, Colorado, 80203, (303) 864-7833.

Colorado Construction Safety Code for Factory-Built Structures.

Shall be:

1. The International Building Code, 2012 Edition, published by the International Code Council, Inc.
2. The International Residential Code, 2012 Edition, published by the International Code Council, Inc.
3. The International Mechanical Code, 2012 Edition, published by the International Code Council, Inc.
4. The International Plumbing Code, 2012 Edition, published by the International Code Council, Inc.
5. The National Electric Code, published by the National Fire Protection Association, Inc. Edition as adopted by the State of Colorado Electrical Board at the time of plan submittal. Transition period of 90 days applies.
6. The International Fuel Gas Code, 2012 Edition, published by the International Code Council, Inc.
7. The International Energy Conservation Code, 2015 Edition, published by the International Code Council, Inc.

Transition Period: Manufacturers shall be permitted to use the construction codes in effect prior to the adoption of this resolution for a maximum of 90-days after this resolution takes effect.

AMENDMENTS:

The following amendments by addition, deletion, revision and exceptions are made: Wording in *italics* is as read per code. (See code book)

INTERNATIONAL BUILDING CODE:

Section 105.2 Work exempt from permit, add the following exemptions prior to *"Building:"*

Equipment Enclosures:

1. One story detached equipment storage cabinets (see definitions).

2. One story equipment storage unit that contains no factory installed electrical wiring and contains no factory installed mechanical or plumbing for the unit and the unit does not exceed 200 sq. ft.

Building Components:

A building component, assembly or system constructed in the factory as open construction (See definitions).

The above exemptions from approval thru the state factory built program shall not be deemed to grant any exemption from local jurisdiction requirements or state electrical or plumbing requirements. The above exemptions do not grant authorization for any work to be done in a manner in violation of the provisions of the adopted codes (SCHEDULE "B".)

Section 901.2 Fire Protection systems: Add the following new section:
901.2.1 Certified inspector required. All fire protection systems required by this Chapter (working plans, hydraulic calculations, installation inspections and final tests) shall be approved by a certified inspector. The inspector shall be an employee of the fire department having jurisdiction or another qualified individual with prior approval of the Colorado Division of Fire Safety.

Section 907.2.11.4, Power source. Revise as shown.
"In new construction, required smoke" and carbon monoxide "alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms.....for overcurrent protection." Smoke and/or Carbon Monoxide alarms shall not be installed on a circuit dedicated only for Smoke and/or Carbon Monoxide alarms.
"Exception:....."

Section 908.7, Carbon monoxide alarms. Add sentence as shown
Group I or R occupancies located in a building containing a fuel-burning appliance or in a building which has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions." Carbon monoxide alarms shall be installed outside of each separate sleeping area within 15 feet of the entrance of the bedroom(s). *"An open parking garage,...."*

Add new section:
Section 1507.1.1. Ice Barrier Required.
An ice barrier is required where stated throughout Section 1507 due to a history of ice forming along eaves in Colorado. An ice dam protection underlayment that consists of at least two layers of underlayment cemented together or of a self-adhering polymer-modified bitumen sheet shall extend from the eave's edge to a point at least 24 inches inside the exterior wall line of the building.

The ice dam membrane shall extend continuously to a point 4 feet from any valley, cricket or similar construction junction with roofs. The ice dam membrane shall extend up vertical construction junctions such as dormer walls a minimum of twelve (12) inches prior to the installation of flashing and roof covering.

Section 1608.2. Ground snow loads. is amended to read:
Roof Snow Load (Pf) shall be in accordance with the local jurisdiction requirements and shall not be less than a minimum roof snow load of 30 PSF. The allowable increase for snow duration shall not be used when the snow load is above 65 PSF.

Section 1609.3 and 1609.4. Basic wind speed, Exposure category.
The 3 second gust basic wind speed shall be in accordance with the local jurisdiction requirements. For jurisdictions that have adopted a building code edition prior to the 2012 the basic wind speed of that jurisdiction shall be multiplied by 1.20 for Risk category I structures, 1.29 for Risk category II structures and 1.38 for Risk category III and IV structures to obtain V_{ult}. The design wind speed V_{ult} shall not be less than the minimum basic wind speeds as follows:

Risk category as determined by Table 1604.5

Risk category I structures- 105 MPH
Risk category II structures- 115 MPH
Risk category III and IV structures-120 MPH

The Exposure category shall be C, unless otherwise justified.

Add the following new section:
Section 2111.1.1. Fireplaces

Every new fireplace shall have permanently installed one of the following:

1. Approved gas logs.
2. Other approved gas or alcohol specific appliances.
3. An approved fireplace insert meeting the most stringent emission standards for wood stoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission (AQCC) as of the time of installation of the fireplace; or
4. A solid fuel burning device which is exempt from and not eligible for certification under U.S. Environmental Agency (U.S. EPA) regulations for wood stoves but which has been tested to demonstrate its emission performance is in accordance with criteria and procedures not less stringent than those required by the U.S. EPA and/or AQCC for wood stoves manufactured after July 1, 1990.

INTERNATIONAL RESIDENTIAL CODE:

TABLE R301.2(1) IS AMENDED TO READ:

ROOF SNOW LOAD [1]	WIND DESIGN		SEISMIC DESIGN CATEGORY [1]	SUBJECT TO DAMAGE			WINTER DESIGN TEMP[2]	ICE BARRIER UNDERLAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX [3]	MEAN ANNUAL TEMP [3]
	SPEED [1] (MPH)	TOPOGRAPHIC EFFECTS		WEATHERING	FROST LINE DEPTH	TERMITE					
MIN. 30 psf	MIN. 90, Exp. C	PER LOCAL	MIN. B	SEVERE	PER LOCAL	SLIGHT	PER LOCAL	YES	PER LOCAL	PER LOCAL	PER LOCAL

(1) The roof snow load, wind design, and seismic zone shall be in accordance with the local jurisdiction requirements and shall not be less than the minimums stated. The allowable increase for snow duration shall not be used when the snow load is above 65 PSF.

(2) See Attachment A and verify with local jurisdiction.

(3) See the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32° Fahrenheit)" at www.ncdc.noaa.gov

Table R301.5 – Live Loads
...add footnote (j) to Decks, Exterior balconies, Fire escapes:

(j) When the snow load is above 65 psf, the minimum uniformly distributed live loads for exterior balconies, decks and fire escapes shall be as required for roof snow loads.

Section R302.2 Townhouses. *Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of section R302.1 for exterior walls.*

Exception: *A common* 2-hour *fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263*

Section R302.2.4 Structural independence.
Exception:

5. *Townhouses separated by a common* 2-hour *fire-resistance-rated wall as provided in Section R302.2*.

Section R313. Automatic Fire Sprinkler Systems
Delete this Section and replace with the following:
An automatic fire sprinkler system shall be installed in one and two family dwellings and townhouses as required by the local jurisdiction where the home will be set. All fire protection systems required by this Section (working plans, hydraulic calculations, installation inspections and final tests) shall be approved by a certified inspector. The inspector shall be an employee of the fire department having jurisdiction or another qualified individual with prior approval of the Colorado Division of Fire Safety.

Section R314.4, Power source. Revise as shown.
"Smoke" and Carbon Monoxide *"alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection."* Smoke and/or Carbon Monoxide alarms shall not be installed on a circuit dedicated only for Smoke and/or Carbon Monoxide alarms.

Section R315.1 Carbon monoxide alarms. Revise as shown.
For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area within 15 feet of the entrance to the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages.

Section R802.10 Wood trusses. Add the following new section
R802.10.5 Marking. Each truss shall be legibly branded, marked, or otherwise have permanently affixed thereto the truss identification as shown on the truss design drawing located within two (2) feet of the peak of the truss on the face of the top chord.

Section R905.1 – Roof Covering Application. Add the following section

R905.1.1 Ice Barrier Required.

An ice barrier is required, where stated throughout Section R905, due to a history of ice forming along eaves in Colorado. An ice dam protection underlayment that consists of at least two layers of underlayment cemented together or of a self-adhering polymer-modified bitumen sheet shall extend from the eave's edge to a point at least 24 inches inside the exterior wall line of the building.

The ice dam membrane shall extend continuously to a point 4 feet from any valley, cricket or similar construction junction with roofs. The ice dam membrane shall extend up vertical construction junctions such as dormer walls a minimum of twelve (12) inches prior to the installation of flashing and roof covering.

Section R1004.4, G2406.2 exception 3 and 4, G2425.8 #7, G2445; Delete all and add:

Unvented fuel fired room heaters and unvented fuel fired fireplaces are prohibited.

Add the following new sections:
Section R1001.1.1 and R1004.1.1 – Fireplaces.

Every new fireplace shall have permanently installed one of the following:

1. Approved gas logs.
2. Other approved gas or alcohol specific appliances.
3. An approved fireplace insert meeting the most stringent emission standards for wood stoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission (AQCC) as of the time of installation of the fireplace; or

4. A solid fuel burning device which is exempt from and not eligible for certification under U.S. Environmental Agency (U.S. EPA) regulations for wood stoves but which has been tested to demonstrate its emission performance is in accordance with criteria and procedures not less stringent than those required by the U.S. EPA and/or AQCC for wood stoves manufactured after July 1, 1990.

Chapter 11 ENERGY EFFICIENCY: Delete in it's entirety.

Section M2001.1 Installation and G2452 Boilers - add the following sentence:
All rooms or spaces containing boilers shall be provided with a floor drain and trap primer.

Section G2417.4.1 Test pressure-revise as follows:
"The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than" 10 psig (69 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe."
The test pressure for valves and connections to appliances shall not exceed 0.5 psig (3kPa).

Section P3009 Gray water recycling. Delete this entire section and add the following:
Grey water recycling systems shall be authorized and approved by the local jurisdiction having authority and meet the requirements of the Colorado Department of Public Health and Environment, Water Quality Control Division, Regulation 86.

Electrical Sections:
Delete Chapters 34 through 43.

INTERNATIONAL FUEL GAS CODE:

Section 303.3 Prohibited locations: add item:
Number 6. LPG appliances. LPG appliances shall not be installed in a pit, basement or crawl space where unburned fuel may accumulate unless an approved sensing device is installed in conjunction with an automatic shutoff valve located where the gas enters the structure.

Section 303.3 exception 3 and 4, 501.8 #8, Section 621: delete all and add:
Unvented fuel fired room heaters and unvented fuel fired fireplaces are prohibited.

Section 406.4.1 Test pressure.
...amend to read:
"The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than" 10 psig (69 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe."
The test pressure for valves and connections to appliances shall not exceed 0.5 psig (3kPa).

INTERNATIONAL PLUMBING CODE: Adopt the following:

Appendix Chapter E – Sizing of water piping systems.

Chapter 13 Gray water recycling. Delete this entire chapter and add the following:
Grey water recycling systems shall be authorized and approved by the local jurisdiction having authority and meet the requirements of the Colorado Department of Public Health and Environment, Water Quality Control Division, Regulation 86.

INTERNATIONAL MECHANICAL CODE:

Section 303.3.1 LPG appliance: add the following new section
LPG appliances shall not be installed in a pit, basement or crawl space where unburned fuel may accumulate unless an approved sensing device is installed in conjunction with an automatic shutoff valve located where the gas enters the structure.

Section 903.1 General: add additional sentence:
Every new installation of a solid fuel-burning, vented decorative appliance or room heater shall meet the most stringent emission standards for woodstoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission as of the time of installation of the appliance or room heater. (Effective January 1, 1991 – CC90-617.)

Section 903.3 Unvented gas log heaters:
Delete this entire section.

INTERNATIONAL ENERGY CONSERVATION CODE

Section C101.5 and R101.5 Compliance
Residential buildings shall meet the provisions of the 2015 IECC--Residential provisions. Commercial buildings shall meet the provisions of the 2015 IECC—Commercial Provisions.

Exception: Where the location the factory-built structure is to be permanently set is known and the local jurisdiction has adopted the 2012 IECC energy code, the building may comply with the 2012 IECC. Where the location the factory-built structure is to be permanently set is known and the local jurisdiction has adopted an earlier version of the energy code which is less restrictive than the 2012 IECC, or where no code has been adopted that regulates the design of buildings for effective energy use, the structure may comply with the 2009 IECC.

Section C202, R202 – Definitions: add definition
ZERO-ENERGY BUILDING. A building with zero net energy consumption and zero carbon emissions annually as certified by an approved annual energy use analysis.

Section C402.1.1 Low energy buildings; add exemption
4. Zero-Energy Buildings. Zero energy buildings are exempt from the provisions of the International Energy Conservation Code.

Add new Section C402.1.2.1
Semi heated buildings.
Buildings less than or equal to 200 square feet and that enclose equipment and are conditioned only for the proper operation of the equipment may show envelope compliance as a semiheated space under ANSI/ASHRAE/IES Standard 90.1

Section R402.1 Low energy buildings; add exemption
3. Zero-Energy Buildings. Zero energy buildings are exempt from the provisions of the International Energy Conservation Code.

NATIONAL ELECTRIC CODE:

The following amendments are made to the National Electrical Code for use with all Factory Built units: Any conflicts that may arise between these amendments and a future State adopted edition of the National Electrical Code shall be resolved by applying the specific amended provisions of the 2014 edition.

Article 545, Manufactured Buildings, add new section: 545.14. Testing.

(A) Dielectric Strength Test. The wiring of each factory built unit shall be subjected to a 1-minute, 900-volt AC or 1273-volt DC dielectric strength test (with all switches closed) between live parts (including neutral) and the ground. Alternatively, the test shall be permitted to be performed at 1,080–volts AC or 1527-volts DC for 1 second. This test shall be performed after branch circuits are complete and after wiring devices are installed and wiring properly terminated.

Exception 1: Listed fixtures or appliances shall not be required to withstand the dielectric strength test.

Exception 2: Units wired in Electrical Metallic Tubing or Rigid Metal Conduit.

(B) Continuity and Operational Tests and Polarity Checks. Each manufactured building shall be subjected to:

(1) An electrical continuity test to ensure that all exposed electrically conductive parts are properly bonded;

(2) An electrical operational test to demonstrate that all equipment, except water heaters and electric furnaces, is connected and in working order; and

(3) Electrical polarity checks of permanently wired equipment and receptacle outlets to determine that connections have been properly made.

These tests shall be performed after branch circuits are complete and after wiring devices are installed and wiring properly terminated.

Article 320.23(A). Cables Run Across the Top of Floor Joists/Rafters

Add a new sentence at the end:

Substantial guard strips or other protection shall be provided to protect wiring within three (3) feet of the marriage line where the attic is exposed and the roof is completed on-site, such as a hinged roof.

ATTACHMENT "A" DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
1	Alamosa	8749	16	82	61	7546
2	Aspen	9922	1	81	59	7928
3	Boulder	5554	2*	91	63	5385
4	Buena Vista	8003	1	83	58	7954
5	Burlington	6320	2	95	70	4165
6	Canon City	4987	8	90	64	5343
7	Cheyenne Wells	5925	1	97	70	4250
8	Colorado Springs	6415	2	88	62	6012
9	Cortez	6667	5	88	63	6177
10	Craig	8403	14	86	61	6280
11	Creede	11375	-18	80	58	8842
12	Del Norte	7980	-4	81	60	7884
13	Delta	5927	6	95	62	4961
14	Denver	6020	1	91	63	5283
15	Dillon	11218	-16	77	58	9065
16	Dove Creek	7401	-6	86	63	6843
17	Durango	6911	4	87	63	6550
18	Eagle	8106	-11	87	62	6600
19	Estes Park	7944	-7	79	58	7525

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Handbook (See 2012 IPC appendix D).

Degrees North Latitude may be obtained at www.ncdc.noaa.gov

* Per Local. 8° per 1985 ASHRAE

DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
20	Ft. Collins	6368	-4	91	63	5001
21	Ft. Morgan	6460	-5	92	65	4321
22	Fraser	9777	-22	76	58	8560
23	Glenwood Springs	7313	5	91	63	5823
24	Granby	9316	-	---	---	7935
25	Grand Junction	5548	7	94	63	4586
26	Greeley	6306	-5	94	64	4648
27	Gunnison	10516	-17	83	59	7664
28	Holyoke	6583	-2	97	69	3746
29	Idaho Springs	8094	0	81	59	7555
30	Julesburg	6447	-3	98	69	3469
31	Kit Carson	6372	-1	98	68	4284
32	Kremmling	10095	-19	85	59	7359
33	La Junta	5263	3	98	70	4066
34	Lamar	5414	0	98	71	3635
35	Last Chance	------	-2	92	65	4790
36	Leadville	11500	-14	81	55	10,152
37	Limon	6961	0	91	65	5366
38	Longmont	6443	-2	91	64	4950
39	Meeker	8658	-6	87	61	6347
40	Montrose	6393	7	91	61	5830
41	Ouray	7639	7	83	59	4695

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Handbook (See 2012 IPC appendix D).

Degrees North Latitude may be obtained at www.ncdc.noaa.gov

DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
42	Pagosa Springs	8548	-9	85	61	7079
43	Pubelo	5413	0	95	66	4695
44	Rangely	7328	-8	93	62	5250
45	Rifle	6881	0	92	63	5345
46	Saguache	8781	-3	82	61	7697
47	Salida	7355	-3	84	59	7050
48	San Luis	8759	-10	84	60	7990
49	Silverton	11064	-13	77	56	9322
50	Springfield	5167	3	95	71	4410
51	Streamboat Springs	9779	-16	84	61	6770
52	Sterling	6541	-2	93	66	3939
53	Trinidad	5339	3	91	65	6025
54	Uravan	------	8	97	63	5010
55	Vail	9248	-14	78	59	8150
56	Walden	10378	-17	79	58	8099
57	Walsenburg	5438	1	90	63	6220
58	Wray	6160	-1	95	69	3560
59	Yuma	5890	-2	95	69	4125

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Handbook (See 2012 IPC appendix D).

Degrees North Latitude may be obtained at www.ncdc.noaa.gov

Editor's Notes

History

Entire rule eff. 07/30/2009.

Entire rule eff. 01/01/2013.

Entire rule eff. 03/16/2016.

Temporary changes to Schedule "A" only eff. 04/15/18 through 05/15/18.

COLORADO
Department of Local Affairs
Division of Housing

MEMORANDUM

Date: April 3, 2018

To: State Housing Board

From: Mo Miskell, Program Manager

Subject: Fee Holiday

As we wind down our fiscal year, which ends June 30, 2018, it has become apparent that the Housing Technology and Standards Section is running a surplus due to a combination of events. Primarily as a result of $200,000 being returned to the program by the General Assembly and the raising of fees at that same time due to the program running over budget.

As a result, we have a unique opportunity to provide a fee holiday of one month for most of our customers and thereby returning excess funds to them—to run from April 15th to May 15th. We are proposing that the State Housing Board reduce all total fees that are not set in statute and are associated with maintaining this program to $1.00 for those 30 days. The two fees set in statute that will be exempt from this fee reduction are those associated with becoming a registered seller and installer.

In order to accomplish this, the State Housing Board would be required to convene a temporary rulemaking hearing to adopt a revision to the current rules for this program that would then implement te proposed fee holiday. Therefore, it is greatly appreciated if the State Housing Board consider doing so at its next scheduled monthly meeting on Tuesday, April 10th after it has concluded its regular business.

We request that you consider a motion to temporarily reduce the following fees established in rules to $1.00 for the period April 15, 2018, through May 15, 2018:

Resolution #34 "Factory Built Housing" – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space* $0.10 per sq. ft.
  *(i.e. unfinished habitable attics, unfinished lofts, garages, etc.)
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:

- ❖ Plant certification inspection fee: $350.00 per inspection
- ❖ Oversight inspection fee: $270.00 per inspection per address
- ❖ Special inspection fee:
  In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
- ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #35 "Factory Built Nonresidential Structures – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:
  - ❖ Plant certification inspection fee: $350.00 per inspection
  - ❖ Oversight inspection fee: $270.00 per inspection per address
    Multi-Box additional fee: Units with more than 3 boxes add $25.00/box, up to an additional $1875.00.
  - ❖ Special inspection fee:
    In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
    Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
  - ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #36 "On-site Construction and Safety Codes for Motels, Hotels and Multi-family Dwellings in those areas of the State where no such Standards Exist" – Schedule "A"

- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Certificate of Occupancy (each separate structure): $125.00
- Inspection fees:
  - ❖ On-site inspection fee: $270.00 per inspection per inspectr plus $50.00 per hour (inspection time) per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  - ❖ Stop Work Order/Red Tag fee: $250.00

Resolution #38 "Manufactured Housing Installations – Schedule "A"

- Independent Inspector Registration (3-years): $150.00
- Insignia Fees: $60.00

- Red Tag Fee: $250.00
- Inspection Fees:
  - Rough or Final Installation Inspection Fees: $200.00
  - Reinspection Fee or Red Tag Removal: $200.00

Resolution #10 "Manufactured Home Construction Standards and Procedural Regulations"

- Product Inspection service fee schedule:

Activity	Fee
Plant Certification/Revalidation Inspection travel, per diem, and lodging	$260/day/person plus actual expense of
Routine Floor Inspection	$35 per floor
Reinspection for Red Tag Removal	$100 per deviation
Increased Frequency (200%) or Revalidation Inspections	$50 per non-compliance and $50 per system of control
Plant Certification/Revalidation	$260 per day per person plus actual travel, per diem, and lodging

Thank you for your time and consideration.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
Chief of Staff

FREDERICK R. YARGER
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW

RALPH L. CARR
COLORADO JUDICIAL CENTER
1300 Broadway, 10th Floor
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Phone (720) 508-6000

Office of the Attorney General

Tracking number: 2018-00157

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Housing Board

on 04/10/2018

8 CCR 1302-11

RESOLUTION NO. 35 - FACTORY BUILT NONRESIDENTIAL STRUCTURES

The above-referenced rules were submitted to this office on 04/11/2018 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.

April 26, 2018 13:36:22

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Emergency Rules Adopted

Department

Department of Local Affairs

Agency

Division of Housing

CCR number

8 CCR 1302-12

Rule title

8 CCR 1302-12 RESOLUTION NO. 34 - FACTORY BUILT HOUSING 1 - eff 04/15/2018

Effective date

04/15/2018

DEPARTMENT OF LOCAL AFFAIRS

Division of Housing

RESOLUTION #34 - FACTORY BUILT HOUSING

8 CCR 1302-12

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

BE IT RESOLVED BY THE STATE HOUSING BOARD OF THE STATE OF COLORADO;

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the State Housing Board of the State of Colorado (the Housing Board) repeals and readopts Resolution #34 Factory Built Housing; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board adopts the nationally recognized codes as cited in SCHEDULE "B" as the "Colorado Construction Safety Code for Factory Built Structures"; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board states the basis and purpose of these rule changes is to update the current minimum construction and safety code for "Factory Built Housing" manufactured, sold, offered for sale, or occupied in Colorado; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board establishes standards, to the extent allowed by the state constitution, Article 50 of the "State Personnel System Act", and the rules promulgated by the Personnel Board, for private inspection and certification entities to perform the Colorado Division of Housing's certification and inspection of in-state and out-of-state Factory Built Housing; and

THAT PURSUANT TO §24-32-3301 et seq C.R.S. as amended, the Housing Board states that "Factory Built Housing" manufacturers shall have the option to contract with the Colorado Division of Housing or an authorized inspection agency to perform inspection and certification functions; and

The Housing Board states that these rules do not include later amendments of the nationally recognized codes; and

The Housing Board repeals and readopts these rules and regulations to be administered and enforced by the Colorado Division of Housing (the Division of Housing.)

RULES AND REGULATIONS

Section 1: SCOPE

Every Factory-Built Housing Unit manufactured after the effective date of these regulations that is manufactured, sold, offered for sale, or occupied in this state must display an insignia issued by the Division of Housing certifying that the unit is constructed in compliance with the standards adopted in SCHEDULE"B" which is incorporated herein and made a part of these Rules and Regulations by reference, and all other requirements set forth by this resolution.

The Housing Board states that the Program Manager, Housing Technology and Standards Section, Colorado Division of Housing, 1313 Sherman Street, Room 321, Denver, Colorado 80203, will provide information regarding how the codes adopted in SCHEDULE "B" may be obtained or examined. Homes constructed under SCHEDULE "B" do not include units built to the Federal Manufactured Home Construction and Safety Standards (HUD Standards.) Incorporated material may also be examined at any state publications depository library.

Section 2: DEFINITIONS

"ADMINISTRATIVE AGENCY" is the Colorado Division of Housing. The Division of Housing is the state agency responsible for enforcing the Factory-Built Housing Construction Statutes, Rules, and Regulations.

"ALTERNATIVE CONSTRUCTION (AC)" is specific additional construction and/or modification of the factory-built structure that directly affects the life, health, safety, and/or habitability of the structure and is not covered by the factory-built or installation certification insignias and requires building permits and inspection(s) to verify code compliance.

"AUTHORIZED INSPECTION AGENCY" means the Division of Housing or any state agency, Colorado local jurisdiction, firm, corporation or entity approved by the Division of Housing to conduct production inspections, to evaluate the manufacturer's quality control procedures, approve manufacturer's engineering manuals, and approve factory-built model construction plans. Authorized Inspection Agencies doing plan review will be "Registered" based on qualifications and "Certified" based on qualifications and performance.

"CABINET" means an enclosure which typically houses equipment or materials and is not designed, built, modified, and/or used with the intent for individuals to enter.

"CONSTRUCTION, OPEN" means any building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture can be readily inspected at the building site without disassembly, damage, or destruction. i.e., panelized construction assembled on site. Note: Assembled rooms or spaces, panels with finishes applied to both sides and electrical wiring in conduit are **not** open construction.

"FACTORY-BUILT HOUSING" is a residential unit or component thereof, built in compliance to the applicable codes listed in SCHEDULE "B". These units are designed primarily for residential occupancy and are wholly or in substantial part, made, fabricated, formed or assembled in a manufacturing facility for installation, or assembly and installation, on a permanent foundation at the building site.

"INSIGNIA" means a seal, label or tag issued by the Division of Housing to indicate compliance in the manufacture of a unit with the regulations established by the Housing Board when affixed to a Unit in conformance with this Resolution.

"INTERIM CHANGE" is a change made between the approval date and the expiration date.

"MANUFACTURER" means any person who constructs or assembles a manufactured residential or nonresidential structure in a factory or other off-site location. Manufacturers will be "Registered" based on the qualifications of quality control and "Certified" based on the performance of quality control.

"MODEL" is a specific design of factory-built units designed by the manufacturer, which is based on size, floor plan, method of construction, location arrangement and sizing of plumbing, mechanical or electrical equipment and systems therein in accordance with plans submitted to the Division of Housing.

"OCCUPIED" means a factory-built structure designed, built, modified, and/or used with the intent for individuals to enter.

"PRODUCTION INSPECTION" means the evaluation of the ability of the manufacturing facility to follow approved plans, standards, codes and Quality Control procedures during continuing production.

"QUALITY CONTROL PROCEDURES" means procedures prepared by a manufacturer for each of its manufacturing facilities and approved by the Division of Housing or Authorized Inspection Agency describing the method that the manufacturer uses to assure units produced by that manufacturer are in conformance with the applicable standards, codes, Quality Control procedures and approved plans.

"NON-COMPLIANCE/RED TAG NOTICE" is a physical identification that a particular unit has a violation of these rules and regulations. Units posted with this notice cannot be sold, offered for sale or have occupancy in Colorado.

"UNIT" means a factory-built house that shall comply with these rules and regulations.

Section 3: PROGRAM PARTICIPANTS

Other States

This program is open on a voluntary basis to all states with statutory authority to regulate the design and construction of Factory Built Housing covered by this Division of Housing Resolution.

Each state that wishes to participate in this program recognizes that they must enter into a memorandum of understanding with Colorado to establish mutual recognition and acceptance of codes and inspections. Areas of agreement include:

- Acceptance of construction codes that are adopted by the State of Colorado Housing Board for Factory Built Housing units sold into or offered for sale in Colorado. (See SCHEDULE "B" in this Resolution.)

- Acceptance of the design evaluation and approval performed by the Division of Housing or authorized inspection agency for units sold into or offered for sale in Colorado.

- Performance of plant certifications and other inspection requirements. Routine inspections include performing inspections of at least one (1) unit in each phase of manufacturing and performing a minimum of a rough, final and other inspections and/or tests (as required in SCHEDULE "B") when a production line process is not being utilized. Also to place the manufacturer on a higher frequency of inspection when it is unable to conform, on a continuing basis, to approved Quality Control procedures and or approved plans and standards.

- Evaluation, at the manufacturing facility, of code compliance problems resulting from consumer complaints on labeled Colorado units; work with the manufacturer(s) in resolving such complaints by adequately following up and assisting them in correcting the complaint issue(s), and their production and/or inspection process.

- Provide sixty (60) days notice before withdrawing from participation in the program, thereby allowing a manufacturer sufficient time to obtain a new Authorized Inspection Agency.

Participating states operating under an existing state factory-built housing law have the option to act as the authorized inspection agency within their state. They are not required to change any of

their state fees, laws, or regulations other than those changes that may be necessary to allow them to agree to the above items. Manufacturers are required to be inspected by their host state when this state agrees to perform inspections on Colorado units.

Independent Authorized Inspection Agencies

This program is open on a voluntary basis to all Division approved Independent Authorized Inspection Agencies with the capabilities to regulate the design and construction of Factory Built Housing covered by this Division of Housing Resolution.

Each independent Authorized Inspection Agency that wishes to participate in this program recognizes that they must be approved by the Division and establish mutual recognition and acceptance of codes and inspections. Areas of agreement include:

- Acceptance of construction codes that are adopted by the State of Colorado Housing Board for Factory Built Housing units sold into or offered for sale in Colorado. (See SCHEDULE “B” in this Resolution.)

- Acceptance of the design evaluation and approval performed by the Division of Housing or authorized inspection agency for units sold into or offered for sale in Colorado.

- Acceptance and use of the Division of Housing “Performance Criteria for Monitoring the In-Plant Quality Control Systems of Factory Built Plants” for in-plant inspection agencies.

- Acceptance and use of the Division of Housing “Performance Criteria for Factory Built Plan Review and Approval” standards for plan review agencies.

- Performance of plant certifications and other inspection requirements. Routine inspections include performing inspections of at least one (1) unit in each phase of manufacturing and performing a minimum of a rough, final and other inspections and/or tests (as required in SCHEDULE “B”) when a production line process is not being utilized. Also to place the manufacturer on a higher frequency of inspection when it is unable to conform, on a continuing basis, to approved Quality Control procedures and or approved plans and standards.

- Performance of inspection requirements. Routine inspections include performing inspections of at least a minimum of a rough, final and/or other inspections and/or tests of Alternative Construction. Also to notify the Division when a manufacturer is unable to conform, on a continuing basis, to approved plans, standards, and/or make appropriate corrections to construction code compliance issues.

- Evaluation at the manufacturing facility of code compliance problems resulting from consumer complaints on labeled Colorado units; work with the manufacturer(s) in resolving such complaints by adequately following-up and assisting them in correcting the complaint issue(s) and their production and/or inspection process.

- Provide sixty (60) days notice before withdrawing from participation in the program, thereby allowing a manufacturer sufficient time to obtain a new Authorized Inspection Agency.

Participating independent inspection agencies operating under an existing contract with a manufacturer or local jurisdiction will act as the sole authorized inspection agency for that plant and/or local jurisdiction. They are not required to change any of their company policies other than those changes that may be necessary to allow them to agree to the above items. Manufacturers

are required to be inspected by their contracted independent Authorized Inspection Agency when approved by the Division.

Manufacturers

Any manufacturer of Factory Built Housing products that are manufactured in, sold into, offered for sale, and/or occupied in Colorado shall participate in this program and agree to comply with the following:

- All manufacturing facilities may have only one Authorized Inspection Agency for plan review and one Authorized Inspection Agency for inspections other than the Division of Housing.

- All in-state manufacturers shall have the option to contract with an Authorized Inspection Agency or continue to use the Division of Housing as the Authorized Inspection Agency to perform certifications and in-plant production inspections, to evaluate their plant's Quality Control procedures, approve manufacturer engineering manuals and installation instructions and/or approve plant construction plans. Specific models may have approval through other states with a Factory Built Housing program or the federal government provided the Division of Housing accepts the other entity's program and the manufacturer follows all requirements for that entity.

- Out of state manufacturers are required to obtain the services of an Authorized Inspection Agency to perform certifications and in-plant production inspections, to evaluate the plant's Quality Control procedures, and may use an approved Authorized Inspection Agency to approve manufacturer engineering manuals, installation instructions and/or approve plant construction plans.

- Out of state manufacturers located in states that have reciprocity or other agreements with the Division of Housing shall be notified if the state in which they are located will continue to inspect Colorado units or if they have to obtain the services of a firm or corporation to perform certification and in plant production inspections of Colorado units.

- After notification that the state in which they are located will no longer inspect Colorado units, manufacturers have (60) days to obtain another Authorized Inspection Agency.

- Out-of-state manufacturers without existing plant certifications and located in states that enter into an agreement with Colorado to inspect Colorado units, shall use that state as the Authorized Inspection Agency to perform certifications, in-plant production inspections and evaluations of their Quality Control procedures.

- All manufacturers shall obtain prior approval from the Division of Housing or Authorized Inspection Agency for all Quality Control manuals and plans before manufacturing units and affixing the Colorado and Authorized Inspection Agency label(s) to units constructed under those approvals.

- All manufacturers shall allow and pay for the reasonable costs incurred by the Division of Housing for work related to retaining and evaluating their performance and registration/certification status.

- All manufacturers shall allow and pay for oversight inspections as required by the Division of Housing or Authorized Inspection Agency to assure compliance to the approved designs.

- All manufacturers shall permit Division of Housing or Authorized Inspection Agency monitoring personnel to review plans and to perform in-plant inspections.

- All manufacturers shall correct any code violations in plans discovered by the Division of Housing or by the Authorized Inspection Agency monitoring personnel, or forfeit the right to have Division of Housing and Authorized Inspection Agency labels affixed.

- All manufacturers shall correct any construction code violations within twenty (20) days of inspection or be subject to a "Non-Compliance/Red Tag Notice" being issued to the factory. All rework preformed to correct discrepancies of factory construction shall be paid by the factory.

- All certified manufacturers must provide the Division of Housing with a monthly insignia report showing the date of manufacture, the Division of Housing label number(s), unit serial number(s), and the first destination of shipped units.

- All manufacturers shall submit a fully completed and legible oversight inspection data sheet to the Division prior to shipment of the unit from the factory.

Manufacturer Registration, Certification, and Performance Requirements

Manufacturers of Factory Built Housing that are manufactured, sold into, offered for sale, and/or occupied in the State of Colorado must register with the Division of Housing. Registrations are for a specific plant location, and are not transferable to any other locations including those of the same manufacturer.

Where there is a change in ownership, address, or location of manufacture, the Division of Housing-certified manufacturer shall notify the Division within ten (10) working days of such a change. At such time the Division of Housing shall review the performance of the manufacturer and transfer or revoke the certification.

Plant certification is a certification of the plant Quality Control (QC) program and the Quality Control personnel that ensure construction code compliance. Plant certification is also based on product grading using "Performance Criteria for Monitoring Manufacturers and Third Party Inspection Agencies." Certification is for a specific plant location, and is not transferable to other locations. The Division shall be immediately notified of any changes to the QC program and/or personnel.

The manufacturer's Quality Control department shall do "no cover" inspections for all phases of construction on all units and witness all required tests, regardless of plant status.

At the time of plant registration, *all* manufacturers are required to have Division of Housing approval, in writing, of the state, firm, corporation or entity that will conduct the certification and in-plant inspections of Colorado units. Manufacturers are also required to request approval of the Division of Housing thirty (30) days prior to any subsequent change of their Authorized Inspection Agency.

Upon Division of Housing approval of the Authorized Inspection Agency for production inspections, approved copies of the plans and quality assurance manual shall be sent to the manufacturer. Upon the manufacturer's receipt of the approved plans and manual, the Authorized Inspection Agency shall schedule plant production oversight inspections.

Registered plants shall be inspected for certification approval on an ongoing basis. Out-of-state manufacturers can ship units to Colorado for field certification inspection by the Division of Housing. Upon completion of certification inspections, a letter recommending plant certification and a copy of the certification inspection report shall be sent by the Authorized Inspection Agency to the Division of Housing with a copy to the manufacturer. The Division of Housing will then review the submitted certification inspection report for completeness and accuracy, and review the quality scoring based on the field inspections for certification. The Division of Housing will notify the manufacturer if certification is granted.

Manufacturers are required to construct, on a continuing basis, Factory Built Housing in conformance with plans, Quality Control manual, codes, standards, and procedures prepared by them and approved by the Division of Housing or Authorized Inspection Agency. The certification of a plant is considered to be ongoing unless conditions warrant immediate removal of the certification. Conditions for removal of certification are:

- The change of an Authorized Inspection Agency or change in Authorized Inspection Agency status.

- The change of a plant location.

- The plant has had Division of Housing and/or Authorized Inspection Agency labels removed by the Authorized Inspection Agency pursuant to Division of Housing procedures.

- The plant has produced less than five Colorado certified Factory Built Housing Units in a calendar year.

Manufacturers demonstrating that they cannot perform within their approvals shall be placed on a higher frequency of inspection until their performance improves. If their performance does not improve, the Division of Housing may revoke their certification.

In accordance with C.R.S. 24-32-3307, the State Director of Housing may pursue injunctive relief against manufacturers that fail to construct units in accordance with their approved plans and Quality Control manual, fail to correct code violations, fail to comply with C.R.S. 24-32-Part 33, or fail to comply with these rules.

Manufacturer Certification Status

The initial plant certification will last until the end of the current plant registration period. The ongoing plant certification period is one year. Each manufacturer is required to resubmit its Quality Control manual (and when applicable, plans) for approval prior to the registration/certification expiration date that is stamped on the Quality Control manual. This Quality Control manual resubmission is required regardless of when plans are approved or units shipped. Failure to comply with this requirement shall result in the plant having to comply with the initial registration/certification inspection requirements.

Section 4: AUTHORIZED INSPECTION AGENCIES

Authorized Inspection Agency Approval

All manufacturers that use an Authorized Inspection Agency to perform production inspections, evaluate Quality Control procedures, approve engineering manuals, and/or approve plans, shall have such agency, other than states, request approval from the Division of Housing as an

authorized inspection agency for the State of Colorado. Request from firms, corporations or other entities shall contain the following minimum requirements:

- Name and address of agency making application.
- Categories for which agency seeks approval.
- A list of key personnel, with resumes, indicating their primary functions or duties.
- The number of years the agency has actively engaged in the business for which it seeks approval.
- A statement by the agency that it will adhere to all the requirements of the Division of Housing.
- An explanation of the agency plan review, plant certification, and/or inspection procedures, including copies of the quality assurance and other inspection reports.
- A copy of the agency's ICC IAS or other Division approved accreditation certificate as required.
- A copy of the Colorado professional Engineer or Architect certification for any employee that will be responsible for plan review and approval work as required.
- A copy of the Colorado professional license and/or International Code Council (ICC) inspector certifications for all personnel that will be performing in-plant inspections as required.
- Agreement to furnish any other information that the Division of Housing may deem necessary in order to properly evaluate and grant approval.
- A statement that the submitting firm, corporation or entity is independent and does not have any actual or potential conflict of interest and is not affiliated with, influenced by, or controlled by any present or potential client manufacturer in any manner that might affect its capacity to render service or reports of findings objectively and without bias.
- The request must contain the signature of a responsible officer, owner, or partner of the submitting agency.
- A list of the factory built housing manufacturers that are currently inspected.

Authorized Inspection Agencies may only work in the specific categories for which the Division of Housing has granted approval in writing.

Authorized Inspection Agency Qualifications

An Authorized Inspection Agency shall meet the following qualifications. Any exceptions shall have prior approval by the Division of Housing.

- States - Must have existing statutory authority to regulate the design and construction of Factory Built Housing.

  - Must also enter into a memorandum of understanding with Colorado.

- Units of Local Government - Must have existing authority to adopt and regulate building and construction codes.

  - Must adopt Division-approved local ordinance or resolution.

- Firms, corporations or other entities - Must currently be listed with a national listing agency such as the ICC International Accreditation Service or other Division approved agency.

After reviewing the request, the Division of Housing will notify the requesting firm, corporation or entity of their acceptance or denial as an Approved Inspection Agency for Colorado.

Authorized Inspection Agency Quality Control and Reporting Requirements

Authorized Inspection Agencies shall conduct certifications, in-plant production inspections, in-plant evaluations of the plant's Quality Control procedures, review manufacturer engineering manuals, approve plant construction plans, and/or perform Alternative Construction field inspections, in accordance with Division of Housing approved procedures and documents.

The structure will be inspected to the approved plans, except where the plans are not specific, and then the inspection shall be to the standards. The Authorized Inspection Agency will also monitor the plant personnel performing the construction, testing, and inspections.

An Authorized Inspection Agency, when a plant is not certified, shall conduct at a minimum a rough, final, and other inspections as required per code (see SCHEDULE "B") for all units manufactured.

After the Division approves certified status for a plant, a minimum of one (1) phase of construction for each unit being produced for Colorado shall be inspected by the Authorized Inspection Agency. In the course of each visit, the inspector shall also make a complete inspection of every phase of the production, systems testing, and of every unit in production as well as a random sampling of finished product on site.

Whenever the Authorized Inspection Agency finds that a manufacturer is unwilling or unable to conform on a continuing basis to the approved Quality Control procedures, and/or approved plans or standards, that manufacturing facility shall be placed on a higher frequency of inspection. The Division of Housing shall be notified and the certification labels held until the manufacturer demonstrates that it can perform within its approved standards. If after three consecutive inspections, the last inspection still indicates that the manufacturer is not able to perform within standards, all remaining insignias paid for by the manufacturer will be returned to the Division of Housing and the manufacturer will be returned to full recertification inspection status.

Additional information, such as increased frequency and routine quality assurance inspection reports, will be requested by the Division of Housing in order to review the inspections conducted on specific units.

The Authorized Inspection Agency is required to provide its own inspection label so that it, also, can be affixed adjacent to the Colorado certification label to each unit shipped to Colorado.

Division of Housing Monitoring of Authorized Inspection Agencies

The performance of all Authorized Inspection Agencies shall be monitored by Division of Housing to determine if they are fulfilling their responsibilities as required under this program.

The monitoring activities carried out by the Division of Housing staff shall consist of:

- Performing oversight inspections on housing units that are shipped to Colorado. The purpose of these certification and other inspections are to evaluate the performance of the manufacturer and inspection agency in ensuring the selected units comply with approved plans and construction codes.

  Based upon finding(s) of inadequate performance, the frequency of inspections may be increased as determined by the Division of Housing procedures.

- Reviewing all records of interpretations of the standards made by the Authorized Inspection Agency to determine whether they are consistent and proper.

- Reviewing inspection reports, records and other documents to assure that Authorized Inspection Agencies are carrying out all their responsibilities as set forth in the Division of Housing requirements.

- Reviewing records to assure that the Authorized Inspection Agency is maintaining proper label control and records pursuant to the requirements of this program.

Frequency of Monitoring

An approved Authorized Inspection Agency shall be periodically monitored. Every aspect of all actions of the Authorized Inspection Agencies shall be reviewed at a frequency adequate to assure that they are performing consistently to the Division of Housing requirements.

Resolution of Code Interpretation Conflicts

The Division of Housing will, upon written request, investigate complaints related to adopted construction code interpretation and enforcement. A written request must identify the Authorized Inspection Agency, the location of the structure(s) in question, the nature of the dispute, the code section reference, and all involved parties with contact information. Upon receipt of the request, the Division will contact all parties for a written response to the issues. After any necessary follow up, the Division will issue to all parties an interpretation to resolve the code dispute. The Division's interpretation may be appealed to the Colorado State Housing Board Technical Advisory Committee. The decision of the committee is final.

Section 5: MANUFACTURER APPLICATION AND PLAN SUBMITTAL

All manufacturers shall obtain prior approval of each set of designs from the Division of Housing or Authorized Inspection Agency before manufacturing and affixing the Colorado and Authorized Inspection Agency label(s) to unit(s) constructed under those plans.

Applications to the Division shall be made on forms supplied by the Division of Housing and shall be accompanied by the appropriate fees from SCHEDULE "A" which is incorporated herein and made a part of these Rules and Regulations by reference.

Submittal for approval of Quality Control manuals and model plans shall meet or exceed the minimum requirements as specified by the Division of Housing.

Construction that will be completed on site shall be clearly denoted on the plans for determination of the model as an "AC" unit. The manufacturer shall follow the Division of Housing "Alternative

Construction Procedures" when the model is determined to be "AC." Determination of a model as "AC" may happen during plan approval or after plan approval.

All applications submitted shall list an officer of the manufacturer that is in a responsible position with the authority to commit the manufacturer to comply with the rules and regulations that govern the Colorado Factory Built Construction Program.

The Division of Housing will grant or deny approval within twenty (20) working days of the receipt of a complete submittal with the appropriate fee and with the required number of copies.

If a submittal is not completed within one hundred twenty days of the initial application date, the application shall expire and all fees shall be forfeited.

Expired applications must be resubmitted as new applications with new application forms, submittals and fees.

Approved plans and Quality Control manuals shall be evidenced by the stamp of approval of the Division of Housing or Authorized Inspection Agency. One approved copy shall be returned to the manufacturer and be retained at the place of manufacture. An approved copy shall be retained by the approving agency. Authorized Inspection Agencies shall send an additional approved copy to be kept on file with the Division of Housing. Interim changes, additions, or deletions will not be acceptable without prior approval of the agency that originally approved the plans.

All units manufactured, sold, or offered for sale in the State of Colorado must display the Division of Housing and Authorized Inspection Agency insignias if applicable. These insignias certify that the unit is constructed in compliance with applicable codes and regulations adopted by the State Housing Board.

The granting of plan approval shall not be construed to be a permit or approval of any violation of the provisions of these regulations. All structures shall be subject to Division of Housing or Authorized Inspection Agency field inspection. The approval of the plans shall not prevent the Division of Housing or the Authorized Inspection Agency from requiring the correction of errors found in the plans or the unit itself, when found in violation of these regulations.

Approved copies of the Quality Control manual and plans shall be kept on file within the plant of manufacture for the purpose of construction and inspection by Division of Housing inspectors or the Approved Inspection Agency.

Plan approvals are granted to a manufacturer for a specific plant location and are not transferable to other locations including those of the same manufacturer.

Interim plan change approvals shall be required where the manufacturer proposes a change in structural, plumbing, heating, electrical, and/or fire life safety systems. Such changes shall become part of the approved plan unless the Division of Housing determines that the change constitutes a new model. If determined a new model, the interim change shall be processed as a new application. The difference in fees will be assessed.

The Division will approve unchanged plan renewals, previously approved by the Division, provided there has been no change in adopted codes and the plant General Manager certifies in writing that the plans are identical to those previously approved. The "Supplemental Plan Check Fee" will apply. Should it be determined by the Division that plan changes have been made, the manufacturer will be subject to a Red Tag fee for every unit built to the changed plans, and the Division may complete additional inspections to ensure the code compliance of the units built.

When amendments to these regulations require changes to be made to an approved plan, the Division of Housing shall notify the manufacturer of the requirement and shall allow the manufacturer a reasonable time to submit revised plans for approval. Revised plans shall be processed as interim changes with the appropriate fees assessed.

Some building departments require a set of prints with the Colorado approval stamp. This can be addressed by requesting that additional prints be approved and provided to the Division at the time of original application. Appropriate fees must accompany requests for more than three approved plan sets. The Division will provide a Plan Submittal Checklist upon request.

Authorized Inspection Agency Plan Approval

Manufacturers may, at their expense, use an Authorized Inspection Agency that has been approved by the Division for plan review and approval. Reference Section 4 of these Rules and Regulations.

When a licensed professional stamps and signs plans or calculations, the same professional or the agency for which the professional works for may not review and approve the plans for construction.

Section 6: PLANT/PLAN/QUALITY CONTROL REGISTRATION/CERTIFICATION EXPIRATION DATE

The plant registration period is one year. Plant certification status runs concurrent with the registration period. Each manufacturer is required to resubmit their Quality Control manual (and when applicable, plans) for approval prior to the registration/certification expiration date that is stamped on the Quality Control manual. Failure to comply with this requirement shall result in the plant having to comply with the initial registration/certification inspection requirements. **The registration/certification expiration date for all plants is determined by the expiration date that is stamped on the Quality Control manual. Plans that are submitted at the time of registration/certification and/or within the registration/certification period shall have the same expiration date as the Quality Control manual.**

It shall be the responsibility of the manufacturer to submit to the Division of Housing the Quality Control manual approval thirty (30) days prior to the expiration date.

Section 7: PLANT PRODUCTION AND INSPECTION FEES

The Division of Housing and/or the Authorized Inspection Agency shall conduct certification and production inspections of all manufacturers engaged in manufacturing or offering for sale Factory-Built Housing Units in the State of Colorado. This inspection shall include the quality control program and systems testing.

- The fees for Division of Housing inspections are shown in SCHEDULE “A”.

- The cost of Division of Housing inspections is not refundable.

Section 8: POSTED UNITS

Whenever an inspection reveals that a unit fails to comply with any provision of these rules and regulations, the Division of Housing or the Authorized Inspection Agency may post such a unit with a “Non-Compliance/Red Tag Notice.”

When a unit is posted with a "Non-Compliance/Red Tag Notice", the Division of Housing or the Authorized Inspection Agency will notify the affected parties that the structure contains a violation(s). The affected parties must resolve the issues with the agency that posted the notice.

- A unit posted with a "Non-Compliance/ Red Tag Notice" shall not be sold, offered for sale or have occupancy in the State of Colorado, nor shall the unit be moved or caused to be moved without the prior written approval of the Division of Housing or Authorized Inspection Agency.

- Within five (5) working days, the affected parties or their agents shall notify, in writing, the Division of Housing or the Authorized Inspection Agency of the action taken to correct the violation(s) and what steps have been taken by management to preclude the recurrence of the violation(s). Failure to respond within five (5) days may cause revocation of an affected party's status.

- All units posted with a "Non-Compliance/Red Tag Notice" shall be corrected or removed from the state (with prior written approval of the Division of Housing or Authorized Inspection Agency). All units that are corrected shall be reinspected to assure compliance with the codes and regulations. A reinspection fee will be assessed.

A "Non-Compliance/Red Tag Notice" shall be removed only by an authorized representative of the Division of Housing or Authorized Inspection Agency.

Section 9: REVOCATION OF PLANT CERTIFICATIONS

The Housing Board may revoke a plant certification after notice and hearing pursuant to Section 24-4-104 & 24-4-105, C.R.S. whenever a manufacturer has violated any provision of these regulations or when a plant certification was granted in error, on the basis of incorrect information supplied by the applicant.

Judicial review of plant certification revocation actions shall be governed by Section 24- 4-106, C.R.S.

Section 10: DENIAL OF PLANT REGISTRATION/CERTIFICATION

The Division of Housing may deny an application for plant registration, certification, or re-certification if an applicant manufactures any unit in violation of approved plans or these rules and regulations. In addition, the Division of Housing may impose any of the following conditions for registration, certification, or re-certification:

- Revision of the manufacturer's Quality Control Program.

- Identification by model and serial number of each unit to be offered for sale in Colorado.

- Inspection of each unit prior to affixing certification insignias.

- Inspection of the manufacturer's plant (with the cost of inspection borne by the manufacturer).

- Resolution of previous violations and/or unpaid fees.

- Any combination of above or other action as determined necessary to insure future compliance with these regulations.

The Division shall promptly notify the applicant of the denial or condition imposed. The applicant may, within sixty (60) days following such action, request a hearing before the Housing Board. If requested, a hearing shall be conducted pursuant to Section 24-4-105, C.R.S. Thereafter, the final decision of the Housing Board shall be subject to judicial review in accordance with Section 24 4 106, C.R.S.

Section 11: CERTIFICATION INSIGNIA APPLICATION AND REPORTS

Registered (non-certified) and certified manufacturers must submit an application for Colorado insignias on forms provided by the Division of Housing with the appropriate fees from SCHEDULE "A."

Insignias for registered manufacturers will be held by the Division of Housing and affixed to each unit upon final inspection approval by the Division. The registered manufacturer shall submit each month a factory unit status report to the Division that tracks each unit shipped to the state until the unit has been approved by the Division with insignias affixed. No units shall be occupied prior to approval without the Division's consent. Violations may result in a "Non-Compliance/Red Tag Notice" being issued. Multiple violations may result in plan review suspension.

Insignias for certified manufacturers will be sent to the manufacturer and shall be affixed to Colorado certified units upon final approval by the manufacturer's Quality Control manager.

Insignias are assigned for use at a specific plant location and shall not be transferable or used on an unapproved model. Colorado certification insignias issued for one type of certification may not be used on a unit of another (different) type. A 3"x5" primary insignia, documenting manufacturer and unit design information, is required for each home. Each additional habitable floor section requires a 2" x2" "Additional Floor Tag" insignia.

The primary Insignia must be permanently affixed inside the kitchen sink cabinet or inside the vanity cabinet if there is no kitchen sink, prior to units being removed from a Certified plant. Additional Floor Tag insignias are to be permanently affixed and located directly under the primary insignia.

The manufacturer shall legibly stamp the unit serial number, date of manufacture, wind design speed, roof design load, seismic zone, and construction codes on the primary insignia.

Insignia reports shall be submitted by the manufacturer to the Division of Housing by the first of each month on forms supplied by the Division of Housing. An insignia report is required when the manufacturer has insignias outstanding during that period.

Manufacturers are required to provide upon request from the Division of Housing a copy of their monthly production report.

All insignia reports are required prior to the issuance of additional insignias.

Primary Insignias are to be affixed in consecutive order.

Colorado insignias shall remain the property of the State of Colorado and may be confiscated by the Division of Housing upon any violation of this resolution. Defaced, marked in error, or voided insignias shall be returned to the Division of Housing without refund.

Colorado insignias shall be stored in a safe and secure location approved by the Division or Authorized Inspection Agency.

A Notification of Oversite Inspection Data Sheet form shall be completed and submitted to the Division of Housing prior to the shipment of every Colorado unit.

Factory Built Structures shall not be modified, prior to or during, installation at a site without approval from the Division of Housing.

Section 12: IRREGULARITIES

Any and all irregularities in these Rules and Regulations shall not be justification for producing any unit without proper inspections and in violation of the adopted construction codes.

ATTEST:

Alison George, Director
Colorado Division of Housing

1-13-15
Date

David Zucker, Chairperson
Colorado State Housing Board

Date

SCHEDULE "A" FEE SCHEDULE

All fees, except certain inspection fees, are due in advance and must accompany the application. Fees shall not be subject to refund. One week notice is required to schedule inspections. Inspections obviously not ready for inspection or inspections canceled within 48 hours of the scheduled inspection may be subject to re-inspection fees.

1. Annual Plant registration fee: $1.00

2. Annual Inspection Agency registration fee: $1.00

3. Plan checking fees (maximum 3-sets): Finished space $1.00 total, regardless of # of sq. ft.
   Unfinished space $1.00 total, regardless of # of sq. ft.
   *(i.e. unfinished habitable attics, unfinished lofts, garages, etc.)

4. Certification insignia fee: Primary Insignia $1.00
   Additional Floor Tag $1.00
   Inspection only Tag $1.00

5. Supplemental plan check fee (revisions, duplicate sets etc.): $1.00 total, regardless of # of sq. ft.
   Note: Fee for revisions to be calculated based on space revised.

6. Third party oversight plan check fee: $1.00 total, regardless of # of sq. ft.

7. Waiver of fees for Government Assisted Housing; with State Housing Board concurrence, the Division of Housing may waive plan review and unit certification fees for units to be subsidized under local, state or federal housing programs for low-income households.

8. Inspection fees:

   A. Plant certification inspection fee: $1.00 per inspection

   B. Oversight inspection fee: $1.00 per inspection per address

   C. Special inspection fee:

      In-State: $1.00 total, regardless of additional expenses.

      Out of-State units manufactured in Colorado: $1.00 per inspection per unit

   D. Non Compliance/Prohibited Sale/Red Tag fee: $10.00

SCHEDULE "B"

The State Housing Board adopts the following nationally recognized codes as the "Colorado Construction Safety Code for Factory-Built Structures." Copies of the adopted codes are available for public inspection during regular business hours at the Division of Housing, Codes and Technology Section, 1313 Sherman St., Suite 321, Denver, Colorado, 80203. For further information regarding how this material can be obtained contact the Program Director at 1313 Sherman Street, Suite 321, Denver, Colorado, 80203, (303) 864-7833.

Colorado Construction Safety Code for Factory-Built Structures.

Shall be:

1. The International Building Code, 2012 Edition, published by the International Code Council, Inc.
2. The International Residential Code, 2012 Edition, published by the International Code Council, Inc.
3. The International Mechanical Code, 2012 Edition, published by the International Code Council, Inc.
4. The International Plumbing Code, 2012 Edition, published by the International Code Council, Inc.
5. The National Electric Code, published by the National Fire Protection Association, Inc. Edition as adopted by the State of Colorado Electrical Board at the time of plan submittal. Transition period of 90 days applies.
6. The International Fuel Gas Code, 2012 Edition, published by the International Code Council, Inc.
7. The International Energy Conservation Code, 2012 Edition, published by the International Code Council, Inc.

Transition Period: Manufacturers shall be permitted to use the construction codes in effect prior to the adoption of this resolution for a maximum of 90-days after this resolution takes effect.

AMENDMENTS:

The following amendments by addition, deletion, revision and exceptions are made: Wording in *italics* is as read per code. (See code book)

INTERNATIONAL BUILDING CODE:

Section 105.2 Work exempt from permit, add the following exemptions prior to *"Building:"*

Equipment Enclosures:

1. One story detached equipment storage cabinets (see definitions).

2. One story equipment storage unit that contains no factory installed electrical wiring and contains no factory installed mechanical or plumbing for the unit and the unit does not exceed 200 sq. ft.

Building Components:

A building component, assembly or system constructed in the factory as open construction (See definitions).

The above exemptions from approval thru the state factory built program shall not be deemed to grant any exemption from local jurisdiction requirements or state electrical or plumbing requirements. The above exemptions do not grant authorization for any work to be done in a manner in violation of the provisions of the adopted codes (SCHEDULE "B".)

Section 901.2 Fire Protection systems: Add the following new section:

901.2.1 Certified inspector required. All fire protection systems required by this Chapter (working plans, hydraulic calculations, installation inspections and final tests) shall be approved by a certified inspector. The inspector shall be an employee of the fire department having jurisdiction or another qualified individual with prior approval of the Colorado Division of Fire Safety.

Section 907.2.11.4, Power source. Revise as shown.

"In new construction, required smoke" and carbon monoxide "alarms shall receive their primary power from the building wiring where such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms.....for overcurrent protection." Smoke and/or Carbon Monoxide alarms shall not be installed on a circuit dedicated only for Smoke and/or Carbon Monoxide alarms.

"Exception:....."

Section 908.7, Carbon monoxide alarms. Add sentence as shown

Group I or R occupancies located in a building containing a fuel-burning appliance or in a building which has an attached garage shall be equipped with single-station carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions." Carbon monoxide alarms shall be installed outside of each separate sleeping area within 15 feet of the entrance of the bedroom(s). *"An open parking garage,...."*

Add new section:

Section 1507.1.1. Ice Barrier Required.

An ice barrier is required where stated throughout Section 1507 due to a history of ice forming along eaves in Colorado. An ice dam protection underlayment that consists of at least two layers of underlayment cemented together or of a self-adhering polymer-modified bitumen sheet shall extend from the eave's edge to a point at least 24 inches inside the exterior wall line of the building.

The ice dam membrane shall extend continuously to a point 4 feet from any valley, cricket or similar construction junction with roofs. The ice dam membrane shall extend up vertical construction junctions such as dormer walls a minimum of twelve (12) inches prior to the installation of flashing and roof covering.

Section 1608.2. Ground snow loads. is amended to read:

Roof Snow Load (Pf) shall be in accordance with the local jurisdiction requirements and shall not be less than a minimum roof snow load of 30 PSF. The allowable increase for snow duration shall not be used when the snow load is above 65 PSF.

Section 1609.3 and 1609.4. Basic wind speed, Exposure category.

The 3 second gust basic wind speed shall be in accordance with the local jurisdiction requirements. For jurisdictions that have adopted a building code edition prior to the 2012 the basic wind speed of that jurisdiction shall be multiplied by 1.20 for Risk category I structures, 1.29 for Risk category II structures and 1.38 for Risk category III and IV structures to obtain V_{ult}. The design wind speed V_{ult} shall not be less than the minimum basic wind speeds as follows:

Risk category as determined by Table 1604.5

Risk category I structures- 105 MPH
Risk category II structures- 115 MPH
Risk category III and IV structures-120 MPH

The Exposure category shall be C, unless otherwise justified.

Add the following new section:

Section 2111.1.1. Fireplaces

Every new fireplace shall have permanently installed one of the following:

1. Approved gas logs.

2. Other approved gas or alcohol specific appliances.

3. An approved fireplace insert meeting the most stringent emission standards for wood stoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission (AQCC) as of the time of installation of the fireplace; or

4. A solid fuel burning device which is exempt from and not eligible for certification under U.S. Environmental Agency (U.S. EPA) regulations for wood stoves but which has been tested to demonstrate its emission performance is in accordance with criteria and procedures not less stringent than those required by the U.S. EPA and/or AQCC for wood stoves manufactured after July 1, 1990.

INTERNATIONAL RESIDENTIAL CODE:

TABLE R301.2(1) IS AMENDED TO READ:

ROOF SNOW LOAD [1]	WIND DESIGN		SEISMIC DESIGN CATEGORY [1]	SUBJECT TO DAMAGE			WINTER DESIGN TEMP[2]	ICE BARRIER UNDERLAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX [3]	MEAN ANNUAL TEMP [3]
	SPEED [1] (MPH)	TOPOGRAPHIC EFFECTS		WEATHERING	FROST LINE DEPTH	TERMITE					
MIN. 30 psf	MIN. 90, Exp. C	PER LOCAL	MIN. B	SEVERE	PER LOCAL	SLIGHT	PER LOCAL	YES	PER LOCAL	PER LOCAL	PER LOCAL

(1) The roof snow load, wind design, and seismic zone shall be in accordance with the local jurisdiction requirements and shall not be less than the minimums stated. The allowable increase for snow duration shall not be used when the snow load is above 65 PSF.

(2) See Attachment A and verify with local jurisdiction.

(3) See the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32° Fahrenheit)" at www.ncdc.noaa.gov

Table R301.5 – Live Loads

...add footnote (j) to Decks, Exterior balconies, Fire escapes:

(j) When the snow load is above 65 psf, the minimum uniformly distributed live loads for exterior balconies, decks and fire escapes shall be as required for roof snow loads.

Section R302.2 Townhouses. *Each townhouse shall be considered a separate building and shall be separated by fire-resistance-rated wall assemblies meeting the requirements of section R302.1 for exterior walls.*

> **Exception:** *A common* 2-hour *fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263.....*

Section R302.2.4 Structural independence. .....

Exception:

5. *Townhouses separated by a common* 2-hour *fire-resistance-rated wall as provided in Section R302.2.*

Section R313. Automatic Fire Sprinkler Systems

Delete this Section and replace with the following:

An automatic fire sprinkler system shall be installed in one and two family dwellings and townhouses as required by the local jurisdiction where the home will be set. All fire protection systems required by this Section (working plans, hydraulic calculations, installation inspections and final tests) shall be approved by a certified inspector. The inspector shall be an employee of the fire department having jurisdiction or another qualified individual with prior approval of the Colorado Division of Fire Safety.

Section R314.4, Power source. Revise as shown.

"Smoke" and Carbon Monoxide *"alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection."* Smoke and/or Carbon Monoxide alarms shall not be installed on a circuit dedicated only for Smoke and/or Carbon Monoxide alarms.

Section R315.1 Carbon monoxide alarms. Revise as shown.

For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area within 15 feet of the entrance to the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages.

Section R802.10 Wood trusses. Add the following new section

R802.10.5 Marking. Each truss shall be legibly branded, marked, or otherwise have permanently affixed thereto the truss identification as shown on the truss design drawing located within two (2) feet of the peak of the truss on the face of the top chord.

Section R905.1 – Roof Covering Application. Add the following section

R905.1.1 Ice Barrier Required.

An ice barrier is required, where stated throughout Section R905, due to a history of ice forming along eaves in Colorado. An ice dam protection underlayment that consists of at least two layers of underlayment cemented together or of a self-adhering polymer-modified bitumen sheet shall extend from the eave's edge to a point at least 24 inches inside the exterior wall line of the building.

The ice dam membrane shall extend continuously to a point 4 feet from any valley, cricket or similar construction junction with roofs. The ice dam membrane shall extend up vertical construction junctions such as dormer walls a minimum of twelve (12) inches prior to the installation of flashing and roof covering.

Section R1004.4, G2406.2 exception 3 and 4, G2425.8 #7, G2445; Delete all and add:

Unvented fuel fired room heaters and unvented fuel fired fireplaces are prohibited.

Add the following new sections:

Section R1001.1.1 and R1004.1.1 – Fireplaces.

Every new fireplace shall have permanently installed one of the following:

1. Approved gas logs.

2. Other approved gas or alcohol specific appliances.

3. An approved fireplace insert meeting the most stringent emission standards for wood stoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission (AQCC) as of the time of installation of the fireplace; or

4. A solid fuel burning device which is exempt from and not eligible for certification under U.S. Environmental Agency (U.S. EPA) regulations for wood stoves but which has been tested to demonstrate its emission performance is in accordance with criteria and procedures not less stringent than those required by the U.S. EPA and/or AQCC for wood stoves manufactured after July 1, 1990.

Chapter 11 ENERGY EFFICIENCY: Delete in it's entirety.

Section M2001.1 Installation and G2452 Boilers -add the following sentence:

All rooms or spaces containing boilers shall be provided with a floor drain and trap primer.

Section G2417.4.1 Test pressure-revise as follows:

"The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than" 10 psig (69 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe."

The test pressure for valves and connections to appliances shall not exceed 0.5 psig (3kPa).

Section P3009 Gray water recycling. Delete this entire section and add the following:

Grey water recycling systems shall be authorized and approved by the local jurisdiction having authority and meet the requirements of the Colorado Department of Public Health and Environment, Water Quality Control Division, Regulation 86.

Electrical Sections:

Delete Chapters 34 through 43.

INTERNATIONAL FUEL GAS CODE:

Section 303.3 Prohibited locations: add item:

Number 6. LPG appliances. LPG appliances shall not be installed in a pit, basement or crawl space where unburned fuel may accumulate unless an approved sensing device is installed in conjunction with an automatic shutoff valve located where the gas enters the structure.

Section 303.3 exception 3 and 4, 501.8 #8, Section 621: delete all and add:

Unvented fuel fired room heaters and unvented fuel fired fireplaces are prohibited.

Section 406.4.1 Test pressure.

...amend to read:

"The test pressure to be used shall be no less than 1 ½ times the proposed maximum working pressure, but not less than" 10 psig (69 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe."

The test pressure for valves and connections to appliances shall not exceed 0.5 psig (3kPa).

INTERNATIONAL PLUMBING CODE:

Adopt: Appendix Chapter E – Sizing of water piping systems.

Chapter 13 Gray water recycling. Delete this entire chapter and add the following:

Grey water recycling systems shall be authorized and approved by the local jurisdiction having authority and meet the requirements of the Colorado Department of Public Health and Environment, Water Quality Control Division, Regulation 86.

INTERNATIONAL MECHANICAL CODE:

Section 303.3.1 LPG appliance: add the following new section

LPG appliances shall not be installed in a pit, basement or crawl space where unburned fuel may accumulate unless an approved sensing device is installed in conjunction with an automatic shutoff valve located where the gas enters the structure.

Section 903.1 General: add additional sentence:

Every new installation of a solid fuel-burning, vented decorative appliance or room heater shall meet the most stringent emission standards for woodstoves established under State statute and/or regulations promulgated by the State Air Quality Control Commission as of the time of installation of the appliance or room heater. (Effective January 1, 1991 – CC90-617.)

Section 903.3 Unvented gas log heaters:

Delete this entire section.

INTERNATIONAL ENERGY CONSERVATION CODE

Section C101.5 and R101.5 Compliance

Residential buildings shall meet the provisions of the 2015 IECC--Residential provisions. Commercial buildings shall meet the provisions of the 2015 IECC—Commercial Provisions.

Exception: Where the location the factory-built structure is to be permanently set is known and the local jurisdiction has adopted the 2012 IECC energy code, the building may comply with the 2012 IECC. Where the location the factory-built structure is to be permanently set is known and the local jurisdiction has adopted an earlier version of the energy code which is less restrictive than the 2012 IECC, or where no code has been adopted that regulates the design of buildings for effective energy use, the structure may comply with the 2009 IECC.

Section C202, R202– Definitions: add definition

ZERO-ENERGY BUILDING. A building with zero net energy consumption and zero carbon emissions annually as certified by an approved annual energy use analysis.

Section C402.1.1 Low energy buildings; add exemption

4. Zero-Energy Buildings. Zero energy buildings are exempt from the provisions of the International Energy Conservation Code.

Add new Section C402.1.2.1

Semi heated buildings.

Buildings less than or equal to 200 square feet and that enclose equipment and are conditioned only for the proper operation of the equipment may show envelope compliance as a semiheated space under ANSI/ASHRAE/IES Standard 90.1.

Section R402.1 Low energy buildings; add exemption

3. Zero-Energy Buildings. Zero energy buildings are exempt from the provisions of the International Energy Conservation Code.

NATIONAL ELECTRIC CODE:

The following amendments are made to the National Electrical Code for use with all Factory Built units: Any conflicts that may arise between these amendments and a future State adopted edition of the National Electrical Code shall be resolved by applying the specific amended provisions of the 2014 edition.

Article 545, Manufactured Buildings, add new section: 545.14. Testing.

(A) Dielectric Strength Test. The wiring of each factory built unit shall be subjected to a 1-minute, 900-volt AC or 1273-volt DC dielectric strength test (with all switches closed) between live parts (including neutral) and the ground. Alternatively, the test shall be permitted to be performed at 1,080–volts AC or 1527-volts DC for 1 second. This test shall be performed after branch circuits are complete and after wiring devices are installed and wiring properly terminated.

Exception 1: Listed fixtures or appliances shall not be required to withstand the dielectric strength test.

Exception 2: Units wired in Electrical Metallic Tubing or Rigid Metal Conduit.

(B) Continuity and Operational Tests and Polarity Checks. Each manufactured building shall be subjected to:

(1) An electrical continuity test to ensure that all exposed electrically conductive parts are properly bonded;

(2) An electrical operational test to demonstrate that all equipment, except water heaters and electric furnaces, is connected and in working order; and

(3) Electrical polarity checks of permanently wired equipment and receptacle outlets to determine that connections have been properly made.

These tests shall be performed after branch circuits are complete and after wiring devices are installed and wiring properly terminated.

Article 320.23(A). Cables Run Across the Top of Floor Joists/Rafters

Add a new sentence at the end:

Substantial guard strips or other protection shall be provided to protect wiring within three (3) feet of the marriage line where the attic is exposed and the roof is completed on-site, such as a hinged roof.

ATTACHMENT "A" DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
1	Alamosa	8749	16	82	61	7546
2	Aspen	9922	1	81	59	7928
3	Boulder	5554	2*	91	63	5385
4	Buena Vista	8003	1	83	58	7954
5	Burlington	6320	2	95	70	4165
6	Canon City	4987	8	90	64	5343
7	Cheyenne Wells	5925	1	97	70	4250
8	Colorado Springs	6415	2	88	62	6012
9	Cortez	6667	5	88	63	6177
10	Craig	8403	14	86	61	6280
11	Creede	11375	-18	80	58	8842
12	Del Norte	7980	-4	81	60	7884
13	Delta	5927	6	95	62	4961
14	Denver	6020	1	91	63	5283
15	Dillon	11218	-16	77	58	9065
16	Dove Creek	7401	-6	86	63	6843
17	Durango	6911	4	87	63	6550
18	Eagle	8106	-11	87	62	6600
19	Estes Park	7944	-7	79	58	7525

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Handbook (See 2012 IPC appendix D).

Degrees North Latitude may be obtained at www.ncdc.noaa.gov

* Per Local. 8° per 1985 ASHRAE

DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
20	Ft. Collins	6368	-4	91	63	5001
21	Ft. Morgan	6460	-5	92	65	4321
22	Fraser	9777	-22	76	58	8560
23	Glenwood Springs	7313	5	91	63	5823
24	Granby	9316	-	---	---	7935
25	Grand Junction	5548	7	94	63	4586
26	Greeley	6306	-5	94	64	4648
27	Gunnison	10516	-17	83	59	7664
28	Holyoke	6583	-2	97	69	3746
29	Idaho Springs	8094	0	81	59	7555
30	Julesburg	6447	-3	98	69	3469
31	Kit Carson	6372	-1	98	68	4284
32	Kremmling	10095	-19	85	59	7359
33	La Junta	5263	3	98	70	4066
34	Lamar	5414	0	98	71	3635
35	Last Chance	------	-2	92	65	4790
36	Leadville	11500	-14	81	55	10,152
37	Limon	6961	0	91	65	5366
38	Longmont	6443	-2	91	64	4950
39	Meeker	8658	-6	87	61	6347
40	Montrose	6393	7	91	61	5830
41	Ouray	7639	7	83	59	4695

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Handbook (See 2012 IPC appendix D).

Degrees North Latitude may be obtained at www.ncdc.noaa.gov

DEGREE DAYS AND DESIGN TEMPERATURES FOR COLORADO CITIES AND TOWNS

Location		Heating Degree Days	Design Temperatures°F Winter	Summer		Elevation (feet)
			97½%	DB 2½%	WB 2½%	above sea
42	Pagosa Springs	8548	-9	85	61	7079
43	Pubelo	5413	0	95	66	4695
44	Rangely	7328	-8	93	62	5250
45	Rifle	6881	0	92	63	5345
46	Saguache	8781	-3	82	61	7697
47	Salida	7355	-3	84	59	7050
48	San Luis	8759	-10	84	60	7990
49	Silverton	11064	-13	77	56	9322
50	Springfield	5167	3	95	71	4410
51	Streamboat Springs	9779	-16	84	61	6770
52	Sterling	6541	-2	93	66	3939
53	Trinidad	5339	3	91	65	6025
54	Uravan	------	8	97	63	5010
55	Vail	9248	-14	78	59	8150
56	Walden	10378	-17	79	58	8099
57	Walsenburg	5438	1	90	63	6220
58	Wray	6160	-1	95	69	3560
59	Yuma	5890	-2	95	69	4125

HDD data taken from Department of Energy (Rescheck 4.4.2), Climate Data published by Rocky Mountain Chapter ASHRAE, First Edition-Centennial 1976, 1985 ASHRAE Fundamentals Handbook (See 2012 IPC appendix D).

Degrees North Latitude may be obtained at www.ncdc.noaa.gov

Editor's Notes

History

Entire rule eff. 07/30/2009.

Entire rule eff. 01/01/2013.

Entire rule eff. 03/16/2016.

Temporary changes to Schedule "A" only eff. 04/15/18 through 05/15/18.

COLORADO
Department of Local Affairs
Division of Housing

MEMORANDUM

Date: April 3, 2018

To: State Housing Board

From: Mo Miskell, Program Manager

Subject: Fee Holiday

As we wind down our fiscal year, which ends June 30, 2018, it has become apparent that the Housing Technology and Standards Section is running a surplus due to a combination of events. Primarily as a result of $200,000 being returned to the program by the General Assembly and the raising of fees at that same time due to the program running over budget.

As a result, we have a unique opportunity to provide a fee holiday of one month for most of our customers and thereby returning excess funds to them—to run from April 15th to May 15th. We are proposing that the State Housing Board reduce all total fees that are not set in statute and are associated with maintaining this program to $1.00 for those 30 days. The two fees set in statute that will be exempt from this fee reduction are those associated with becoming a registered seller and installer.

In order to accomplish this, the State Housing Board would be required to convene a temporary rulemaking hearing to adopt a revision to the current rules for this program that would then implement te proposed fee holiday. Therefore, it is greatly appreciated if the State Housing Board consider doing so at its next scheduled monthly meeting on Tuesday, April 10th after it has concluded its regular business.

We request that you consider a motion to temporarily reduce the following fees established in rules to $1.00 for the period April 15, 2018, through May 15, 2018:

Resolution #34 "Factory Built Housing" – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space* $0.10 per sq. ft.
  *(i.e. unfinished habitable attics, unfinished lofts, garages, etc.)
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:

- ❖ Plant certification inspection fee: $350.00 per inspection
- ❖ Oversight inspection fee: $270.00 per inspection per address
- ❖ Special inspection fee:
  In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
- ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #35 "Factory Built Nonresidential Structures – Schedule "A"

- Annual Plant registration fee: $600.00
- Annual Inspection Agency registration fee: $250.00
- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Certification insignia fee: Primary Insignia $125.00
  Additional Floor Tag $125.00
  Inspection only Tag $125.00
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Third party oversight plan check fee: $0.15 per sq. ft. ($100 min.)
- Inspection fees:
  - ❖ Plant certification inspection fee: $350.00 per inspection
  - ❖ Oversight inspection fee: $270.00 per inspection per address
    Multi-Box additional fee: Units with more than 3 boxes add $25.00/box, up to an additional $1875.00.
  - ❖ Special inspection fee:
    In-State: $50.00 per hour, per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
    Out-of-State units manufactured in Colorado: $350.00 per inspection per unit
  - ❖ Non Compliance/Prohibited Sale/Red Tag fee: $250.00

Resolution #36 "On-site Construction and Safety Codes for Motels, Hotels and Multi-family Dwellings in those areas of the State where no such Standards Exist" – Schedule "A"

- Plan checking fees (maximum 3-sets): Finished space $0.25 per sq. ft. ($160 min.)
  Unfinished space $0.10 per sq. ft.
- Supplemental plan check fee (revisions, duplicate sets, etc.): $0.10 per sq. ft. ($50 min.)
  Note: Fee for revisions to be calculated based on space revised.
- Certificate of Occupancy (each separate structure): $125.00
- Inspection fees:
  - ❖ On-site inspection fee: $270.00 per inspection per inspectr plus $50.00 per hour (inspection time) per inspector plus trip expenses of travel, food, lodging, parking, car rental, etc. as allowed in state fiscal rules for per diem and travel.
  - ❖ Stop Work Order/Red Tag fee: $250.00

Resolution #38 "Manufactured Housing Installations – Schedule "A"

- Independent Inspector Registration (3-years): $150.00
- Insignia Fees: $60.00

- Red Tag Fee: $250.00
- Inspection Fees:
  - Rough or Final Installation Inspection Fees: $200.00
  - Reinspection Fee or Red Tag Removal: $200.00

Resolution #10 "Manufactured Home Construction Standards and Procedural Regulations"

- Product Inspection service fee schedule:

Activity	Fee
Plant Certification/Revalidation Inspection travel, per diem, and lodging	$260/day/person plus actual expense of
Routine Floor Inspection	$35 per floor
Reinspection for Red Tag Removal	$100 per deviation
Increased Frequency (200%) or Revalidation Inspections	$50 per non-compliance and $50 per system of control
Plant Certification/Revalidation	$260 per day per person plus actual travel, per diem, and lodging

Thank you for your time and consideration.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
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: 2018-00158

Opinion of the Attorney General rendered in connection with the rules adopted by the

State Housing Board

on 04/10/2018

8 CCR 1302-12

RESOLUTION NO. 34 - FACTORY BUILT HOUSING

The above-referenced rules were submitted to this office on 04/11/2018 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.

April 26, 2018 13:36:34

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

Rule title

10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY 1 - eff 04/13/2018

Effective date

04/13/2018

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Outpatient Fee-for-Service SUD Providers Eligible Providers, Section 8.746.2

Rule Number: MSB 17-11-22-A

Division / Contact / Phone: Health Programs Office / Colleen McKinney / x5128

SECRETARY OF STATE

RULES ACTION SUMMARY AND FILING INSTRUCTIONS

SUMMARY OF ACTION ON RULE(S)

1. Department / Agency Name:	Health Care Policy and Financing / Medical Services Board
2. Title of Rule:	MSB 17-11-22-A, Revision to the Medical Assistance Rule concerning Outpatient Fee-for-Service SUD Providers Eligible Providers, Section 8.746.2
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) 8.746, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).

5. Does this action involve any temporary or emergency rule(s)?	No
If yes, state effective date:	
Is rule to be made permanent? (If yes, please attach notice of hearing).	<Select One>

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.746 with the proposed text beginning at 8.746.1 through the end of 8.746.8.A. This rule is effective April 13, 2018.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Outpatient Fee-for-Service SUD Providers Eligible Providers, Section 8.746.2

Rule Number: MSB 17-11-22-A

Division / Contact / Phone: Health Programs Office / Colleen McKinney / x5128

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The proposed revisions to Section 8.746 will align the rule to changes made in the State Plan Amendment 17-0002, which was approved by the Center for Medicaid and Medicare Services for an effective date of 5/1/2018.

   The rule proposes the following revisions to Section 8.746:

   - Remove additional licensure requirements for licensed clinicians
   - Change provider terminology and recategorize provider types
   - Remove Nurse Practitioner as a provider type
   - Add Advanced Practice Nurse and Physician Assistant as eligible provider types
   - Add Psychiatrist to Physician provider type
   - Edit definitions
   - Remove the unit limits for substance use disorder assessment
   - Remove the unit limits for individual and family therapy
   - Remove the unit limits for group therapy
   - Remove the unit limits for alcohol/drug screening and counseling
   - Remove the unit limits for social/ambulatory detoxification
   - Remove the unit limit for medication-assisted treatment

Initial Review Final Adoption

Proposed Effective Date Emergency Adoption

DO NOT PUBLISH THIS PAGE

- Remove the unit limit for targeted case management
- Clarify benefit structure of alcohol/drug screening counseling
- Edit unit of service for Targeted Care Management
- Clarify benefit structure of Medication Assisted Treatment

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:

   Emergency rule-making is imperatively necessary, as Colorado is in the midst of an opioid epidemic. This rule change expands the provider types that are eligible to bill Medicaid for providing substance use disorder services

3. Federal authority for the Rule, if any:

   State Plan Amendment 17-0002

   C.F.R. 42 §440.130(d)

4. State Authority for the Rule:

   25.5-1-301 through 25.5-1-303, C.R.S. (2017);

   25.5-5-202(s)(i), C.R.S.

Initial Review | Final Adoption

Proposed Effective Date | Emergency Adoption

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Outpatient Fee-for-Service SUD Providers Eligible Providers, Section 8.746.2

Rule Number: MSB 17-11-22-A

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REGULATORY ANALYSIS

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

   The people who will benefit from this rule change are licensed providers and Health First Colorado members who receive FFS SUD services. Licensed providers will be able to provide SUD treatment, within the scope of their licensure, without requiring an additional credential. Members receiving these services will no longer be subject to unit limitations. Members receiving these services will be further protected from unscrupulous providers that may seek to abuse the member© Medicaid enrollment for financial gain without providing medically necessary and useful care.

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

   The rule will ease regulatory burden on providers by consolidating credentialing requirements. Members will benefit by having a benefit package aligned to that available through the Community Behavioral Health Services Program.

7. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

   The Department does not anticipate any costs related to removing the separate licensure for already licensed providers. No costs are associated with removing the unit limits to the benefits because only a small fraction of members (less than 100) are eligible to access the outpatient substance use disorder benefit through the fee-for-service delivery system rather than through the Community Behavioral Health Services Program.

8. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

If the proposed rule does not go into effect, the state will not be compliant with the changes made to the State Plan.

9. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   The rule must be changed in order to comply with the State Plan.

10. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

    No other alternative methods were considered, as this rule must be changed to comply with the State Plan.

8.746 OUTPATIENT FEE-FOR-SERVICE SUBSTANCE USE DISORDER TREATMENT

8.746.1 DEFINITIONS

Community Behavioral Health Services Program means the program described at 10 CCR 2505-10 Section 8.212, by which program-enrolled Medicaid clients receive behavioral health treatment services.

Day Treatment Program means a non-residential treatment program designed for children and adolescents under the age of 21 who have an emotional, behavioral, and neurobiological, or substance use disorder diagnosis, and may be at high risk for out-of-home placement. Day Treatment Program services include family, group, and individual psychotherapy; parent-child education; skill and socialization training focused on improving functional and behavioral deficits; and intensive coordination with schools or other child service agencies.

Health First Colorado is Colorado's Medicaid Program, the free or low cost public health insurance program that provides health care coverage to low-income individuals, families, children, pregnant women, seniors, and people with disabilities. Colorado Medicaid is funded jointly by the federal and state government, and is administered by the Colorado Department of Health Care Policy and Financing.

Intensive Outpatient Psychiatric Rehabilitation Services are those that focus on maintaining and improving functional abilities for the client through a time-limited, multi-faceted approach to treatment.

Licensed Clinician means a provider who is a clinical social worker licensed pursuant to CRS 12-43-404, marriage and family therapist licensed pursuant to CRS 12-43-504, professional counselor licensed pursuant to CRS 12-43-603, addiction counselor licensed pursuant to CRS 12-43-804, or psychologist (Psy.D/Ph.D) licensed pursuant to CRS 12-43-304.

Licensed Health Practitioner means an advanced practice nurse licensed pursuant to CRS 12-38-111.5, physician/psychiatrist licensed pursuant to CRS 12-36-101, or physician assistant licensed pursuant to CRS 12-36-107.4.

Residential Treatment means a short-term residential treatment program offering 24-hour intensive residential treatment, habilitative, and rehabilitative services for up to 30 days in a highly structured, community-oriented environment.

State Fiscal Year (SFY) is July 1 – June 30.

8.746.2 ELIGIBLE PROVIDERS

1. Providers eligible to render services are limited to the following:

    a. Licensed Health Practitioners who are also:

        i) Certified in addiction medicine by the American Society of Addiction Medicine (ASAM), the American Board of Addiction Medicine (ABAM), or the American Board of Preventive Medicine (ABPM); or

        ii) Certified Addiction Counselors (CAC II or CAC III) or Licensed Addiction Counselors (LAC) by the Department of Regulatory Agencies (DORA); or

        iii) National Certified Addiction Counselors II (NCAC II) or Master Addiction Counselors (MAC) by the National Association of Alcohol and Drug Abuse Counselors (NAADAC); or

iv) Certified in addiction psychiatry by the American Board of Psychiatry and Neurology certified in Addiction Psychiatry (ABPN).

b. Licensed Clinicians.

8.746.3 TREATMENT PLANNING

8.746.3.A. An approved treatment plan must be in place for each client prior to the client receiving services. An initial assessment is required to establish a treatment plan. Treatment plans require approval from a licensed provider indicated in Section 8.746.2 with the authority to approve treatment plans within their scope of practice.

8.746.3.B. All rendered services must be medically necessary, as defined in Section 8.076.1.8., and must be detailed in the client's treatment plan and progress notes. Initial substance use disorder assessments are exempt from inclusion in the approved treatment plan.

8.746.3.C. Approved treatment plans must identify treatment goals and must explain how the proposed treatment services will achieve those stated goals.

8.746.3.D. Approved treatment plans must identify the treatment services planned for use over the course of treatment. The amount, frequency, and duration of these treatment services must be included in the approved treatment plan.

8.746.4 ELIGIBLE CLIENTS

1. To be eligible for the Outpatient Fee-for-Service Substance Use Disorder Treatment benefit, client:

   a. Must currently be enrolled in Colorado Medicaid; and

   b. Must not be enrolled in the Community Behavioral Health Services program pursuant to 10 C.C.R. 2505-10 Section 8.212.

      i) All Colorado Medicaid clients are automatically enrolled in the Community Behavioral Health Services program, unless one of the following is true:

         1) Client is not eligible for enrollment in the Community Behavioral Health Services program, per 10 CCR 2505-10 Section 8.212.1.A.; or

         2) Client is approved for an individual enrollment exemption, as set forth at 10 CCR 2505-10 Section 8.212.2.

8.746.5 LIMITATIONS

1. Clients are not required to obtain a referral from their Primary Care Physician (PCP) or Primary Care Medical Provider (PCMP) to receive these services.

2. Clients must have a treatment plan that is approved by a licensed practitioner listed in Section 8.746.2.

3. Outpatient Fee-for-Service Substance Use Disorder Treatment services may only be rendered by providers outlined in Section 8.746.2, with an exception for certain providers of Medication Assisted Treatment described below.

4. Services are covered only when the client has been diagnosed with at least one of the following:

a. Alcohol use or induced disorder

b. Amphetamine use or induced disorder

c. Cannabis use or induced disorder

d. Cocaine use or induced disorder

e. Hallucinogen use or induced disorder

f. Inhalant use or induced disorder

g. Opioid use or induced disorder

h. Phencyclidine use or induced disorder

i. Sedative Hypnotic or Anxiolytic use or induced disorder

j. Tobacco use disorder

8.746.6 COVERED SERVICES

8.746.6.A. Substance Use Disorder Assessment

1. A substance use disorder assessment is an evaluation designed to determine the most appropriate level of care based on criteria established by the American Society of Addiction Medicine (ASAM), the extent of drug or alcohol use, abuse, or dependence and related problems, and the comprehensive treatment needs of a client with a substance use disorder diagnosis.

    a. Course of treatment and changes in level of care must be based on best practices as defined by the current ASAM Patient Placement Criteria.

    b. Re-assessments must be spaced appropriately throughout the course of treatment to ensure the treatment plan is effectively managing the client's changing needs.

    c. Each complete assessment corresponds to one unit of service.

    d. An assessment may involve more than one session and may span multiple days. If the assessment spans multiple days, the final day of the assessment is reported as the date of service.

8.746.6.B. Individual and Family Therapy

1. Individual and family therapy is the planned treatment of a client's problem(s) as identified by an assessment and listed in the treatment/service plan. The intended outcome is the management and reduction, or resolution of the identified problem(s).

2. Individual and family therapy is limited to one client per session.

    Individual and family therapy are billed at 15 minutes per unit.a. A session is considered a single encounter with the client that can encompass multiple timed units.

3. Family therapy must be directly related to the client's treatment for substance use disorder or dependence.

4. Individual therapy and family therapy sessions are allowed on the same date of service.

8.746.6.C. Group Therapy

1. Group therapy refers to therapeutic substance use disorder counseling and treatment services, administered through groups of people who have similar needs, such as progression of disease, stage of recovery, and readiness for change.

2. Group therapy must include more than one patient.

3. . A session of group therapy may last up to three hours and is billed in units of one hour each (e.g., a three hour group session would consist of three units).

    a. A unit of service may be billed separately for each client participating in the group therapy session.

8.746.6.D. Alcohol / Drug Screening and Counseling

1. Alcohol / drug screening and counseling is the collection of urine followed by a counseling session with the client to review and discuss the results of the screening.

    a. The analysis of the urine specimen (urinalysis) may only be billed by a provider with the appropriate CLIA certification for the test performed. Urinalysis is not part of the Outpatient Fee-For-Service SUD benefit.

    b. Substance use disorder providers will only be reimbursed for collecting the urine specimen and providing a counseling session to review and discuss the results of the urinalysis. Claims submitted for the collection of the urine sample without the subsequent counseling of urinalysis results will not be reimbursed.

        i. If the client does not return for the counseling of their urinalysis results, the collection of the sample cannot be claimed.

    c. Substance use disorder counseling services to discuss and counsel the client on the test results must be provided by an eligible rendering provider, as outlined in Section 8.746.2.

    d. The counseling portion of the service may be conducted during a session of individual or family therapy.

    e. Multiple urine collections per date of service are not additionally reimbursed.

    f.

    f. Alcohol / drug screening and counseling is limited to one unit per date of service.

        i. A unit of service is the single collection and subsequent counseling session.

8.746.6.E. Targeted Case Management

1. Targeted case management refers to coordination and planning services provided with, or on behalf of, a client with a substance use disorder diagnosis.

    a. The client does not need to be physically present for this service to be performed if it is done on the client’s behalf.

2. Targeted case management services are limited to service planning, advocacy, and linkage to other appropriate medical services related to substance use disorder diagnosis, monitoring, and care coordination.

3. A unit of service equals one 15-minute increment of targeted case management, and consists of at least one documented contact with a client or person acting on behalf of a client, identified during the case planning process.

8.746.6.F. Social / Ambulatory Detoxification

1. Facilities licensed by the Office of Behavioral Health (OBH) to provide detoxification services are the only provider eligible to render social / ambulatory detoxification services.

2. Social / ambulatory detoxification services:

   a. Include supervision, observation, and support from qualified personnel for clients exhibiting intoxication or withdrawal symptoms.

   b. Are provided when there is minimal risk of severe withdrawal (including seizures and delirium tremens) and when any co-occurring mental health or medical conditions can be safely managed in an ambulatory setting.

.

3. A session is defined as the continuous treatment time from the first day to the last day of social/ambulatory detoxification.

   a. Each session may last a maximum of three days.

. Room and board is not a covered social / ambulatory detoxification service. Claims billed for room and board will not be reimbursed.

5. Social / ambulatory detoxification is divided into four distinct services—physical assessment of detoxification progress, evaluation of level of motivation, safety assessment, and provision of daily living needs—with corresponding procedure codes, which may be provided and billed on the same date of service if medically necessary, as defined in rule at 10 CCR 2505-10 Section 8.076.1.8.

8.746.6.G. Medication-Assisted Treatment (MAT)

1. Medication Assisted Treatment (MAT) is a benefit for opioid addiction that includes a medication approved by the U.S. Food and Drug Administration (FDA) for opioid addiction detoxification or maintenance treatment.

2. When methadone is administered for MAT, the reimbursement for the medication's acquisition is bundled with the reimbursement for administration and dispensing under a single billing code. When other medications are used for MAT (e.g. Suboxone), the reimbursement for the medication is billed separately from the administration and dispensing using physician administered drug billing codes.

   a. Only licensed physicians, physician assistants, or nurse practitioners are eligible to administer MAT. All providers must comply with the Office of Behavioral Health's Opioid Medication Assisted Treatment program requirements set forth at 2 C.C.R. 502-1 21.320.

   .

b. Take-home dosing is permitted in accordance with Office of Behavioral Health rules at 2 CCR 502-1 21.320.8. Therefore, one unit of MAT must be reported for each date of service the client ingests the dose of methadone.

c. If the client ingests their dose at the facility, the place of service must be reported as office. If the client ingests their dose at home, the place of service must be reported as home. Records must include documentation to substantiate claims for take-home doses.

d.

8.746.7 PRIOR AUTHORIZATION REQUIREMENTS

8.746.7.A. There are no prior authorization requirements for the Outpatient Fee-for-Service Substance Use Disorder Treatment benefit.

8.746.8 NON-COVERED SERVICES

8.746.8.A. The following services are not covered under the Outpatient Fee-for-Service Substance Use Disorder Treatment benefit:

1. Day treatment program services.

2. Intensive outpatient psychiatric rehabilitation.

3. Peer advocate services.

4. Residential treatment services, with the exception of those provided in a Residential Child Care Facility, as set forth in Section 8.765.

5. Services provided by a third party that is under contract with the provider.

6. Any substance use disorder treatment service not specified as covered in Section 8.746.6.

COLORADO
Department of Health Care Policy & Financing
Medical Services Board

APRIL 2018 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE APRIL 12, 2018 MEDICAL SERVICES BOARD MEETING

MSB 17-11-22-A Revision to the Medical Assistance Rule Concerning Outpatient Fee-for-Service SUD Providers Eligible Providers

For the preservation of public health, safety and welfare (enter Justification below)

Emergency rule-making is imperatively necessary, as Colorado is in the midst of an opioid epidemic. This rule change expands the provider types that are eligible to bill Medicaid for providing substance use disorder services.

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.

1570 Grant Street, Denver, CO 80203-1818 P 303.866.2993 F 303.866.4411
www.colorado.gov/hcpf

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Office of the Attorney General

Tracking number: 2018-00162

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 04/13/2018

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY

The above-referenced rules were submitted to this office on 04/13/2018 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.

April 25, 2018 09:17:16

Frederick R. Yarger

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

Rule title

10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY 1 - eff 04/13/2018

Effective date

04/13/2018

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Stiripentol Coverage, Section 8.800.4.C.5.a

Rule Number: MSB 18-02-16-A

Division / Contact / Phone: Client and Clinical Care Office- Pharmacy / Kristina Gould / 303-866-6715

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 18-02-16-A, Revision to the Medical Assistance Rule concerning Stiripentol Coverage, Section 8.800.4.C.5.a
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) 8.800.4.C.5.a, 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:	4/13/18
Is rule to be made permanent? (If yes, please attach notice of hearing).	Yes

PUBLICATION INSTRUCTIONS*

Replace the current text at 8.800.4.C.5 with the proposed text starting at 8.800.4.C.5 through the end of 8.800.4.C.5. This rule is effective April 13, 2018.

*to be completed by MSB Board Coordinator

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Stiripentol Coverage, Section 8.800.4.C.5.a

Rule Number: MSB 18-02-16-A

Division / Contact / Phone: Client and Clinical Care Office- Pharmacy / Kristina Gould / 303-866-6715

STATEMENT OF BASIS AND PURPOSE

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

   The purpose of this rule is to expand coverage of Stiripentol, a drug used to treat Dravet Syndrome, a rare genetic dysfunction of the brain that results in seizures, to members over 20 years of age. The drug is covered under Early and Periodic Screening, Diagnostic and Treatment (EPSDT) criteria for members up to 20 years of age. The rule will extend coverage of Stiripentol for members past the age of 20. Clobazam has been deleted because it is a covered FDA approved drug and does not need to be addressed in this section of rule.

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:

   Individuals with Dravet Sydrome typically experience numerous seizures on a daily basis. Stiripentol, in combination with Clobazam, is the only effective medical intervention. Currently, the program does not cover Stiripentol for members over age 20, for whom EPSDT criteria no longer apply. A few members with this rare disease have reached, or will soon reach, age 21. This rule will allow state plan coverage of this critical drug for members 21 and older.

3. Federal authority for the Rule, if any:

   42 U.S.C. § 1396d(a)(12); 42 CFR § 440.120, 42 CFR § 447.502.

4. State Authority for the Rule:

Initial Review Final Adoption

Proposed Effective Date Emergency Adoption

25.5-1-301 through 25.5-1-303, C.R.S. (2017);

C.R.S. § 25.5-5-201(1)(a)(2017).

DO NOT PUBLISH THIS PAGE

Title of Rule: Revision to the Medical Assistance Rule concerning Stiripentol Coverage, Section 8.800.4.C.5.a

Rule Number: MSB 18-02-16-A

Division / Contact / Phone: Client and Clinical Care Office- Pharmacy / Kristina Gould / 303-866-6715

REGULATORY ANALYSIS

5. 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 Department covers Stiripentol for members under age 21 with Dravet Syndrome, a rare disease that causes frequent, severe seizures. The proposed rule benefits members over age 20 by expanding coverage of the drug to them. The costs of the proposed rule will be borne by the program.

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

   There will be no adverse quantitative or qualitative impacts to the Department's members, overall. Qualitatively and quantitatively, this will positively impact members over age 20 with Dravet Syndrome by providing coverage of the cost of the only treatment known to significantly reduce seizures and improve quality of life.

7. 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.

   Because Dravet Syndrome is rare, and affects only a few members, the rule will result in a negligible increase in program costs. The annual, average cost to the program, per member, for Stiripentol is $9,158.13. No other agency is expected to be impacted by the rule.

8. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The cost of the proposed rule is negligible, at approximately $9,158.13 per year, with only a few members affected. The benefit derived from that cost is a significantly improved quality of life for members over age 20 who will continue to experience fewer seizures with the drug. The benefit of inaction would be that the program avoids a very small expense for coverage of the drug. The cost of inaction would be that members with Dravet Syndrome over age 20 will incur out-of-pocket costs for the drug, or, if they cannot afford it, suffer a drastically poor quality of life, due to frequent seizures.

9. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

   As Stiripentol is the only drug known to effectively reduce seizures for members with Dravet Syndrome, and there is no other public benefit program offering coverage of the drug, there were no less costly or less intrusive options.

10. 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.

    Stiripentol is the only drug known to effectively treat seizures associated with Dravet Syndrome. The program currently covers the cost of the drug for children under EPSDT criteria. For members over age 20, the proposed rule is the only method for making the drug available under the program.

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 may be covered if the coverage has been ordered by the member’s physician, has been deemed medically necessary by the Department and has been authorized for the specific member’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.

COLORADO
Department of Health Care Policy & Financing
Medical Services Board

APRIL 2017 EMERGENCY JUSTIFICATION FOR MEDICAL ASSISTANCE RULES ADOPTED AT THE APRIL 13, 2017 MEDICAL SERVICES BOARD MEETING

MSB 18-02-16-A Revision to the Medical Assistance Rule Concerning Pharmaceutical Services, 10 CCR 2505-10, Section 8.800

For the preservation of public health, safety and welfare (enter Justification below)

An emergency rule is necessary because individuals with Dravet Syndrome typically experience numerous seizures daily. Stiripentol, in combination with Clobazam, is the only effective medical intervention. Currently, the Department does not cover Stiripentol for members over the age of 20 as the Early and Periodic, Screening, Diagnostic and Treatment (EPSDT) benefit no longer applies. A few members with this rare and debilitating disease have reached, or will soon reach, age 21. This rule change will allow the state to cover Stiripentol for members 21 and older.

Emergency rulemaking is imperative for members whom need access to Stiripentol. This rule change is crucial for the preservation of public health, safety, and welfare.

CYNTHIA H. COFFMAN
Attorney General

MELANIE J. SNYDER
Chief Deputy Attorney General

LEORA JOSEPH
Chief of Staff

FREDERICK R. YARGER
Solicitor General

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Office of the Attorney General

Tracking number: 2018-00163

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 04/13/2018

10 CCR 2505-10

MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE, AND RULE HISTORY

The above-referenced rules were submitted to this office on 04/13/2018 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.

April 25, 2018 09:17:37

Frederick R. Yarger

Cynthia H. Coffman
Attorney General
by Frederick R. Yarger
Solicitor General

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 04/23/2018

Department

Department of Regulatory Agencies

Agency

Public Utilities Commission

Decision No. R18-0277-I

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

PROCEEDING NO. 17R-0796TR

IN THE MATTER OF THE PROPOSED RULES REGULATING INTRASTATE CARRIERS, LIMITED REGULATION CARRIERS AND THE GENERAL PROVISIONS AND SAFETY RULES, 4 CODE OF COLORADO REGULATIONS 723-6.

INTERIM DECISION OF HEARING COMMISSIONER FRANCES A. KONCILJA SETTING A CONTINUED PUBLIC COMMENT HEARING

Mailed Date: April 23, 2018

I. STATEMENT

1. By Decision No. C17-0976 mailed November 30, 2017, the Colorado Public Utilities Commission issued the above Notice of Proposed Rulemaking, appointed Commissioner Frances Koncilja as the Hearing Commissioner, and set hearings for February 20 and 21, 2018.

2. At the February 21, 2018 hearing, Hearing Commissioner Koncilja scheduled a further hearing regarding the issue of safety and the hours of service, including how to capture driver data, for March 13, 2018. This date was subsequently changed on March 2, 2018, at the request of participants by Decision No. R18-0158-I. The hearing was held on March 29, 2018.

3. An initial discussion was held during the hearings regarding prefiled written comments in addition to supplemental oral comments. The Hearing Commissioner identified several issues that she believes demand further analysis and comment from participants. Based on this, the Hearing Commissioner finds that continuing the hearing in this proceeding will be

helpful to consideration of proposed rules. By this Decision, the Hearing Commissioner schedules a continued hearing date of May 31, 2018.

4. In the coming weeks and by a separate decision, the Hearing Commissioner will issue new redlined modifications to the proposed transportation rules. This document will be available through the Commission's Electronic Filings system at:

https://www.dora.state.co.us/pls/efi/EFI.Show_Docket?p_session_id=&p_docket_id=17R-0796TR

Also, in this separate decision the Hearing Commissioner will set a new comment date.

II. ORDER

A. It Is Ordered That:

1. The Notice of Additional Hearing shall be filed with the Colorado Secretary of State for publication in the May 10, 2018 edition of *The Colorado Register*.

2. The Hearing Commissioner will conduct an additional public comment hearing on revised proposed Rules Regulating Transportation by Motor Vehicle, 4 *Code of Colorado Regulations* 723-6, as follows:

DATE: May 31, 2018

TIME: 9:00 a.m.

PLACE: Commission Hearing Room A
1560 Broadway, Suite 250
Denver, Colorado

3. Comments may be filed in this rulemaking proceeding using the Commission's E-Filing System at http://www.dora.state.co.us/pls/efi/EFI.homepage.

4. This Decision is effective immediately.

(S E A L)

ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

FRANCES A. KONCILJA

_____

Hearing Commissioner

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 05/07/2018

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

April 26th, 2018 through May 25th, 2018

Home and Community Based Services (HCBS) Waiver Amendment Public Comment

The Department intends to submit waiver amendments for the following Home and Community Based Services (HCBS) waivers:

- Person with Developmental Disabilities (DD)
- Supported Living Services (SLS)
- Children's Extensive Services (CES)
- Children with Life Limiting Services (CLLI)

The proposed amendments include new language about the Quality Improvement Organization (QIO), updates to the language regarding Conflict Free Case Management, updates to the quality Performance Measures, updates to the Dental, Home Modification, and Personal Care service benefits, updates to the unduplicated client count in the HCBS-DD waiver, and the removal of the Behavioral Services, Personal Care, and Vision services within the HCBS-CES waiver.

The Department will have the amendments out for public notice from April 26th, 2018 through May 25th, 2018. The Department has asked for an effective date of August 22nd, 2018 for these amendments.

For a more detailed summary of all changes, please go to the Department's website at https://www.colorado.gov/pacific/hcpf/hcbs-waiver-transition to view the full draft waivers and the amendment fact sheet. You may also obtain a paper or electronic copy by calling Sarah Hoerle at 303-866-6113 or by writing or visiting the Department at 1570 Grant St, Denver, CO 80203.

To provide public comment or request a paper or electronic copy of any materials, please contact LTSS.PublicComment@state.co.us; submitted by phone at 303-866-6113; submitted by fax at 303-866-2786 ATTN: HCBS Waiver Amendments; or in-person at 1570 Grant Street, Denver CO 80203.

Public Comments will be accepted April 26th through May 25th, 2018

General Information

A link to this notice is posted on the Department's website. Written comments may be addressed to: Department of Health Care Policy and Financing, ATTN: HCBS Waiver Amendments, 1570 Grant Street, Denver CO 80203.

Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices

Filed on 05/07/2018

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

May 10, 2018

The Department of Health Care Policy and Financing (the Department) intends to make the following Medicaid reimbursement rate changes:

Medicaid Fee-for-Service Reimbursement Rate Increases

The Department intends to submit State Plan Amendments to the Centers for Medicare and Medicaid Services (CMS) to increase Medicaid provider rates by 1% for certain services in the following benefit categories: physician and clinic services; dental services; Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services; family planning services, inpatient hospital services; outpatient hospital services; laboratory and radiology services; durable medical equipment (excluding those impacted by Section 1903(i)(27) of the Social Security Act), supplies, prosthetics and orthotics; mental health fee-for-service; non-physician practitioner services; tobacco cessation counseling for pregnant women; ambulatory surgery center services; dialysis center services; physical, occupational, and speech therapy, and audiology services; screening, brief intervention, and referral to treatment (SBIRT) services; rehabilitation/behavioral health services; outpatient substance abuse services; case management services for substance abuse treatment; vision services; extended services for pregnant women; private duty nursing; acute and long term home health; psychiatric residential treatment facilities (PRTF), residential child care facility (RCCF); and IDD targeted case management. Rates paid to certain managed care organizations may include corresponding increases, as the Department pays these rates based on fee-for-service expenditures.

The rate increases will be effective July 1, 2018. Upon CMS approval of the State Plan Amendment, an updated fee schedule reflecting these rate changes will be posted on the Department's website at https://www.colorado.gov/hcpf/provider-rates-fee-schedule.

Medicaid Targeted Fee-for-Service Reimbursement

The Department intends to submit State Plan Amendments to CMS to apply targeted Medicaid provider rate increases for the following services:

- Emergency transportation services
- Brokered and non-brokered non-emergent medical transportation services
- Neonatology
- Primary care alternative payment methodology code set

These targeted rate increases will be effective July 1, 2018. Upon CMS approval of the State Plan Amendments, an updated fee schedule reflecting these rate changes will be posted on the Department's website at https://www.colorado.gov/hcpf/provider-rates-fee-schedule.

The annual aggregate increase in service expenditures (including state funds and federal funds) is $8,416,704 in FFY 2018-19 and $34,548,814 in FFY 2019-20.

General Information

A link to this notice will be posted on the Department's website starting on May 10, 2018. Written comments may be addressed to:

Director, Health Programs Office
Colorado Department of Health Care Policy and Financing
1570 Grant Street
Denver, CO 80203

Calendar of Hearings

Hearing Date/Time	Agency	Location
06/06/2018 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman Street, Room 127, Denver, CO 80203
06/06/2018 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman Street, Room 127, Denver, CO 80203
06/06/2018 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman Street, Room 127, Denver, CO 80203
06/06/2018 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman Street, Room 127, Denver, CO 80203
06/06/2018 09:00 AM	Taxpayer Service Division - Tax Group	1375 Sherman Street, Room 127, Denver, CO 80203
05/30/2018 03:00 PM	Division of Motor Vehicles	1881 Pierce Street Room 110
06/07/2018 08:30 AM	Colorado Parks and Wildlife (406 Series, Wildlife)	Cortez Conference Center, 2121 E. Main St., Cortez, CO 81321
06/18/2018 10:00 AM	Behavioral Health	CDHS, 1575 Sherman Street, Denver, CO
06/01/2018 10:00 AM	Division of Insurance	1560 Broadway, Ste 110 D, Denver CO 80202
06/05/2018 09:00 AM	Division of Real Estate	1560 Broadway, Suite 1250-C, Denver, CO
07/19/2018 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
06/20/2018 10:00 AM	Disease Control and Environmental Epidemiology Division	Sabin-Cleere Conference Room, Building A, 1st Floor, CDPHE, 4300 Cherry Creek Drive South, Denver, CO 80246
06/01/2018 10:00 AM	Income Maintenance (Volume 3)	Fremont County Public Health and Environment, 201 N. 6th St., Canon City, CO 81212
06/08/2018 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	303 East 17th Ave, 11th Floor, Denver, CO 80203
06/01/2018 10:00 AM	Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)	Fremont County Public Health and Environment, 201 N. 6th St., Canon City, CO 81212
06/01/2018 10:00 AM	State Board of Human Services (Volume 12; Special Projects)	Fremont County Public Health and Environment, 201 N. 6th St., Canon City, CO 81212